



## U.S. Customs and Border Protection

### PUBLIC VERSION

May 17, 2023

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Re: Notice of Initiation of Investigation and Interim Measures – EAPA Cons. Case 7809

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Dear Counsel and/or Representatives for the above-referenced Entities:

This letter is to inform you that U.S. Customs and Border Protection (CBP) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA). CBP is investigating whether Vanity Art, LLC (Vanity) and Legion Furniture, Inc. (Legion) (collectively referred to as “the Importers”) evaded antidumping duty (AD) order A-570-084 and countervailing duty (CVD) order C-570-085 on quartz surface products (QSP) from the People’s Republic of China (China).<sup>1</sup> CBP has imposed interim measures because there is reasonable suspicion that the Importers evaded the *Orders* by entering Chinese QSP attached to Vietnamese wooden furniture into the United States without paying applicable duties on the QSP or declaring to CBP that these entries contained QSP subject to the *Orders*.<sup>2</sup>

### **Period of Investigation**

Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States....”<sup>3</sup> Cambria Company, LLC (Cambria), a domestic manufacturer of QSP, filed EAPA allegation 7809 against Vanity on December 21, 2022.<sup>4</sup> CBP acknowledged receipt of the properly filed allegation on January 19,

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<sup>1</sup> See *Certain Quartz Surface Products from the People’s Republic of China: Antidumping and Countervailing Duty Orders*, 84 FR 33053 (July 11, 2019) (the *Orders*).

<sup>2</sup> See 19 U.S.C. § 1517(e); see also 19 C.F.R. § 165.24.

<sup>3</sup> See 19 C.F.R. § 165.1.

<sup>4</sup> See Cambria’s letter “*Quartz Surface Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act of Vanity Art LLC*,” dated December 21, 2022 (Vanity Allegation). The Allegor is a domestic producer of QSP and the petitioner before the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) in the original AD/CVD investigations; therefore, it qualifies for interested party status and is eligible to file an EAPA allegation pursuant to 19 § U.S.C. 1517(a)(6), 19 C.F.R. § 165.1, and 19 C.F.R. § 165.11(a).

2023.<sup>5</sup> Pursuant to 19 C.F.R. § 165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation ....” As such, the entries covered by the investigation of Vanity (EAPA 7809) were those entered for consumption, or withdrawn from warehouse for consumption, from January 19, 2022, through the pendency of this investigation.<sup>6</sup> On March 16, 2023, Cambria filed EAPA allegation 7815 against Legion.<sup>7</sup> CBP acknowledged receipt of the Legion allegation on March 20, 2023.<sup>8</sup> However, because EAPA case 7815 is being consolidated into EAPA case 7809, as described below, the entries covered by this investigation for both Importers are those entered for consumption, or withdrawn from warehouse for consumption, from January 19, 2022, through the pendency of this investigation.<sup>9</sup>

## **Initiation**

On February 9, 2023, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP’s Office of Trade, initiated EAPA investigation 7809 in response to Cambria’s allegation that Vanity evaded AD/CVD duties.<sup>10</sup> On April 10, 2023, TRLED initiated EAPA investigation 7815 against Legion in response to a separate allegation from Cambria that Legion evaded the *Orders* through a similar scheme.<sup>11</sup> In the Allegations, Cambria alleges that the Importers evaded the *Orders* by transshipping Chinese-origin QSP through Vietnam attached to Vietnamese-origin wooden furniture, especially wooden cabinets and vanities (WCV), while failing to separately declare the QSP or pay applicable AD/CVD duties.<sup>12</sup> A more detailed description of the alleged evasion scheme and evidence Cambria provided follows.

### *Description of the Alleged Transshipment Scheme*

In the Allegations, Cambria alleges that the Vietnamese manufacturer Phan Phuoc Hung Joint Stock Company – Branch 1 (Phan Phuoc Hung) imports Chinese-origin QSP into Vietnam and then attaches the QSP to WCV. Cambria claims that Vanity and Legion then import WVC from Phan Phuoc Hung with the QSP attached. The Allegations claim that this QSP is imported into the United States without declaring the QSP to CBP and without payment of any applicable AD/CVD duties.<sup>13</sup> Cambria further notes that according to the scope of the *Orders*, “quartz surface products are covered by the Orders whether or not they are imported *attached to*, or in conjunction with, non-subject merchandise such as sinks, sink bowls, *vanities*, cabinets and furniture {emphasis in the Allegations}.”<sup>14</sup>

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<sup>5</sup> See TRLED’s Email acknowledging receipt of EAPA Allegation, “Receipt of Properly Filed Allegation -EAPA 7809,” dated January 19, 2023.

<sup>6</sup> See 19 C.F.R. § 165.2.

<sup>7</sup> See Cambria’s letter “*Quartz Surface Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act of Legion Furniture Inc.*,” dated March 16, 2023 (Legion Allegation). (Collectively, we refer to the Legion Allegation and the Vanity Allegation as “the Allegations”).

<sup>8</sup> See TRLED’s Email acknowledging receipt of EAPA Allegation, “Official Receipt of EAPA 7815,” dated March 20, 2023.

<sup>9</sup> See 19 C.F.R. § 165.2 and 19 C.F.R. § 165.13.

<sup>10</sup> See CBP’s Initiation Memorandum, “Initiation of Investigation for EAPA Case Number 7809,” dated February 9, 2023 (7809 Initiation Memo).

<sup>11</sup> See CBP’s Initiation Memorandum, “Initiation of Investigation for EAPA Case Number 7815,” dated April 10, 2023 (7815 Initiation Memo).

<sup>12</sup> See the Allegations.

<sup>13</sup> *Id.* at 6-7.

<sup>14</sup> *Id.* at 6 and the *Orders* at 33055.

The Allegations provide evidence of this evasion scheme consisting of Phan Phuoc Hung’s import shipment data from [ source ], which includes shipments of Chinese “panels of artificial stone products” from China to Vietnam.<sup>15</sup> Further, the data show that on each line where “artificial stone” appears, there is also the description “imported to fit into exported wooden bathroom cabinets,”<sup>16</sup> which suggests that export shipments of WCV from Phan Phuoc Hung in Vietnam to the Importers would likely contain this Chinese-origin “artificial stone.”

The Allegations further assert that the Chinese “artificial stone” imported into Vietnam by Phan Phuoc Hung is likely QSP subject to the *Orders* because QSP is often described as “artificial stone.” Notably, the scope of the *Orders* says that “Quartz surface products may also generally be referred to as engineered stone or quartz, *artificial stone* or quartz, agglomerated stone or quartz, synthetic stone or quartz, processed stone or quartz, manufactured stone or quartz, and Bretonstone® {emphasis added}.”<sup>17</sup> The Allegations also provide screenshots of the Importers’ websites which show that both Legion and Vanity sell a wide range of cabinets with quartz tops,<sup>18</sup> which supports the contention that if the Importers have purchased WCV with artificial stone tops from Phan Phuoc Hung, these tops are likely QSP.

The Allegations also provide data from [ source ] on the Importers’ U.S. imports showing that Vanity and Legion imported many shipments of WCV from Phan Phuoc Hung, including some shipments that are described in the data as cabinets “with top.”<sup>19</sup> This, combined with the evidence from the Importers’ websites that the Importers sell cabinets with quartz tops, suggests that at least some of the tops are QSP.<sup>20</sup>

The Allegations also provide evidence that the Importers may not be paying applicable AD/CVD duties. Cambria’s Vietnamese import shipment data from [ source ] show that Phan Phuoc Hung imported QSP expressly to attach them to exported WCV. However, the [ source ] data on U.S. imports in the Allegations shows shipments with product descriptions that do not mention any QSP attached to these cabinets and vanities.<sup>21</sup> Additionally, the Allegations point out that AD/CVD rates on QSP from China are between 300 and 400 percent, and this, combined with the trade data, suggests that the Importers are likely not declaring that some of their WCV from Vietnam have Chinese QSP attached and applicable AD/CVD duties are not being paid.<sup>22</sup>

### *Initiation Assessment*

TRLED will initiate an investigation if it determines that “{t}he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion....”<sup>23</sup> Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral

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<sup>15</sup> *Id.* at 8 and Exhibit 9.

<sup>16</sup> *Id.* at 8 and Exhibit 9.

<sup>17</sup> See the *Orders* at 33055, footnote 15.

<sup>18</sup> See the Allegations at Exhibit 4.

<sup>19</sup> *Id.* at 6-7 and Exhibit 3.

<sup>20</sup> *Id.* at 7 and Exhibit 4.

<sup>21</sup> *Id.* at 6-7 and Exhibits 3 and 9.

<sup>22</sup> *Id.* at 9.

<sup>23</sup> See 19 C.F.R. § 165.15(b)(2); see also 19 U.S.C. § 1517(b)(1).

statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”<sup>24</sup> Thus, an allegation must reasonably suggest not only that an importer alleged to be evading entered merchandise subject to an AD and/or CVD order into the United States, but also that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the Allegations, CBP found that the information Cambria provided reasonably suggests that the Importers entered QSP covered by the *Orders* into the Customs Territory of the United States through evasion. Specifically, the U.S. import shipment data contained in the Allegations show that the Importers likely imported WCV from Vietnam, while Vietnamese import shipment data in the Allegations suggest that the Importers’ Vietnamese suppliers purchased Chinese QSP to attach to at least some of the WCV. Further, Legion’s website and third-party websites selling Vanity’s WCV show that both importers sell a wide range of WCV with QSP attached. For example, Legion’s website shows a type of cabinet WLF6036-30W with a description including “Counter Top: Quartz (Attached to the Cabinet).”<sup>25</sup> The website for a seller of Vanity’s cabinets called Appliance Connection sells a cabinet that is described as having a top of Phoenix stone, but the top material is described as “quartz.” This website says that the supplier is Vanity Art, so it is likely that Vanity imported this quartz.<sup>26</sup> Amazon also sells a model of cabinet with a product code 3112-G that is sourced from Vanity with the description “Vanity Art 12 inch bathroom cabinet 3 dove-tailed drawers with quartz top.”<sup>27</sup> CBP found listings for at least seven different styles of cabinets sourced from Vanity that are described as having quartz tops on the websites of three different third-party sellers. This is likely not an exhaustive list of all third-party sellers of cabinets from Vanity that contain quartz.<sup>28</sup> However, the U.S. import data provided in the Allegations indicates that any QSP attached to WCV imported by the Importers is not being declared to CBP. As such, the information in the Allegations reasonably suggests that the Importers entered Chinese-origin QSP covered by the *Orders* into the United States through evasion.

### **Research Conducted by CBP**

CBP confirmed the addresses and names of the importers identified in the Allegations in its systems.<sup>29</sup> CBP further found that Vanity and Legion declared all their entries on Customs entry forms filed since the beginning of the POI as [description] entries to CBP; therefore, Legion and Vanity did not pay AD/CVD duties on those entries.<sup>30</sup> However, Legion imported [ # ] entries of Chinese-origin merchandise under the harmonized tariff code 6801099010, which is described

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<sup>24</sup> See 19 C.F.R. § 165.1; see also 19 U.S.C. § 1517(a)(5)(A).

<sup>25</sup> CBP Memorandum, “EAPA Cons. 7809 – adding screenshots of product codes to the Administrative Record,” dated April 21, 2023 (“Product Codes Memo”).

<sup>26</sup> *Id.* at Attachment 3.

<sup>27</sup> *Id.* at Attachment 1, page 6/228.

<sup>28</sup> *Id.* at Attachment 1.

<sup>29</sup> This satisfies the requirements in 19 C.F.R. § 165.11 (b)(3).

<sup>30</sup> See CBP Memorandum “EAPA 7809 – Adding Information to the Administrative Record,” dated January 24, 2023 (“CBP Data on Vanity MTF”); EAPA Receipt Report for EAPA 7809; CBP Memorandum “EAPA 7815 – Adding Information to the Administrative Record,” dated April 14, 2023 (“CBP Data on Legion MTF”); and EAPA Receipt Report for EAPA 7815.

as agglomerated quartz slabs of the type used for countertops.<sup>31</sup> Therefore, Legion should have paid AD/CVD duties and declared these entries as type 03 because any Chinese merchandise with this description is covered by the plain language of the *Orders*.<sup>32</sup> Because these entries were declared as [description] and therefore not subject to AD/CVD duties, it is likely that Legion failed to pay applicable AD/CVD duties. The declared manufacturer for these entries was [company name] (Supplier 1).<sup>33</sup>

According to [source], the address for Supplier 1 is [address].<sup>34</sup> Another manufacturer, [company name] (Supplier 2), appears on bills of lading along with Supplier 1, with the address for both companies listed as [address]. This indicates that Supplier 1 and Supplier 2 are possibly affiliated with each other.<sup>35</sup> Further, the Federal Register notice for the order on WCV from China names a Chinese exporter of WCV with a separate AD rate called Sagarit Bathroom Manufacturer, Limited (Sagarit).<sup>36</sup> According to public websites, there is also a company licensed to operate in Hong Kong called Sagarit Bathroom Limited located at Rm D 10/F tower of a Billion Center, 1 Wang Kwong Rd., Kowloon Bay, KL Hong Kong.<sup>37</sup> This suggests that there may be an affiliation between Legion's suppliers and this separate rate respondent from the AD order on WCV from China. The likely affiliation between Supplier 1 and Supplier 2 with a Chinese company, combined with the fact that Legion imported [#] entries of quartz slab from Supplier 1 that fall within the dispositive written scope of the *Orders* and were declared as Chinese-origin suggests that Supplier 1 may also source QSP from China. Therefore, Legion's and Vanity's imports from Supplier 1 and Supplier 2 may be part of an evasion scheme to import WCV from these manufacturers with Chinese QSP attached similar to the scheme involving Phan Phuoc Hung described in the Allegations.<sup>38</sup>

CBP also found public websites for Legion and Vanity and third-party sellers of the Importers' merchandise with descriptions of their product codes. A search of Legion's website for WCV varieties with quartz shows that over 30 different types of WCV with quartz tops are advertised on Legion's website. Another 55 styles of WCV on Legion's website are advertised as containing "moon stone"<sup>39</sup> and 14 types are advertised with an "artificial stone" top appear for sale on Legion's website.<sup>40</sup> Additional research into these terms shows that "moon stone" and "artificial stone" are terms often used to describe countertops made of quartz.<sup>41</sup> Third-party sites selling Vanity's products advertise at least seven different styles of WCV from Vanity with quartz countertops.<sup>42</sup> Vanity's website and a third-party website show that Vanity sells at least three additional styles of WCV with countertops described as containing "Phoenix stone,"

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<sup>31</sup> See CBP Data on Legion MTF at Attachment 1.

<sup>32</sup> See the *Orders* at 33055.

<sup>33</sup> See CBP Data on Legion MTF at 8, 9, and 19.

<sup>34</sup> *Id.* and CBP Data on Vanity MTF.

<sup>35</sup> See CBP Memorandum, "Adding public information about Sagarit Bathroom Manufacturer to the Record," dated April 17, 2023 (Sagarit MTF).

<sup>36</sup> *Id.* at Attachment 2.

<sup>37</sup> *Id.* at Attachment 1.

<sup>38</sup> See CBP Data on Legion MTF at 8, 9, and 19.

<sup>39</sup> See Product Codes Memo at Attachment 4.

<sup>40</sup> *Id.* at Attachment 5.

<sup>41</sup> *Id.* at Attachments 7 and 8.

<sup>42</sup> *Id.* at Attachment 1.

including a variety with the product code VA1060DE, which is also described on a third-party website as having a top made of quartz.<sup>43</sup> This shows that third party sellers advertise cabinets sourced from Vanity with “Phoenix stone” countertops, which are comprised of quartz.<sup>44</sup>

### *Cargo Examination*

On March 22, 2023, CBP examined the physical cargo in entry [ # ]2674 imported by Legion and related documents. According to the Customs Entry Form 7501 (“7501”), the goods in this entry were manufactured by [ company name ] and consist of [ merchandise description ]. The commercial invoices and packing lists associated with this entry describe the items as [ description ] including product codes [ # ] and [ # ].<sup>45</sup> According to Legion’s website, [ # ] is a product code for a type of WCV with a marble top<sup>46</sup> and [ # ] is a type of WCV with a “moon stone” top.<sup>47</sup> Since packing lists, commercial invoices, and other shipping documents often use abbreviated product descriptions and product codes, it is likely that these are the same code. Legion’s website and third-party websites indicate that moonstone is an industry term for white countertops that may be made of marble or QSP.<sup>48</sup> When CBP physically examined the merchandise, CBP officials noted that several items in this shipment contained countertops that appeared to be stone. CBP took a sample from some countertops, but CBP is awaiting results of lab analysis.<sup>49</sup>

### *CBP Form 28 Responses and Analysis*

On March 1, 2023, CBP issued CBP Form 28 (CF-28) requests for information to Vanity for entry numbers [ # ]6094 (-6904) and [ # ]4257 (-4257). CBP requested complete production records for the items in these entries, including worker timecards, photographs of each piece of equipment, production capacity for every piece of equipment used in production, the name of the factory owner and all corporate officers, transportation documents showing shipment of raw materials to the factory, purchase orders for raw materials, proof of payment for raw materials, and commercial invoices for raw materials. CBP also requested information about affiliation between the manufacturer and importer; how any affiliation affected the cost of the goods entered; the duration of the manufacturer’s operations; and an email address, physical address, and mailing address for the manufacturer.<sup>50</sup>

On March 3, 2023, CBP also issued CF-28s to Legion for entry numbers [ # ]2682 (-2682), [ # ]2027 (-2027), and [ # ]8417 (-8417). CBP requested the 7501s, commercial invoices, packing lists, bills of lading, and proof of payment to the manufacturer for the purchase of all items in these entries. CBP also asked for photographs of the interior and exterior of the manufacturer’s facility, employee timecards, the names of the factory owners and

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<sup>43</sup> *Id.* at Attachment 2.

<sup>44</sup> *Id.* at Attachment 6.

<sup>45</sup> See CBP Memorandum “EAPA Cons. Case 7809 – Adding Cargo Exam to the Administrative Record,” dated May 15, 2023 (Cargo Exam Memo).

<sup>46</sup> See CBP Memorandum “Adding Information to the Administrative Record,” dated April 19, 2023 (Marble Product Codes Memo) at Attachment 1.

<sup>47</sup> See Product Codes Memo at Attachment 4.

<sup>48</sup> See Product Codes Memo at Attachment 5.

<sup>49</sup> See Cargo Exam Memo at Attachment 3.

<sup>50</sup> See CBP Memorandum, “EAPA 7809 – Adding CF-28s to the Administrative Record,” dated March 6, 2023 (CF-28 Memo) at Attachment 1 and Attachment 2.

all corporate officers, country of origin certificates, information about the manufacturer’s raw materials suppliers, the manufacturers’ turnaround time on orders, photographs of raw materials at different stages of production, a manufacturing process flow chart, the complete physical, mailing and email address of the manufacturer, the production capacity of all equipment used in production, and high quality photographs of the finished product. CBP asked Legion if it is affiliated with the manufacturers of these entries, and if so, how this affected the cost of the goods.<sup>51</sup>

#### Entry -6094

On March 27, 2023, Vanity provided shipping documents including a bill of lading, packing list, and commercial invoice for entry -6904, with additional documents provided on April 18 and 19, 2023. The commercial invoice and packing list include an item with the product code [ # ].<sup>52</sup> According to the website of a third-party seller of Vanity’s merchandise, this is a product code for a type of cabinet sourced from Vanity with a “phoenix stone” top. The third-party website also confirms that this particular type of Phoenix stone countertop is made of quartz.<sup>53</sup> Another item in this packing list is a wooden bathroom cabinet with the product code [ # ].<sup>54</sup> According to Vanity’s website, cabinet model [ # ] has a top made of “phoenix stone.”<sup>55</sup> Although neither Vanity’s website nor third-party websites clarify whether [ # ] has a countertop made of quartz, third-party websites indicate that Phoenix stone may be quartz or other types of stone.<sup>56</sup> Other WCV styles listed in the packing list include [ # ] and [ # ], which have quartz tops, according to websites of third-party sellers.<sup>57</sup>

Vanity also provided Vietnamese customs declarations, commercial invoices from the manufacturer to suppliers, and proof of payment for importation of the sinks and countertops into Vietnam. These documents show that the manufacturer imported countertops of [ material ] and “[ description ]” from China.<sup>58</sup> The scope of the *Orders* specifies that “Quartz surface products may also generally be referred to as engineered stone or quartz, artificial stone or quartz, ...”<sup>59</sup> This suggests that at least some of the countertops consisted of QSP subject to the *Orders*. However, the 7501 declares the merchandise in this entry as [ description ], [ description ], and the merchandise description on the 7501 does not declare any of the good as [description].<sup>60</sup>

Vanity also furnished a commercial invoice for its purchase of WCV in entry -6094 from [ company name ], photographs of production equipment labeled with the names of each machine, worker attendance records, invoices for wood, proof of payment from the manufacturer to suppliers of wood, an email address for the manufacturer, the manufacturer’s address, and a list of the names of the key corporate officers at [ company name ].<sup>61</sup>

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<sup>51</sup> *Id.* at Attachment 3.

<sup>52</sup> See Vanity’s CF-28 response for entry -6094.

<sup>53</sup> See Product Code Memo at Attachment 1.

<sup>54</sup> See Vanity’s CF-28 response for entry -6094.

<sup>55</sup> See Product Code Memo at Attachment 2.

<sup>56</sup> *Id.* at Attachment 6. As noted above, CBP found multiple third-party sellers of Vanity’s merchandise, including three sellers with a total of seven listings for different types of cabinets with quartz tops.

<sup>57</sup> *Id.* at Attachment 1.

<sup>58</sup> See Vanity’s CF-28 response for entry -6094.

<sup>59</sup> See the *Orders* at 33055.

<sup>60</sup> See Vanity’s CF-28 response for entry -6094.

<sup>61</sup> See Vanity’s CF-28 response for entry -6094.

To better understand the production process, and analyze this information, CBP reviewed the U.S. International Trade Commission (USITC) report on Wooden Cabinets and Vanities from the People’s Republic of China<sup>62</sup> and the ITC report on Quartz Surface Products from the People’s Republic of China.<sup>63</sup> According to the QSP ITC Report, the main inputs for producing QSP include aggregates, binding agents, and additives.” The report further clarifies that aggregate materials are “quartz and silica minerals made of natural stone or glass and ceramic materials.”<sup>64</sup> The main equipment used for QSP production include equipment for crushing stone, equipment for shaping the blended and crushed stone such as a rubber mold, equipment for baking the quartz at 90 degrees Celsius, and “disk and milling drills” to “sand-off excess material” from the baked and hardened QSP.<sup>65</sup> Vanity did not provide any photographs or lists of equipment showing that its supplier had any of this equipment.<sup>66</sup> The equipment photographs do not include any equipment for the production of QSP.<sup>67</sup>

#### Entry -4257

On March 27, 2023, Vanity furnished its response to the CF-28 for entry -4257, including the 7501, the commercial invoice for the purchase of WCV from the manufacturer, packing lists for shipment of WCV to Vanity, proof of payment to the manufacturer, and the manufacturer’s purchase orders, packing lists, and invoices for its purchase of various types of wood. The 7501 describes the merchandise as wooden cabinets and all items as [ **description** ], not [ **description** ]. On the 7501, the manufacturer is declared as [ **#** ], the manufacturer ID for [ **company name** ] (Supplier 3). Vanity also provided CBP with photographs of equipment in use inside the manufacturer’s factory, but they do not appear to show QSP production. The purchase orders associated with this entry list items including a cabinet with the product code [ **#** ].<sup>68</sup> According to third-party websites, several variations of this product code, including [ **#** ], [ **#** ], and [ **#** ], contain quartz tops and CBP could not find any type of WCV sold by Vanity as model [ **#** ] that does not include a countertop made of QSP.<sup>69</sup>

Vanity initially failed to provide any information about where the manufacturer obtained countertops, but after CBP contacted Vanity to request the missing information, Vanity responded on May 8, 2023. Vanity also provided packing lists, purchase orders, and proof of payment for Supplier 3’s purchase of marble tops and ceramic sinks on May 8, 2023. (This is long after the date when the CF-28 responses were due). Vanity told CBP in its documents filed on May 8, 2023, that Supplier 3 does “not produce sinks, countertops, and hardware attached to WCV.” Vanity also told CBP that Supplier 3 purchases marbles and stone tops from [ **company name** ], located in China. According to the packing lists and invoices Vanity provided on May 8, 2023, Supplier 3 purchased [ **description** ] stone tops

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<sup>62</sup> See CBP Memorandum “Adding WCV ITC Report to the Record,” dated April 23, 2023 (WCV ITC Report Memo).

<sup>63</sup> See CBP Memorandum “Adding Information to the Administrative Record,” dated February 7, 2023 (QSP ITC Report Memo).

<sup>64</sup> See QSP ITC Report at Attachment 1, I-12 to I-13.

<sup>65</sup> *Id.* at Attachment 1, I-15.

<sup>66</sup> See Vanity’s CF-28 response for entry -6094.

<sup>67</sup> See Vanity’s CF-28 response for entry -6094. See also QSP ITC Report Memo at I-10.

<sup>68</sup> See Vanity’s CF-28 response for entry -6094.

<sup>69</sup> See Product Codes Memo at Attachment 1.



from the [ **company name** ], and there is no information about where any QSP in this entry originated.<sup>70</sup>

### Entry -2027

On April 18, 2023, Legion provided its response to the CF-28 for entry -2027, including a 7501, packing lists, bills of lading, the manufacturer's employee attendance records, a list of equipment and production capacity information for the manufacturer, the manufacturer's business registration, proof of payment from the importer to the manufacturer, and the manufacturer's export documentation. This response also included raw materials invoices, raw materials purchase orders, sales contracts for the manufacturer's purchase of inputs, packing lists for inputs, invoices for inputs, and Vietnamese customs declarations for inputs. The documents Legion provided show where the manufacturer sourced sinks, stone countertops, packing foam, and wood.<sup>71</sup>

The 7501 declares that the manufacturer is Supplier 2, and the business registration provided for this shipment has Supplier 2's name and registration details. Legion also furnished photographs of the factory showing a building with a sign on the exterior stating that the factory belonged to Supplier 2. However, the commercial invoices and packing lists were issued by Supplier 1 and Supplier 1 is declared as the shipper on the bill of lading.<sup>72</sup> This indicates that these two suppliers may be affiliated with each other, as indicated by the information CBP found about these two suppliers from CBP systems and public sources.

The descriptions of the goods in packing lists and purchase orders indicate that this shipment contains various cabinets, including those with product codes [ # ], [ # ], and [ # ].<sup>73</sup> According to Legion's website, these are product codes for WCV with marble countertops.<sup>74</sup> The packing lists, commercial invoices and purchase orders also list one type of WCV with product code [ # ], which CBP could not find on Legion's website or any other public source.<sup>75</sup> The packing lists and purchase orders for this entry do not describe the materials in these countertops.<sup>76</sup>

The Vietnamese customs export declarations provided with this entry indicate that this shipment consisted of several cabinets described as “[ **merchandise description**

].”<sup>77</sup> The website of a third-party source indicates that [ **merchandise** ] can be made of quartz.<sup>78</sup> Legion also provided a purchase order and sales contract between Supplier 2 and [ **company name** ] which indicates that the countertops for this entry were made of several different types of stone, including “[ **merchandise** ],” which could be quartz or another material.<sup>79</sup> The *Orders* state that QSP is often described as “artificial stone,” “synthetic stone,” and “manufactured stone,” which are all synonyms for “[

<sup>70</sup> See Vanity's CF-28 response for entry -4257.

<sup>71</sup> See Legion's CF-28 response for entry -2027.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> See Marble Product Codes Memo at Attachment 1.

<sup>75</sup> *Id.* at Attachment 1. See also Product Codes Memo and Legion's CF-28 response for entry -2027.

<sup>76</sup> See Legion's CF-28 response for entry -2027.

<sup>77</sup> *Id.*

<sup>78</sup> See Marble Product Codes Memo at Attachment 3.

<sup>79</sup> See Legion's CF-28 response for entry -2027.

[merchandise ].”<sup>80</sup> Therefore, because Legion sells a wide range of WCV with quartz countertops, it is possible that at least some of the “[merchandise ]” countertops in this entry contain quartz tops.<sup>81</sup> The purchase orders and sales contracts between Supplier 1 and its supplier of stone countertops show that [company name ] purchased the stone countertops from China.<sup>82</sup>

#### Entry -2682

On March 30, 2023, Legion provided its response to the CF-28 for entry -2682, with additional documents provided on April 17 and April 20, 2023. This response included a 7501, bills of lading, packing lists, commercial invoices, photographs of the goods produced, factory photographs, a business registration for the manufacturer, photographs of factory equipment, and an invoice to the ocean carrier for transportation, an estimate of the factory’s production capacity, photographs of raw materials, packing lists for the purchase of raw materials and employee timecards.<sup>83</sup>

According to the packing lists and commercial invoices for shipment of the finished goods to Legion, Supplier 1 manufactured the items in this entry in Vietnam. This entry consisted of WCV including several described as “[product code with description ].”<sup>84</sup> Legion’s website also indicates that WCV with product code [ # ] have quartz tops.<sup>85</sup> Several other items are described as having “[description ],” including items with products codes [ # ], [ # ], [ # ] and [ # ]. However, Legion did not declare any items in this entry as QSP.<sup>86</sup> Although there is no other description in the packing lists or purchase orders that indicates what material these countertops were made of,<sup>87</sup> Legion’s website indicates that WCV with these product codes have marble countertops attached.<sup>88</sup>

Although the documents provided for this entry indicate that some items have countertops attached, including “[product code with description ],”<sup>89</sup> the factory photographs and equipment photographs do not show any equipment for the manufacture of QSP. For this entry with Supplier 1 as the declared manufacturer, Legion provided sales contracts for Supplier 2’s purchase of [merchandise] and [merchandise] tops from [company name ], a Chinese producer of stone, but Legion provided no information about where the [description] tops were sourced. The 7501 does not declare any QSP even though the packing list from Supplier 1 to Legion indicates that at least one item in this entry had a [description] top. According to the 7501 for this entry, the goods were entered as [description ], indicating that the entry does not contain goods [description ].<sup>90</sup>

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<sup>80</sup> See the *Orders* at 33055.

<sup>81</sup> See Product Codes Memo at Attachment 3.

<sup>82</sup> See Legion’s CF-28 response for entry -2027.

<sup>83</sup> See Legion’s CF-28 response for entry -2682.

<sup>84</sup> *Id.*

<sup>85</sup> See Product Codes Memo at Attachment 3.

<sup>86</sup> See Legion’s CF-28 response for entry -2682.

<sup>87</sup> *Id.*

<sup>88</sup> See Marble Product Codes Memo at Attachment 1.

<sup>89</sup> See Legion’s CF-28 response for entry -2682.

<sup>90</sup> *Id.*

Although the commercial invoices, packing lists, and 7501 all have Supplier 1 listed as the manufacturer and shipper, Legion also provided proof of payment for a purchase of [merchandise] that was issued by Supplier 2 and the exporter name on the Vietnamese customs export clearance form submitted with this entry is also Supplier 2. Further, the photographs of the supplier's factory appear identical to those for Supplier 2 provided for entry -2027, for which Legion declared that the manufacturer was Supplier 2 on the 7501.<sup>91</sup>

#### Entry -8417

On April 17, 2023, Legion furnished its response to the CF-28 for entry -8417. Legion furnished a 7501, packing lists, bills of lading, commercial invoices, factory photographs, employee timecards, a business registration for the factory, and information about the factory's owners and managers. According to the 7501, packing lists and invoices, the items in this shipment were manufactured by [company name]. The photographs of the factory also show a sign on the outside of the factory building with [company name]'s name on it. The factory photographs show a large building with empty floor space and some equipment in a corner of the building. Photographs of this equipment show [equipment], and [merchandise description], but no equipment for the manufacture of QSP. Legion also provided import documentation for [company name]'s purchases of sinks attached to the WCV, which indicates that the sinks were imported into Vietnam from China.<sup>92</sup>

The packing list for this entry shows that it consisted of WCV including one with the product code [ # ], which has a [description] top according to the websites of third-party sellers that sourced the cabinets from Legion.<sup>93</sup> The packing list also includes one item with a product code [ # ], which matches the product code on third-party sellers' websites as a type of WCV with an attached top made of artificial stone. These websites also indicate that these sellers sourced their WCV with this code from Vanity.<sup>94</sup> Photographs of the merchandise submitted with Legion's response indicate that two other items with product codes [ # ] and [ # ] also have ceramic sinks. Vietnamese customs declarations, sales contracts between [company name] and its supplier of countertops and packing lists for the shipment of the countertops all state that they were Chinese-origin, including countertops with the description "[description]."<sup>95</sup>

#### Analysis of the CF-28 Responses

The CF-28 responses and other research conducted by CBP yield a reasonable suspicion that both Legion and Vanity evaded the *Orders* by importing WCV from Vietnam that likely included Chinese QSP attached while declaring all their imports as [description] and therefore, [description]. The factory photographs included in these documents indicate that Phan Phuoc Hung, Supplier 1, Supplier 2, and Supplier 3 likely have no capacity to produce QSP. Documents associated with entries -2027 and -2682 also indicate that Supplier 2 and Supplier 1 may be affiliated with each other, as indicated by CBP systems and public websites.

#### Interim Measures

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<sup>91</sup> *Id.*

<sup>92</sup> See Legion's CF-28 response for entry -8417.

<sup>93</sup> *Id.* and Marble Product Codes Memo at Attachment 2.

<sup>94</sup> See Product code memo at Attachment 5.

<sup>95</sup> See Legion's CF-28 response for entry -8417.

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the AD/CVD orders was entered into the United States through evasion. CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be evading entered merchandise covered by an AD or CVD order into the United States by a materially false statement or act, or material omission that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or other security.<sup>96</sup> If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 U.S.C. § 1517(e) and 19 C.F.R. § 165.24. As explained below, CBP is imposing interim measures because the evidence establishes reasonable suspicion that Vanity and Legion entered Chinese-origin QSP into the United States through evasion.<sup>97</sup>

There is reasonable suspicion that the Importers entered covered merchandise into the customs territory of the United States through evasion based on the following:

1. At least some of the shipments the Importers have purchased from Vietnamese WCV manufacturers likely have QSP attached because:
  - a. Packing lists and commercial invoices for entry -2682 describe an item in that entry as “[ description ].”<sup>98</sup>
  - b. Other entries have descriptions and product codes of imported merchandise in purchase orders, commercial invoices, and packing lists, that when compared with information about these product codes, indicate the Importers bought items with quartz tops; and
  - c. the Importers’ websites and third-party websites indicate that the Importers sell a wide range of WCV with QSP attached.
2. QSP the Importers purchased from the Vietnamese suppliers was likely Chinese because:
  - a. There is no evidence that these suppliers produce QSP or source it from any Vietnamese source; and
  - b. CF-28 responses included Vietnamese customs declarations stating that the suppliers sourced “[ merchandise ]” or “[ merchandise ]” from China.
  - c. The Importers have provided Vietnamese customs documents declaring that the Vietnamese suppliers imported stone countertops from China.
3. CBP data indicates that neither of the Importers have paid applicable AD/CVD duties on Chinese QSP during the POI.
4. CBP systems indicate that Legion has also imported QSP subject to the *Orders* directly from China while declaring these entries as [ description ] and therefore, [ description ].

This fact pattern indicates that Legion and Vanity likely imported QSP attached to Vietnamese WCV, and that at least some of the QSP was Chinese-origin. Evidence from CBP systems also indicates that the Importers have not paid applicable AD/CVD duties because all Legion’s and Vanity’s entries since the start of the POI were declared as [ description ] and therefore, not [ description ].<sup>99</sup>

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<sup>96</sup> See 19 U.S.C. § 1517(e) and 19 C.F.R. § 165.24.

<sup>97</sup> See 19 C.F.R. § 165.24(a).

<sup>98</sup> *Id.*

<sup>99</sup> See 12-12 Memo at Attachment 1.

### *Enactment of Interim Measures*

Based on the record evidence described above, CBP finds that reasonable suspicion exists that the Importers entered covered merchandise through evasion into the United States by importing Chinese-origin QSP attached to Vietnamese WCV without declaring the QSP as subject to AD/CVD Orders. Therefore, CBP is imposing interim measures pursuant to this investigation.<sup>100</sup> Specifically, in accordance with 19 USC 1517(e)(1)-(3), CBP shall:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after February 9, 2023, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under 19 USC 1504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation, February 9, 2023; and
- (3) pursuant to the Commissioner's authority under 19 USC 1623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.<sup>101</sup>

### **Consolidation of the Investigations**

CBP has consolidated EAPA investigations 7809 and 7815 into a single investigation. The resulting consolidated case number is EAPA Consolidated Case 7809, and a single administrative record is being maintained. At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation, pursuant to 19 C.F.R. § 165.13(b), which stipulates that the factors that CBP may consider in consolidating multiple allegations include, but are not limited to, whether the multiple allegations involve: 1) relationships between the importers; 2) similarity of covered merchandise; 3) similarity of AD/CVD orders; and 4) overlap in time periods of entries of covered merchandise.<sup>102</sup> In these investigations, the Importers are all alleged to be importing QSP covered by the AD/CVD orders on QSP from China in 2022. Therefore, criteria 2, 3, and 4 are all present. Further, the allegations show that both the Importers have used the same address on business records filed in the State of California, and both Importers have a similar business importing and selling furniture from at least some of the same foreign suppliers.<sup>103</sup> This indicates that there may also be relationships between the importers, satisfying criterion 1. Because factors warranting consolidation are present in these investigations, CBP consolidated them and is providing notice pursuant to 19 C.F.R. § 165.13(c). We note that the deadlines for the consolidated investigation have been set from the date of initiation of EAPA case 7809, which is February 9, 2023.

For future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a business confidential version and a public version with a public summary<sup>104</sup> using the EAPA Case Management System (CMS), found at <https://eapallegations.cbp.gov>. All public versions will be accessible to the parties to the

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<sup>100</sup> See 19 U.S.C. § 1517(e); see also 19 C.F.R. § 165.24(a).

<sup>101</sup> See also 19 C.F.R. § 165.24(b)(1)(i-iii).

<sup>102</sup> See also 19 U.S.C. § 1517(b)(5).

<sup>103</sup> See Legion Allegation at 5 and Exhibit 6.

<sup>104</sup> See 19 C.F.R. § 165.4, 165.23(c), and 165.26.

investigation via the CMS.<sup>105</sup> Please note that CBP is requiring that all documents submitted via the CMS are made text searchable, especially if those documents are submitted as PDFs.

Should you have any questions regarding this investigation, you may contact us at [eapallegations@cbp.dhs.gov](mailto:eapallegations@cbp.dhs.gov) with “EAPA Cons. Case Number 7809” in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP’s website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victoria Cho".

Victoria Cho  
Acting Director  
Enforcement Operations Division  
Trade Remedy Law Enforcement Directorate  
CBP Office of Trade

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<sup>105</sup> You will need a login name and password to use the CMS. The website will direct you how to obtain those.