



U.S. Customs and Border Protection

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PUBLIC VERSION

EAPA Case 7783

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Re: Notice of Determination as to Evasion

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) investigation 7783, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that Superior Commercial Solutions LLC (SCS) entered merchandise covered by antidumping (AD) and countervailing (CVD) duty orders A-570-084 and C-570-085 (covered merchandise)¹ into the customs territory of the United States through evasion.² Substantial evidence demonstrates that SCS imported quartz surface products (QSP) from the People's Republic of China (China) into the United States by undervaluation and/or transshipment through Vietnam. SCS did not declare that the merchandise was subject to the *AD/CVD Orders* on entry and, as a result, no cash deposits were collected on the merchandise.

Background

On September 8, 2022, Cambria Company LLC (the *Alleger*), a domestic producer of QSP, submitted an allegation to CBP that SCS was evading the *AD/CVD Orders* on QSP from China.³

¹ See 19 CFR 165.1.

² See *Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 84 FR 33053 (July 11, 2019) (*AD/CVD Orders*).

³ See Letter from the *Alleger*, "Quartz Surface Products from the People's Republic of China: Request for an Investigation under the Enforce and Protect Act of Superior Commercial Solutions LLC," dated September 8, 2022

The Allegation asserted that SCS was importing Chinese-origin QSP from into the United States that was transshipped through Vietnam.⁴ The Allegation provided [SOURCE] indicating that the Chinese companies Xiamen Lexiang Imp. & Exp. Co., Ltd. (Xiamen Lexiang) and Xiamen Stone Display Co., Ltd. (Xiamen Stone Display) exported the QSP to Kales Quartz Co., Ltd. (Kales) in Vietnam, and Kales then exported the QSP to SCS in the United States.⁵ On October 6, 2022, CBP acknowledged receipt of the Allegation.⁶

CBP found the information in the Allegation reasonably suggested that SCS entered covered merchandise into the customs territory of the United States through evasion.⁷ Consequently, on October 28, 2022, CBP initiated an EAPA investigation pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.⁸ After the initiation of this investigation, CBP issued CBP Form 28 (CF-28) questionnaires to SCS concerning four entries of QSP and requested the corresponding entry and production documentation.⁹ SCS submitted its CF-28 response and provided most of the information that CBP requested.¹⁰ However, SCS did not provide the following requested items or explain its failure to do so, nor did it request an extension to provide them:

- Customs clearance records for raw materials imported into the country of manufacture
- Certificates of origin for imported raw materials and for the finished product
- Stamped timecards from the factory
- A description of the equipment used in production
- A description of the production capacity of all equipment used in production
- A photograph of each piece of equipment and a flowchart of the manufacturing process
- Color photographs of the exterior of the manufacturing facility with address and street signs to show its location
- Packaging costs
- A factory inspection report conducted by the importer or its agent.

(Allegation). The Alleger, Cambria Company LLC, is a domestic producer of QSP and, thus, meets the definition of an interested party that is permitted to submit an EAPA allegation pursuant to 19 USC 1517(a)(6)(A)(ii), 19 CFR 165.1(2), and 19 CFR 165.11(a). *See* Allegation at 3-4 and Exhibit 2.

⁴ *Id.* at 1, 5-9 and Exhibits 3, 8-9.

⁵ *Id.*

⁶ *See* 19 CFR 165.12; *see also* Email from CBP, “EAPA 7783 - Official Receipt of Properly Filed Allegation,” dated October 6, 2022.

⁷ *See* 19 USC 1517(b)(1); *see also* 19 CFR 165.15.

⁸ *See* 19 USC 1517(b)(5); *see also* 19 CFR 165.13; *see also* CBP Memorandum, “Initiation of Investigation for EAPA Case 7783,” dated October 28, 2022 (Initiation Memorandum).

⁹ On November 3-4, 2022, CBP issued CF-28s to SCS on entries [#]6816, [#]6873, [#]9051, and [#]3193. On December 2, 2022, SCS submitted its response to these CF-28s. After CBP announced the EAPA investigation to SCS, it asked SCS to bracket its CF-28 response. As such, on March 17, 2023, SCS submitted a bracketed version of this CF-28 response. *See* Letter from SCS, “EAPA Case No. 7783 – SCS Refiling CF-28 Response,” dated March 17, 2023 (CF-28 Response).

¹⁰ *Id.*

CBP subsequently added two memoranda to the administrative record.¹¹ These memoranda contained CBP's research results composed of website screenshots and/or entry documents pertaining to Vietnamese exporters that were affiliated with each other and that SCS imported from, Kales and Engga Company Limited (Engga 2).¹² The memoranda also contained information on other companies that appeared to have a connection to Engga 2 and Kales, such as Engga Company Limited (Engga 1), Stry Manufacturing Company Limited (Stry), New Quartz Material Co., Ltd. (New Quartz), Fonka Company limited (Fonka), Xiamen Gofor Stone Co., Ltd. (Xiamen Gofor Stone), Xiamen Stone Display, and Xiamen Lexiang.

After evaluating the information on the record, CBP determined that reasonable suspicion existed that SCS imported Chinese-origin QSP into the United States that had been transshipped through Vietnam. This information included the following:

1. In its CF-28 response, SCS did not provide some of the items CBP requested and did not explain its failure to do so.
2. SCS entered several QSP product numbers from Kales and Engga 2 that indicated a connection to the Chinese company Xiamen Gofor Stone. Most notably, SCS imported QG871, which was listed on Xiamen Gofor Stone's website.¹³ SCS also imported directly from Xiamen Gofor Stone before the *AD/CVD Orders*.¹⁴
3. [SOURCE] indicated that SCS imported multiple shipments of QSP into the United States from Kales during the period of investigation (POI) and that Kales imported numerous shipments of Chinese-origin QSP slabs into Vietnam from Xiamen Lexiang and Xiamen Stone Display during the POI.¹⁵
4. The QSP listed in five shipment lines of the [SOURCE] could be traced from Xiamen Lexiang in China to Kales in Vietnam to SCS in the United States.¹⁶ QSP from two shipments lines of the [SOURCE] could also be traced from Xiamen Stone Display to Kales to SCS.¹⁷ Furthermore, although the corresponding CBP entry documents listed Engga 2 rather than Kales as the exporter, the merchandise type and quantities were the same, which indicated Engga 2's and Kales' involvement in the same entries. This is relevant because it indicated Engga 2's and Kales' affiliation with each other and because SCS entered QSP from Engga 2 and from Kales.
5. In addition to QSP slabs, [SOURCE] indicated that Kales exported sinks to SCS. The sinks' description stated that their producer was the "manufacturer Xiamen Lexiang."¹⁸ Because the sinks accompanied Kales' QSP in the same shipments to SCS, it indicated that the QSP also likely came from Xiamen Lexiang and was transshipped through Kales.

¹¹ See CBP Memorandum, "Adding Information to the Administrative Record of EAPA 7783," dated November 30, 2022 (November Memorandum); see also CBP Memorandum, "Adding Information to the Administrative Record of EAPA 7783," dated December 29, 2022 (December Memorandum).

¹² This is abbreviated as Engga 2 because there was an earlier iteration abbreviated as Engga 1. Engga 1 will be discussed later in this notice.

¹³ See November Memorandum at Attachment 5.

¹⁴ *Id.* at Attachment 63.

¹⁵ See Allegation at Exhibits 3, 8-9. The POI is October 6, 2021, through the pendency of the investigation.

¹⁶ *Id.* at 7-8; Exhibit 8, pages 37-38; and Exhibit 9, pages 34-35.

¹⁷ *Id.* at Exhibits 3, 8-9; see also NOI at 5.

¹⁸ See Allegation at Exhibit 3, page 7.

6. Engga 2 attempted to withhold the existence of its relationship with Kales from CBP and in a CF-28 document stated “Dear Homeland {sic} Security, Engga has no relation ship {sic} with Kales Quartz.”¹⁹ However, as explained in the NOI, extensive evidence contradicted Engga 2’s statement and indicated that Kales and Engga 2 had a close relationship and were affiliated.²⁰
7. Raw material documents provided in the CF-28 response for entry [#]9051 contained substantive irregularities that cast doubt upon their reliability. In particular, the unique transaction reference number, payment description, payment trace number, and payment time (to the second) on an October 18, 2021 payment document were identical to the unique transaction reference number, payment description, payment trace number, and payment time (to the second) on another raw material payment document dated almost nine months later and that pertained to a different entry.²¹ These matching variables indicated that Kales and Engga 2 created a payment document from information surreptitiously copied from a payment document pertaining to a much later entry. Kales and Engga 2 then fraudulently attempted to misrepresent the created payment document as pertaining to the earlier entry, [#]9051.
8. Record evidence suggested that Kales, Engga 2, and their affiliate Strry were established in Vietnam by a Chinese parent company and have ties to Chinese QSP producers. This evidence included Engga 1’s establishment shortly after the *AD/CVD Orders*, [SOURCE] showing that Xiamen Stone Display and Xiamen Lexiang exported numerous shipments of QSP to Kales, multiple documents indicating that Kales’, Engga 2’s and Strry’s company representatives had permanent addresses in China, and a Strry bank account that had a swift number for a [BANK NAME, CITY] China.²² Additionally, Xiamen Lexiang issued commercial invoices and packing lists to a U.S. importer not under investigation that had invoice numbers beginning with [DESCRIPTION].²³ Invoice number prefixes are usually distinct and can be linked to sellers. Engga usually uses [PROCEDURAL DESCRIPTION].²⁴ Thus, Xiamen Lexiang issued commercial invoices and packing lists with invoice numbers linked to Engga. Furthermore, [COMPANY]’s name was in the header of one of these documents even though Xiamen Lexiang was listed as the [DESCRIPTION].²⁵

Consequently, on February 2, 2023, CBP issued a notice of initiation of investigation and interim measures (NOI) to SCS and the Alleger.²⁶ This notice informed SCS and the Alleger of the initiation of the investigation and of CBP’s decision to impose interim measures based on a reasonable suspicion of evasion.²⁷ The notice also informed SCS and the Alleger that the entries

¹⁹ See Letter from CBP, “Notice of Initiation of Investigation and Interim Measures - EAPA Case 7783,” dated February 2, 2023 (NOI) at 7; *see also* CF-28 Response at 197, 274.

²⁰ See NOI at 7-14.

²¹ See CF-28 Response at 23-24, 145-146, 220-221, 297-298; *see also* NOI at 11. The matching items were the transaction reference number [#], time [#], payment description and trace number [PAYMENT DESCRIPTION AND TRACE NUMBER].

²² See CF-28 Response at 17, 36, 38, 40, 42; *see also* December Memorandum at Attachment 5, pages 1-5; *see also* Allegation at Exhibit 8. It was swift number [#].

²³ See November Memorandum at Attachments 59-61.

²⁴ *Id.* at Attachments 8-36.

²⁵ *Id.* at Attachment 59, pages 1-2.

²⁶ See NOI.

²⁷ *Id.*; *see also* 19 USC 1517(e); *see also* 19 CFR 165.24.

covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from October 6, 2021, through the pendency of this investigation.²⁸ As part of interim measures, CBP suspended the liquidation of SCS' entries entered after the initiation of the investigation pursuant to its authority under 19 USC 1517(e).

CBP issued requests for information (RFI) to SCS, Kales, Engga 2, Strry, and Xiamen Stone Display.²⁹ CBP did not receive an RFI response from Xiamen Stone Display; however, it did receive responses from SCS, Strry, Kales, and Engga 2.³⁰ Kales and Engga 2 provided joint RFI responses "due to their close relationship" and affiliated status.³¹ CBP subsequently added another memorandum to the case record composed of additional research results such as website screenshots and entry documents.³² Kales, Engga 2, and Strry agreed to allow CBP to conduct a verification at their facilities in Vietnam during June 22-23 and 26-30, 2023.³³ However, on June 9, 2023, Kales, Engga 2, and Strry rescinded their offer to allow CBP to conduct a verification at their facilities.³⁴ On June 26, 2023, SCS and the Alleger submitted written arguments and on July 11, 2023, they each submitted a response to the other's written arguments.³⁵

²⁸ See 19 CFR 165.2. Entries covered by the investigation include entries up to one year prior to the date CBP officially received the Allegation.

²⁹ See Letter from CBP to SCS, "EAPA 7783 - Request for Information," dated February 3, 2023; *see also* Letter from CBP to Engga, "EAPA 7783 - Request for Information," dated February 3, 2023; *see also* Letter from CBP to Kales, "EAPA 7783 - Request for Information," dated February 3, 2023 (CBP RFI to Kales); *see also* Letter from CBP to Strry, "EAPA 7783 - Request for Information," dated February 3, 2023; *see also* Letter from CBP to Xiamen Stone Display, "EAPA 7783 - Request for Information," dated February 3, 2023; *see also* Letter from CBP to SCS, "EAPA 7783 Request for Information for SCS," dated April 25, 2023; *see also* Letter from CBP to Kales/Engga, "EAPA 7783 Request for Information for Kales/Engga," dated April 25, 2023 (CBP Supplemental RFI to Kales/Engga); *see also* Letter from CBP to Strry, "EAPA 7783 Request for Information for Strry," dated April 25, 2023 (CBP Supplemental RFI to Strry).

³⁰ See Letter from SCS, "EAPA Case No. 7783 – SCS RFI Response," dated March 1, 2023 (SCS RFI); *see also* Letter from Kales/Engga, "EAPA Case No. 7783 – Engga and Kales Consolidated RFI Response," dated March 1, 2023 (Kales/Engga RFI); *see also* Letter from Strry, "EAPA Case No. 7783 – Strry RFI Response," dated March 1, 2023 (Strry RFI); *see also* Letter from SCS, "EAPA Case No. 7783 – SCS Supplemental RFI Response," dated May 9, 2023 (SCS Supplemental RFI); *see also* Letter from Kales/Engga, "EAPA Case No. 7783 – Kales and Engga Supplemental RFI Response," dated May 15, 2023 (Kales/Engga Supplemental RFI); *see also* Letter from Strry, "EAPA Case No. 7783 – Strry Supplemental RFI Response," May 15, 2023 (Strry Supplemental RFI).

³¹ See Kales/Engga RFI; *see also* Kales/Engga Supplemental RFI.

³² See CBP Memorandum, "Adding Information to the Administrative Record of EAPA 7783," dated June 14, 2023 (June Memorandum).

³³ See Kales/Engga Supplemental RFI at 1; *see also* Strry Supplemental RFI at 1; *see also* Email from CBP, "EAPA 7783 – Extension of Written Arguments ref:_00Dt04XM5._500t012bAGB:ref," dated June 2, 2023. Initially verification was scheduled for June 21-23, 26-30, 2023, but was changed to June 22-23, 26-30, 2023.

³⁴ See Letter from Kales/Engga and Strry, "EAPA Case No. 7783 – Foreign Manufacturers Notice of Intent Not To Participate in Verification," dated June 9, 2023.

³⁵ See Letter from the Alleger, "Written Comments," dated June 26, 2023 (Alleger Written Arguments); *see also* Letter from SCS, "EAPA Case No. 7783 – SCS Written Argument," dated June 26, 2023 (SCS Written Arguments); *see also* Letter from the Alleger, "Response to Written Comments," dated July 11, 2023 (Alleger Written Argument Response); *see also* Letter from SCS, "EAPA Case No. 7783 – SCS Response to the Written Arguments Filed by Alleger," dated July 11, 2023 (SCS Written Argument Response).

Analysis as to Evasion

Under 19 USC 1517(c)(1)(A), to reach a determination as to evasion in this case, CBP must “make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.” 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 statement, or act that is material and false, or any omission that is material and that results in any cash deposit or other security of any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”³⁶ As discussed below, substantial evidence on the record indicates that SCS’ imports were entered through evasion.

Affiliation

The Department of Commerce (Commerce) published the *AD/CVD Orders* on QSP from China on July 11, 2019.³⁷ These *AD/CVD Orders* imposed a combined 371.45 percent duty rate on all Chinese exporters and producers of QSP that did not receive an assigned special rate, such as Xiamen Stone Display and Xiamen Lexiang. Only 35 days later, on August 15, 2019, Engga 1 was registered as a business in Vietnam.³⁸ Engga 1’s [

EVENT DESCRIPTION

] Engga 1 and [SITUATION DESCRIPTION].³⁹

Further, “[PROCEDURAL DESCRIPTION].”⁴⁰ As such, the timing and circumstances of Engga 1’s establishment are consistent with the timing and circumstances of a company set up for evasion.

On June [#], 2021, Engga 1 changed its name to Kales and [#] days later, on June 24, 2021, Engga 2 was registered in Vietnam as a new business.⁴¹ Although Kales and Engga 2 are two separate businesses on paper, in reality “Kales and Engga are operated as one company {.”⁴² Kales/Engga claimed that they kept the Engga company name because their [SITUATION DESCRIPTION].⁴³ As such, Engga functioned as the main sales company [SITUATION DESCRIPTION]. Whereas, Kales/Engga claimed that Kales’ function was to produce countertops from QSP slabs it received from its affiliate Stry [SITUATION DESCRIPTION].⁴⁴ Stry was originally registered in Vietnam as [COMPANY] on [DATE],

³⁶ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A). According to 19 USC 1517(a)(3), “The term ‘covered merchandise’ means merchandise that is subject to— (A) an antidumping duty order issued under section 1673e of this title; or (B) a countervailing duty order issued under section 1671e of this title.”

³⁷ See *AD/CVD Orders*.

³⁸ See November Memorandum at Attachment 2, pages 7, 21; see also Kales/Engga RFI at 2-3 and Exhibit 1.

³⁹ See Kales/Engga Supplemental RFI at 3.

⁴⁰ *Id.*

⁴¹ See November Memorandum at Attachment 2, page 7; see also Kales/Engga RFI at 2-3 and Exhibit 1; see also Kales/Engga Supplemental RFI at 11.

⁴² See Letter from Engga, Kales, and Stry, “EAPA Case No. 7783 – Second Extension of Time Request for Engga, Kales, Stry to Respond to the Identified Manufacturers’ RFI Parts II – VI,” dated February 21, 2023 (RFI Extension Request) at 2.

⁴³ See Kales/Engga RFI at 3.

⁴⁴ See RFI Extension Request at 2; see also Kales/Engga RFI at 22, 25, 37, and Exhibit 23.

and then changed its name to Strry on [DATE].⁴⁵ Although Kales, Engga 2, and Strry have different Vietnamese shareholders, they share the same Chinese management team and are, therefore, affiliated companies.⁴⁶

Kales/Engga and Strry reported several other affiliated companies, listed in the chart below. These affiliated companies are all operated by the same [#]-member Chinese management team.⁴⁷ Although the Chinese management team operates the affiliated companies in Vietnam, these companies have different Vietnamese shareholders from each other.⁴⁸ The one temporary exception to that was when former [SITUATION DESCRIPTION AND DATES].⁴⁹ In contrast, [SITUATION DESCRIPTION] fully or partially own several affiliated companies outside Vietnam, namely [COMPANY NAMES].⁵⁰

Figure 1 - Reported Affiliate Companies* (RFI Respondents are in Bold)		Abbreviation	Registration Country	Registration/ Name Change
1	[]			[]
2	Engga Company Limited	Engga 1	Vietnam	08/15/2019
3	[]			[]
4	Fonka Company Limited	Fonka	Vietnam	04/22/2020
5	[]			[]
6	[]			[]
7	Strry Quartz Company Limited	Strry Quartz	Vietnam	06/01/2021
8	Strry Manufacturing Company Limited	Strry	Vietnam	[]
9	[]			[]
10	Kales Quartz Company Limited	Kales	Vietnam	[]
11	Engga Company Limited	Engga 2	Vietnam	[]
12	[]			[]
13	[]			[]
14	New Quartz Material Company Limited	New Quartz	Vietnam	[]

Sources: Kales/Engga RFI at Exhibits 1-3, 29; Kales/Engga Supplemental RFI at Exhibit 1; November Memorandum at Attachment 2; December Memorandum at Attachments 1-2; June Memorandum at Attachments 20, 22. *Some of these affiliates are not new separate companies but rather name changes of previous companies, such as Kales and New Quartz.

Although record documents indicate that Kales/Engga, Strry, and their Vietnamese affiliates are Vietnamese-owned, multiple pieces of evidence indicate that the Chinese management team uses nominee shareholder agreements with the Vietnamese shareholders to exercise control behind

⁴⁵ See Strry RFI at 2 and Exhibit 1, pages 95-98; see also Strry Supplemental RFI at Exhibit SQ1-1, pages 2-5.

⁴⁶ See Kales/Engga Supplemental RFI at 11; see also Strry RFI at 5; see also Kales/Engga RFI at 29-30, 34, and Exhibits 2-3, 29. Exhibit 2 displays various [DESCRIPTION] shareholders for the affiliated companies but states “[SITUATION DESCRIPTION].” See also November Memorandum at Attachment 2; see also, e.g., CBP RFI to Kales at Part I: Corporate Structure, which defines affiliated companies.

⁴⁷ See Kales/Engga RFI at 7 and Exhibits 1-3; see also Kales/Engga Supplemental RFI at 11. There was also a [#] member of the Chinese management team named [NAME] who resigned [STATE].

⁴⁸ See November Memorandum at Attachment 2; see also December Memorandum at Attachments 1-2; see also Kales/Engga RFI at Exhibits 1-3.

⁴⁹ See Kales/Engga Supplemental RFI at Exhibit SQ1-1, pages 13-16.

⁵⁰ See Kales/Engga RFI at Exhibit 2.

the scenes.⁵¹ According to a Vietnamese website, “A nominee agreement in Vietnam is an arrangement between two parties where one party as {a} Vietnamese person or legal entity consents to acting as a director, secretary, shareholder or company owner for a company which is owned by another party as foreign individual or legal entity{.}”⁵² This website and another website on foreign investment list several advantages that may induce a foreign investor, such as a Chinese QSP producer, to use a nominee agreement in Vietnam:

{A} nominee refers to a person or company who has been entrusted with the safekeeping of investors’ securities or property; all of your investments are held in its name, while you retain control. The securities are held in trust and the nominee is the legal owner, but you hold on to real ownership as the beneficiary.... It is not uncommon for clients to engage the Nominee Shareholder Service for the purpose of confidentiality. The service entails the Nominee Shareholders holding the shares on trust for the beneficial owners. Only the Nominee Shareholder’s name will be identified on the Register of Shareholders.... All income and capital gains on the shares held belong to the beneficial owner.⁵³

There are some restrictions in some conditional business in Vietnam for foreign investor, but they are normal for Vietnamese investors. Then the nominee agreement is a common solutions {sic} for investment in Vietnam by foreign investors. Audited financial statements are required by Audit Law for foreign own {sic} capital companies in Vietnam, while the financial statement of Vietnamese company is not required audit {sic}. Then the nominee agreement will reduce audit fees for investment in Vietnam.⁵⁴

The following evidence indicates that the actual beneficiary owners are in China. The potential advantages above act as incentives for Kales/Engga and Strry’s actual Chinese owners to use a nominee shareholder system. First, the following Kales/Engga statement appears to implicitly reference its use of the nominee shareholder system:

[

SITUATION DESCRIPTION AND EVENTS

] offer the registered capital and go through all the company registration procedures in Vietnam.⁵⁵

The [EVENT DESCRIPTION]” is consistent with the function of a nominee shareholder agreement. The [DESCRIPTION] nationals going through company registration procedures in Vietnam is also consistent with the duties of a nominee shareholder. Regarding the “[DESCRIPTION] offer{ing} registered capital,” evidence indicates that they offered the registered capital using the actual Chinese owners’ funds rather

⁵¹ See Kales/Engga RFI at Exhibit 1; see also Strry Supplemental RFI at Exhibit SQ1-1.

⁵² See June Memorandum at Attachment 21, page 4.

⁵³ *Id.* at Attachment 21, pages 6-7.

⁵⁴ *Id.* at Attachment 21, page 4.

⁵⁵ See Kales/Engga Supplemental RFI at 10.

than their own. For example, Stry stated that “the registered capital was increased from [#] to [#] in [DATE]. As of now, the shareholder has paid in [#].”⁵⁶ Stry then provided multiple equity contributions on Stry’s registered capital by its [DESCRIPTION] shareholder [NAME].⁵⁷ Although [NAME] deposited these funds, they do not appear to be his funds. Kales/Engga’s employee records indicate that he worked for Kales/Engga as a [POSITION] from [DATE] to [DATE] before he became [DESCRIPTION] shareholder of Stry’s [COMPANY NAME AND DATE].⁵⁸ As a [POSITION], Mr. [NAME] likely earned a salary similar to Stry’s [POSITION AND NAME] who earned about [#] VND / [#] USD per year.⁵⁹ Similarly, [NAME] was an “[POSITION]” with Stry who earned about [#] VND / [#] USD per year before she became [SITUATION DESCRIPTION] shareholder of Stry Quartz Company Limited (Stry Quartz) on [DATE].⁶⁰ As such, the salary of Mr. [NAME]’s prior employment does not indicate that he was capable of contributing the [#] USD from his own funds. Because the funds likely were not [NAME]’s funds, the likely source is the only other party that appears to be involved in the company’s affairs—the [DESCRIPTION] management team—which indicates actual [DESCRIPTION] ownership.

Another Vietnamese national, [NAME], was also a Kales/Engga employee before she became the [SITUATION DESCRIPTION] shareholder of Fonka/New Quartz and [COMPANY] in April 2020 and [DATE], respectively.⁶¹ Kales/Engga’s employee list denotes that she began working as an “[POSITION]” in [DATE].⁶² Even after she became Fonka’s [SITUATION DESCRIPTION] shareholder in April 2020, she continued as an [POSITION] with Kales/Engga until [DATE].⁶³ The fact that Ms. [NAME] and the two previously mentioned Vietnamese shareholders worked in [POSITION DESCRIPTIONS] positions before becoming shareholders indicates that the Chinese management team generally selected nominee shareholders from Kales/Engga and Stry’s pre-existing employees. Ms. [NAME]’s situation also indicates that the Vietnamese shareholders continued working as [POSITION DESCRIPTION] employees even after they became shareholders. These facts align with the use of nominee shareholders.

In one instance, Kales/Engga selected a Vietnamese shareholder that already knew one of their shareholders named [NAME]. Kales/Engga stated:

⁵⁶ See Stry Supplemental RFI at 4 and SQ1-2. This was calculated as follows: [EQUATION]. See June Memorandum at Attachment 1 for the exchange rate (XR).

⁵⁷ See Stry Supplemental RFI at SQ1-2.

⁵⁸ *Id.* at Exhibit SQ1-1, pages 1, 3; see also Kales/Engga Supplemental RFI at Exhibit SQ1-7, page 4.

⁵⁹ See Stry Supplemental RFI at Exhibit SQ1-3, page 1. [EQUATION] USD. See June Memorandum at Attachment 1 for the Vietnamese Dong (VND)-USD XR.

⁶⁰ See Kales/Engga RFI at Exhibit 1, page 151. [EQUATION]. See Stry Supplemental RFI at Exhibit SQ1-3; see also June Memorandum at Attachment 1.

⁶¹ See Kales/Engga RFI at Exhibit 1, pages 204, 206; see also Kales/Engga Supplemental RFI at Exhibit SQ1-1, pages 21, 23; see also December Memorandum at Attachment 1. Fonka’s new name was New Quartz. See Kales/Engga RFI at 29. Her email address is [EMAIL ADDRESS].

⁶² See Kales/Engga Supplemental RFI at Exhibit SQ1-7, page 4.

⁶³ *Id.*; see also December Memorandum at Attachment 1.

In June 2021, the previous Engga's name was changed to Kales. Shortly after that, the Chinese management team planned to establish another company with the name of Engga. With the same consideration, they need a Vietnamese investor for the new Engga. [NAME] introduced [NAME] to them{.}⁶⁴

Interestingly, Engga 2's business registration and articles of association indicate that [NAME] was only [#] years old when she became Engga 2's [SITUATION DESCRIPTION] shareholder.⁶⁵ Although not impossible, it is improbable nonetheless that a [#]-year old would have substantial investment funds or be a controlling shareholder. It is much more probable that the Chinese management team retained actual control using a nominee shareholder agreement.

Corresponding with the Chinese management team's actual control, Kales/Engga and Stry's key accounting documents and account names are in [LANGUAGE] but not in [LANGUAGE].⁶⁶ Furthermore, their [COMPANY NAMES], rather than any of their Vietnamese affiliates, [PROCEDURAL DESCRIPTION].⁶⁷ This indicates that the [PROCEDURAL DESCRIPTION]. Because the [PROCEDURAL DESCRIPTION], the equity contribution funds likely drew upon these funds in [COUNTRY]. Although Kales/Engga and Stry's affiliated companies are in several countries, namely Vietnam, [COUNTRY NAMES], the [#] Chinese management team members that run these companies are all located in [COUNTRY].⁶⁸ The facts indicate that a parent company in China [SITUATION DESCRIPTION], disburses equity funds, and exercises control.

Record evidence indicates that Chinese management team members Cai Zong Zhu and Jie Zheng have ultimate control. Cai Zong Zhu [EVENT DESCRIPTION] Engga 1 in Vietnam and during the process, "[NAME AND PROCEDURAL DESCRIPTION]{.}"⁶⁹ Since then he has acted as a [POSITION], legal representative, and director.⁷⁰ He also has control of Kales/Engga and Stry's "day-to-day operations of the company and has the authority to approve terms of sale."⁷¹

Since [DATE], Jie Zheng has been a [SITUATION DESCRIPTION].⁷² Kales/Engga's [POSITION AND NAME] also stated "Name of Factory owner: Jie Zheng" in response to a CBP question about who owned the factory that produced SCS's QSP.⁷³ Significantly, [#] of Kales/Engga's or Stry's business registration documents listed Jie Zheng as a shareholder, [SITUATION DESCRIPTION].⁷⁴ The fact that a Kales/Engga [POSITIONS] said that Jie Zheng was the factory owner when he was [DESCRIPTION] listed as a

⁶⁴ See Kales/Engga Supplemental RFI at 11.

⁶⁵ See Kales/Engga RFI at Exhibit 1, pages 35-38, 43.

⁶⁶ *Id.* at Exhibits 5-6; *see also* Kales/Engga Supplemental RFI at Exhibit SQ1-7; *see also* Stry RFI at Exhibits 5-7; *see also* Stry Supplemental RFI at Exhibit SQ1-3.

⁶⁷ See Kales/Engga RFI at Exhibit 2.

⁶⁸ *Id.* at Exhibit 3.

⁶⁹ See Kales/Engga Supplemental RFI at 3.

⁷⁰ See Kales/Engga RFI at 2-3, 29; *see also* Kales/Engga Supplemental RFI at 3.

⁷¹ See Kales/Engga RFI at 5; *see also* Stry RFI at 3.

⁷² See Kales/Engga RFI at Exhibit 1, pages 91-92, and Exhibit 2.

⁷³ See NOI at 10; *see also* CF-28 Response at 13. She stamped and signed the document as [NAME].

⁷⁴ See Kales/Engga RFI at Exhibit 1; *see also* Kales/Engga Supplemental RFI at SQ1-1; *see also* Stry RFI at Exhibit 1; *see also* Stry Supplemental RFI at Exhibit SQ1-1.

shareholder for a Vietnamese affiliate indicates that Mr. Zheng has actual control of at least one of the Vietnamese affiliates.⁷⁵ It also supports the existence of nominee agreements with Kales/Engga's, Strry's, and their Vietnamese affiliates' shareholders.⁷⁶ The existence of nominee agreements is important because *de facto* Chinese ownership coupled with ties to Chinese QSP exporters Xiamen Stone Display and Xiamen Lexiang indicates the likelihood of an evasion scheme, specifically that Kales/Engga and Strry are selling Chinese QSP to SCS who is misrepresenting it as Vietnamese upon entry.

SCS contended that Kales/Engga and Strry had been forthcoming about their affiliates.⁷⁷ However, record evidence indicates that that was not actually the case. Generally speaking, Kales/Engga and Strry only reported the affiliates already mentioned or affiliates with similar names to those CBP mentioned in the November Memorandum, December Memorandum, NOI, and RFIs issued to the respondent companies.⁷⁸ In those documents, CBP provided evidence that linked Kales, Engga 1 and 2, Strry, Strry Quartz, New Quartz, and Fonka to each other.⁷⁹ Kales/Engga then reported similarly named affiliates [COMPANY NAMES].⁸⁰ Kales/Engga reported a few affiliates that did not have similar names, specifically [COMPANY NAMES]; however, these names were the previous company names of [COMPANY NAMES] and so could be found in online research.⁸¹ Kales/Engga and Strry did not report several affiliated companies, most of which did not have similar names that would have easily linked them to Kales/Engga or Strry. These companies are listed in Figure 2 below. Because CBP requested all affiliated company names and Kales/Engga or Strry did not provide them all, they omitted material record evidence. The omission of these company names, some of whom were Kales/Engga's sources of Chinese-origin QSP, indicates a pattern of deception that is consistent with a willingness to facilitate evasion. Furthermore, in several instances they concealed material facts and made material false statements concerning these unreported affiliates.

⁷⁵ See Kales/Engga RFI at Exhibit 1; see also Strry Supplemental RFI at Exhibit SQ1-1.

⁷⁶ *Id.*

⁷⁷ See SCS Written Arguments at 16-17.

⁷⁸ See NOI; see also November Memorandum; see also December Memorandum.

⁷⁹ *Id.*

⁸⁰ See Kales/Engga RFI at Exhibit 3.

⁸¹ *Id.* at Exhibit 1.

Figure 2 - Unreported Affiliate Companies		Abbreviation	Registration Country	Registration/ Name Change
1	[]			
2	Xiamen Lexiang Stone Group	None	China	2001
3	Xiamen Lexiang Import & Export Co., Ltd.	Xiamen Lexiang	China	2001
4	China Resources Supplier Ltd.	CRS	China	nlt 2012*
5	China Resources Supplier Ltd.	CRS UK	United Kingdom	03/19/2015
6	Xiamen Stone Display Co., Ltd	Xiamen Stone Display	China	nlt 2017*
7	[]			
8	[]			
9	[]			
10	[]			
11	[]			
12	[]			

Sources: NOI, November Memorandum, December Memorandum, and June Memorandum. *nlt = No later than.

The first example of concealed evidence and false statements concerns the unreported affiliates [COMPANY NAMES]. CBP asked Strry for documentation pertaining to any further changes that [COMPANY NAMES] had undergone since their [EVENT DESCRIPTION].⁸³ In response, Strry stated that these companies had not undergone any changes since [COMPANY]'s name change to [COMPANY].⁸⁴ However, muniments from a foreign government website indicate that [COMPANY NAMES] changed their names to [COMPANY] and [COMPANY], respectively, a few months before Strry's RFI response.⁸⁵

Kales/Engga and Strry's [POSITION], [NAME] and [NAME], are the [SITUATION DESCRIPTION] owners of [COMPANY NAMES] and [COMPANY NAMES].⁸⁶ Because they are the companies' [SITUATION DESCRIPTION] owners, they would have presided over their name changes.⁸⁷ The names changes occurred shortly after CBP announced its EAPA investigation on January 26, 2023, and, as such, appear to be an attempt to distance the two companies from the investigated parties.⁸⁸ Because Strry did not report that these name changes

⁸² See June Memorandum at Attachment 33 in which one document indicates that [

SITUATION DESCRIPTION

]"

⁸³ See Strry Supplemental RFI at 3.

⁸⁴ *Id.*

⁸⁵ See June Memorandum at Attachment 20, page 1; Attachment 22, page 3; and Attachment 35, pages 14, 25.

⁸⁶ See Kales/Engga RFI at Exhibits 1-3; *see also* Kales Engga Supplemental RFI at 5 concerning [NAME].

⁸⁷ *Id.*

⁸⁸ CBP announced to SCS that it was under an EAPA investigation on January 26, 2023, which was the 90th day after the EAPA investigation was initiated. See CBP Email, "CBP EAPA Investigation 7783 – Notice of Initiation of Investigation and Interim Measures," dated January 26, 2023; *see also* 19 CFR 165.24.

occurred, company officials made false statements and concealed the two new affiliate names and their associated name change documents.⁸⁹

Multiple facts on the record indicate that Kales/Engga and Strry did not report their affiliation with the Vietnamese company [COMPANY] or its affiliates. A Chinese company named [COMPANY] founded [COMPANY] in [DATE].⁹⁰ Its company website stated “[SITUATION AND EVENT DESCRIPTION].”⁹¹ [COMPANY] also appears to be an affiliate of Xiamen Lexiang. A LinkedIn profile for a Xiamen Lexiang employee denotes that she simultaneously worked for [COMPANY] and the “Xiamen Lexiang Stone Group” for almost two years.⁹² The wording of the “Xiamen Lexiang Stone Group” also indicates the existence of an affiliated company group. That, along with the person’s simultaneous employment with Xiamen Lexiang and [COMPANY], indicates that companies may be part of the same affiliated company group.

Kales/Engga sourced [DESCRIPTION AND NUMBER] percent, of its QSP slabs from Xiamen Lexiang and Xiamen Stone Display.⁹³ Kales/Engga also sourced [#] percent of its QSP slabs from [COMPANY NAMES AND SITUATION DESCRIPTION].⁹⁴ [COMPANY NAMES] are both located at the same address, which corroborates their affiliation.⁹⁵ Kales/Engga obtained a document from [COMPANY] that was related to its procurement of raw materials. Specifically, it was a delivery note documenting a [PRODUCT] delivery from an unrelated supplier to [COMPANY] and contained no mention of Kales/Engga or Strry.⁹⁶ Although Kales/Engga obtaining this document and sourcing some QSP slabs from [COMPANY] does not confirm affiliation, these activities are consistent with affiliation which Kales/Engga denied.

Engga 2 also issued an invoice that had an [PREFIX] invoice number prefix.⁹⁷ This is relevant because [COMPANY] sometimes uses the same [PREFIX] invoice number prefix, whereas

⁸⁹ See Strry Supplemental RFI at 2-3; *see also* June Memorandum at Attachment 20, page 1; Attachment 22, page 3; and Attachment 35, pages 14, 25.

⁹⁰ See June Memorandum at Attachment 33, page 10.

⁹¹ *Id.*

⁹² *Id.* at Attachment 27, pages 12-13.

⁹³ See Allegation at Exhibits 8-9; *see also* Kales/Engga RFI at 23-24 and Exhibit 23. Strry confirmed that Xiamen Lexiang and Xiamen Stone Display are affiliated companies. See Strry Supplemental RFI at 5. For additional information on Xiamen Lexiang’s affiliation with Xiamen Stone Display, *see* NOI at 15-16; *see also* November Memorandum at Attachment 7. The following calculations are derived from Exhibit 23 and demonstrate that [DESCRIPTION] of Kales/Engga’s POI slabs originated from Xiamen Lexiang and Xiamen Stone Display: [EQUATION]

[EQUATION] obtained from Xiamen Lexiang and Xiamen Stone Display. *See also* Figure 5 below.

⁹⁴ See Kales/Engga RFI at 23-24, 32 and Exhibit 23. On page 32, Kales/Engga affirmed that [COMPANY NAMES AND SITUATION DESCRIPTION]. The percentage pertains to the POI and was obtained from calculations derived from Exhibit 23: [EQUATION]

[EQUATION]. *See also* Figure 5 below.

⁹⁵ See Kales/Engga RFI at Exhibit 23; *see also* June Memorandum at Attachment 10, pages 2-3; Attachment 33, page 4; and Attachments 58-80. The address is [ADDRESS]. A company named [COMPANY] is also located at this address, which suggests it is also affiliated.

⁹⁶ See CF-28 Response at 20-21.

⁹⁷ See November Memorandum at Attachment 10, page 6.

Kales/Engga's invoice numbers usually begin with a [PREFIXES] prefix.⁹⁸ Although Engga issued this invoice, it asked its customer to pay [COMPANY]'s bank account in [CITY].⁹⁹ Kales/Engga claimed that it did this because "[

EVENT DESCRIPTION

]."¹⁰⁰ This statement appears intended to support Kales/Engga's claim that they are not affiliated with [COMPANY NAMES]; however, its contents do not necessarily indicate non-affiliation. Kales/Engga could [PROCEDURE] into any one of its affiliates' [#] bank accounts if any one of them [SITUATION DESCRIPTION].¹⁰¹

Moreover, several websites tie [COMPANY] to Kales/Engga.¹⁰² These websites denote that [EVENT DESCRIPTION] and then changed its name to [COMPANY NAME AND DATE].¹⁰³ Notably, a later iteration of [COMPANY] was registered in [CITY] on [DATE].¹⁰⁴ This situation follows a similar pattern to that of Kales/Engga in that Engga 1 changed its name to a completely different company name (Kales) and afterwards Engga 2 was registered as a separate business.¹⁰⁵

Although [COMPANY] and [COMPANY] are separate companies on paper, several factors demonstrate their affiliation. First, Kales/Engga stated that [COMPANY] "should be affiliated with" [COMPANY].¹⁰⁶ Second, Engga 2 issued an invoice directing payment into [COMPANY NAMES AND SITUATION DESCRIPTION].¹⁰⁷ Third, [COMPANY] also issued invoices directing payment into the [SITUATION DESCRIPTION].¹⁰⁸ The [SITUATION DESCRIPTION AND ADDRESS]", which is [COMPANY]'s address.¹⁰⁹ Thus, [COMPANY] is an affiliate of [COMPANY] and Kales/Engga is affiliated with them because [COMPANY] changed its name to [COMPANY].

Nevertheless, Kales/Engga repeatedly denied any name change or affiliation with [COMPANY NAMES].¹¹⁰ Their motive for concealing this affiliation could have been to keep CBP from investigating whether [COMPANY] acts as a Vietnamese transshipment point. For example, the website of [COMPANY]'s Chinese parent [COMPANY] lists [PRODUCT] product number [#] among the products it sells.¹¹¹ [COMPANY] has exported [#] from

⁹⁸ See Kales/Engga RFI at Exhibits 15.1-15.13 for examples of invoices with the [PREFIX] invoice number prefix. See also Kales/Engga Supplemental RFI at Exhibit SQ1-5 for examples of the [PREFIX] invoice number prefix listed on the export declarations. See also June Memorandum at Attachments 60-80 for examples of [COMPANY]'s use of its [PREFIX] invoice number prefix.

⁹⁹ See November Memorandum at Attachment 10, page 6.

¹⁰⁰ See Kales/Engga RFI at 32.

¹⁰¹ See Kales/Engga Supplemental RFI at Exhibit SQ1-8.

¹⁰² See June Memorandum at Attachment 33, pages 1-3, 5. Some of these websites denoted that they obtained their data from [SOURCE] websites.

¹⁰³ See June Memorandum at Attachment 33, pages 1-3, 5; see also Kales/Engga Supplemental RFI at 2.

¹⁰⁴ See Kales/Engga RFI at Exhibits 1-3.

¹⁰⁵ Id. at 2-4 and Exhibit 1.

¹⁰⁶ See Kales/Engga Supplemental RFI at 7.

¹⁰⁷ See November Memorandum at Attachment 10, page 6.

¹⁰⁸ See June Memorandum at Attachments 62-65, 70-71, 74, 76, 79-80.

¹⁰⁹ Id.

¹¹⁰ See Kales/Engga RFI at 6-7, 32; see also Kales/Engga Supplemental RFI at 6-7.

¹¹¹ See June Memorandum at Attachment 33, page 11.

Vietnam to the United States.¹¹² The fact that [COMPANY] exported from Vietnam the same product number that its Chinese parent sells could suggest that [COMPANY] has transshipped Chinese-origin QSP from its Chinese parent. Because Kales/Engga's denials of affiliation contradict substantial evidence of affiliation, Kales/Engga attempted to conceal material facts concerning its affiliation with [COMPANY NAMES]. This affiliation is relevant because it is another example of Kales/Engga's pattern of deception and because [COMPANY]'s parent company represents another potential source of Chinese-origin QSP.

Kales/Engga and Stry have a Vietnamese affiliate named Stry Quartz that may be connected to other unreported affiliates. CBP took a screenshot of Stry Quartz's website a few days before issuing the CF-28 and it stated "All of the technical teams are all from China ... Partners and Owners of Stry: Grandhome Stone Pte. Ltd – Singapore {and} Chariot International Pvt Ltd – India{.}"¹¹³ Interestingly, this quoted portion was deleted from Stry Quartz's website about a month after CBP issued the CF-28.¹¹⁴ The deletion of "All of the technical teams are all from China" appears intended to hide Stry Quartz's connections to China. Regarding the deleted reference to Grandhome Stone Pte. Ltd (Grandhome) and Chariot International Pvt Ltd (Chariot), these purported owners are not listed in Stry's and Stry Quartz's Vietnamese business registrations and articles of association.¹¹⁵ These documents denote that Stry and Stry Quartz have each [SITUATION DESCRIPTION] shareholder apiece since their respective [DATE] and June 2021 registrations.¹¹⁶ Stry asserted that "[COMPANY NAMES] have never been affiliated with Stry or Kales/Engga"¹¹⁷ and further claimed that:

As far as we know, [COMPANY NAMES AND SITUATION DESCRIPTION] of Stry's customer. Neither of them had a direct transaction relationship with Stry. These two companies contacted Stry to seek marketing cooperation because they wanted to have a steady and Vietnam-origin supplying source of the quartz stone products for their U.S. customers. Stry agreed to advertise [SITUATION DESCRIPTION] as a favor, to seek more orders from them, as a "win-win" solution. Otherwise, they may go to other factories with their orders.¹¹⁸

Stry did not clarify which customer it referred to. Regardless, Stry Quartz has had [SITUATION DESCRIPTION] shareholder since it was registered and is affiliated with Stry, Kales/Engga, and their other affiliates via the Chinese management team.¹¹⁹ It is possible that Grandhome and Chariot are partial shareholders with a nominee shareholder agreement with Stry Quartz's [DESCRIPTION] shareholder; however, CBP has no reliable evidence to provide further clarification. In light of their other false statements, CBP does not consider Stry's elaboration on this matter to be reliable or definitive.

¹¹² *Id.* at Attachment 72, page 2.

¹¹³ *See* December Memorandum at Attachment 2, page 6.

¹¹⁴ *Id.* at Attachment 2, page 7.

¹¹⁵ *See* Kales/Engga RFI at Exhibit 1; *see also* Stry RFI at Exhibit 1.

¹¹⁶ *See* December Memorandum at Attachment 2, pages 3-5; *see also* Stry RFI at Exhibits 1-3. As previously noted, Stry was originally registered on [DATE] under the company name [COMPANY].

¹¹⁷ *See* Stry Supplemental RFI at 4-5.

¹¹⁸ *Id.* at 4.

¹¹⁹ *See* Stry RFI at 5; *see also* Kales/Engga RFI at Exhibits 1-3.

It is noteworthy that Grandhome has two Vietnamese affiliates named Ali Quartz Co., Ltd. and Grandhome Stone Vina Company Limited, the latter which has purported production.¹²⁰ Because Grandhome already has a Vietnamese affiliate with purported production, it should have no need of “a steady and Vietnam-origin supplying source of the quartz stone products for its U.S. customers.”¹²¹ Grandhome also has a parent company in China with QSP production facilities named Grandhome Stone Co., Ltd., also known as Foshan Grandhome Quartz Stone Co., Ltd.¹²² This company in China may be another reason why Strry Quartz removed the reference to Grandhome from its website.

Although Kales/Engga and Strry denied affiliation with [COMPANY], Grandhome, and Chariot, these denials cannot be considered reliable because Kales/Engga has falsely denied affiliation previously. Before CBP issued its NOI, Engga 2 claimed, “Dear Homeland {sic} Security, Engga has no relation ship {sic} with Kales Quartz.”¹²³ In spite of this statement, CBP outlined evidence in its NOI that [EVENT DESCRIPTION], along with numerous other shared variables indicating affiliation.¹²⁴ After CBP issued its NOI, Kales/Engga’s subsequent statements contradicted their “no relation ship” statement. For example, Kales/Engga provided CBP with consolidated RFI responses covering both companies “due to their close relationship.”¹²⁵ Moreover, Kales/Engga stated that “Kales and Engga are operated as one company {.”¹²⁶

The document with the “no relation ship” statement contained Engga 1’s [DOCUMENT DESCRIPTION].¹²⁷ Significantly, [NAME] is one of Kales/Engga and Strry’s [POSITION], a member of the Chinese management team, and the [SITUATION DESCRIPTION].¹²⁸ Because of her management position and because Kales and Engga are operated as one company, she knew about the companies’ relationship when she made that statement.¹²⁹ Also, [NAME]’s LinkedIn profile and the hundreds of pages of her emails with SCS and the [POSITION] demonstrate that she frequently corresponds in English, has a strong grasp of it, and so she understood what she was writing.¹³⁰ Furthermore, SCS confirmed that all of their communications with Kales/Engga were through [NAME].¹³¹ Therefore, she knowingly made the false statement, [DESCRIPTION] the document, and then transmitted it to SCS. It is also noteworthy that she addressed it to “Dear Homeland Security {sic}” and thus, she understood that SCS would submit it to a U.S. government agency.¹³² Consequently, CBP finds that

¹²⁰ See June Memorandum at Attachment 17. Ali Quartz Co., Ltd is a “Joint set up {of} Foshan Grandhome Quartz Stone Co., Ltd. The first one to make super jumbo size 136x78” in China {.”

¹²¹ See Strry Supplemental RFI at 4.

¹²² See June Memorandum at Attachment 17.

¹²³ See NOI at 7; see also CF-28 Response at 197 and 274.

¹²⁴ See NOI at 5, 7-11.

¹²⁵ See Kales/Engga RFI at 2.

¹²⁶ See RFI Extension Request at 2.

¹²⁷ *Id.*; see also Kales/Engga RFI at Exhibit 3, which lists [NAME] as a member of the management team; see also Kales/Engga Supplemental RFI at 5, which confirms that [NAME] is [NAME].

¹²⁸ See Kales/Engga RFI at Exhibits 3, 29.

¹²⁹ *Id.* at Exhibit 3.

¹³⁰ *Id.* at Exhibits 15.1-15.16; see also SCS RFI at Exhibit 21-33; see also June Memorandum at Attachment 35, pages 4-8.

¹³¹ See SCS Supplemental RFI at 1.

¹³² See NOI at 7; see also CF-28 Response at 197 and 274.

Kales/Engga submitted a false statement that they knew was part of a response to a U.S. government request for information. Kales/Engga and Stry's multiple false statements indicate a propensity to submit false information, thus casting serious doubt on the reliability of their submitted documentation.

In another example of an unreported affiliate, Kales/Engga did not report its affiliation with the Chinese company China Resources Supplier Limited (CRS). CRS is located in Xiamen, China; Kales/Engga touted its connection to Xiamen by tweeting "Love My country , Love my city ! {sic} @ Xiamen, Fujian...."¹³³ Kales/Engga's invoice numbers usually begin with [PREFIXES] prefixes, however, Engga 1 issued an invoice and packing list that contained a [PREFIX] invoice number prefix.¹³⁴ CRS is the company name abbreviation that China Resources Supplier Limited uses on its LinkedIn page and company website and is [PROCEDURE DESCRIPTION].¹³⁵ Conversely, CRS once issued an invoice and packing list with Engga 1's [PREFIX] prefix as well.¹³⁶ The fact that CRS and Kales/Engga swapped invoice number prefixes indicates a connection between the two companies and is consistent with other evidence of their affiliation. CRS' Facebook page contains a February 24, 2018, post with a picture labeled "Engga Quartz Engga."¹³⁷ The post's date is several months before [COMPANY, DATE, CITY], and a year and a half before Engga 1's August 2019 registration in Vietnam.¹³⁸ As such, this could indicate that Engga was initially a CRS brand name before it was a company name.¹³⁹

A U.S. importer not subject to this investigation entered merchandise from CRS.¹⁴⁰ The entry's documents included a CRS-issued packing list that had the email address [EMAIL ADDRESS] in its header.¹⁴¹ This email address also appeared as Sofie [NAME]'s contact email for the "[PRODUCT]" she was offering on her [WEBSITE] page.¹⁴² The LinkedIn profile for CRS' "General Manager" also listed the same contact email address.¹⁴³ This CRS LinkedIn profile denoted the following [WEBSITE] contact information: "[EMAIL ADDRESS]."¹⁴⁴ Its numeric portion, [#], is also listed as Sofie's WeChat contact number in the signature block of some of her emails with SCS.¹⁴⁵ These common variables indicate that the LinkedIn profile for CRS' "General Manager" belongs to Kales/Engga's Sofie. As further corroboration, the LinkedIn profile denotes that she previously worked for [COMPANY].¹⁴⁶ A separate vendor website also lists [COMPANY]'s contact person as [NAME].¹⁴⁷ As previously noted, Sofie is

¹³³ See November Memorandum at Attachment 2, pages 18, 24; *see also* June Memorandum at Attachment 35, pages 10-11, 20; *see also* NOI at 12. The tweet occurred March 1, 2020.

¹³⁴ See November Memorandum at Attachment 13, pages 1-2.

¹³⁵ *Id.* at Attachment 35, pages 11-12, Attachment 39, pages 5-8, 10.

¹³⁶ *Id.* at Attachment 38, pages 4-5.

¹³⁷ *Id.* at Attachment 35, page 10.

¹³⁸ *Id.* at Attachment 33, pages 1-3, 5-6; *see also* November Memorandum at Attachment 2.

¹³⁹ See June Memorandum at Attachment 35, page 10.

¹⁴⁰ *Id.* at Attachment 39.

¹⁴¹ *Id.* at Attachment 39, pages 11-12.

¹⁴² *Id.* at Attachment 35, page 3.

¹⁴³ *Id.* at Attachment 35, page 4.

¹⁴⁴ *Id.* at Attachment 35, pages 4, 6.

¹⁴⁵ See, e.g., Kales/Engga RFI at Exhibit 15.1, page 42. Exhibits 15.1-15.6 contain "[#]" 71 other times.

¹⁴⁶ See June Memorandum at Attachment 35, pages 6-7.

¹⁴⁷ *Id.* at Attachment 35, page 9.

the same person as [NAME].¹⁴⁸ Therefore, these combined facts indicate that the LinkedIn profile for CRS' "General Manager" belongs to Kales/Engga's Sofie.

The LinkedIn profile indicates that Sofie has been CRS' general manager and [POSITION] from December 2015 to the present.¹⁴⁹ Kales/Engga also stated that Sofie has been a [POSITION DESCRIPTION] from [DATE] to the present.¹⁵⁰ Therefore, Sofie has worked for CRS the entire time she has worked for Kales/Engga. Moreover, she has a management position with [SITUATION DESCRIPTION] companies that share managers are affiliated companies.¹⁵¹ As such, Kales/Engga, Stry, and CRS are affiliated companies. Although Kales/Engga, Stry, and CRS are affiliated, neither Kales/Engga nor Stry reported CRS as an affiliated company.

Another LinkedIn profile ties Kales/Engga and Stry to CRS as affiliated companies as well. This LinkedIn profile states "Vietnam Engga Quartz" in the name field and "Sales Marketing Director" in the position field.¹⁵² It indicates that the person simultaneously worked for Engga as a "General Manager Sales Marketing" from January 2019 to the present and for CRS as a "Director" from September 2012 to the present.¹⁵³ The area describing the person's duties with CRS states that she gets to "participate in the formulation of the company's strategy and annual business plan," which corroborates that she has an influential leadership position with CRS.¹⁵⁴

Although the profile does not list the person's name, it belongs to [NAME]. The profile's position field indicates that it belongs to one of Kales/Engga and Stry's [#] sales managers. Sofie is [SITUATION DESCRIPTION], but she has a different LinkedIn profile that has different CRS employment dates. Because [NAME, COMPANIES, POSITION], this profile must belong to her.¹⁵⁵ As such, this profile establishes that [NAME] worked for Kales/Engga, Stry, and CRS simultaneously as a manager/director from January 2019 to the present. As noted, companies that share management are affiliated companies; therefore, Kales/Engga, Stry, and CRS are affiliated companies.¹⁵⁶

In addition to her management duties with Kales/Engga, Stry, and CRS and [SITUATION DESCRIPTION], [NAME] is also the current director and sole owner of the China Resources Supplier Ltd (CRS UK) registered in the United Kingdom.¹⁵⁷ She signed a document for CRS

¹⁴⁸ See Kales/Engga Supplemental RFI at 5.

¹⁴⁹ See June Memorandum at Attachment 35, pages 4-6. Sofie worked for CRS from December 2015 to the present (as of April 12, 2023). Also, the LinkedIn profile of an Engga employee named [NAME] denotes that he also previously worked for CRS. His profile also denoted that he worked for the Bonstone Group at the same time as CRS. Notably, the Bonstone Group and CRS have the same logo. See June Memorandum at Attachment 35, page 36.

¹⁵⁰ See Kales/Engga RFI at Exhibit 29.

¹⁵¹ See, e.g., CBP RFI to Kales at Part I: Corporate Structure, which defines affiliated companies.

¹⁵² See November Memorandum at Attachment 2, page 18.

¹⁵³ *Id.* Her profile indicated a September 2012 starting date with CRS and that she worked there 10 years and one month to the present, therefore, the screenshot dates to October 2022.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*; see also Kales/Engga RFI at Exhibit 29; see also June Memorandum at Attachment 35, pages 4-5.

¹⁵⁶ See, e.g., CBP RFI to Kales at Part I: Corporate Structure, which defines affiliated companies.

¹⁵⁷ See June Memorandum at Attachment 20; Attachment 35, pages 21-25; and Attachment 36, pages 1-40; see also Kales/Engga RFI at Exhibits 2-3, 29.

UK as recently as [DATE].¹⁵⁸ As such, she continues to simultaneously work as a director/management for Kales/Engga, Strry, CRS, and CRS UK and as sole owner of [COMPANY NAMES] and CRS UK.

Based upon the previous evidence, Kales/Engga and Strry are affiliated with CRS and CRS UK through their shared management personnel. Although CBP requested that Kales/Engga and Strry report all of their affiliated companies, neither Kales/Engga nor Strry reported their affiliation with CRS and CRS UK.¹⁵⁹ Because CRS is a Chinese QSP exporter and a potential source of Chinese QSP, CBP finds that Kales/Engga and Strry concealed material evidence concerning its affiliation with CRS and CRS UK. It is noteworthy that Kales/Engga and Strry reported disparate companies affiliated via the Chinese management team and several other affiliates [COUNTRY AND COMPANY NAMES].¹⁶⁰ As such, they understood CBP's criteria for affiliation. Most likely, Kales/Engga and Strry did not report CRS because it has a history of exporting QSP from China.¹⁶¹

Figure 3 - Employment Dates of Kales/Engga and Strry's Management Team					
Name	Position	Permanent Address	CRS	Xiamen Lexiang	Kales/Engga & Strry
[]					
[]					
[]					
[]					
[]					
[]					

Sources: Kales/Engga RFI, Kales/Engga Supplemental RFI, November Memorandum, June Memorandum. *nlt = No later than.

Record evidence also connects CRS through affiliation to Xiamen Lexiang and Xiamen Stone Display. According to Kales/Engga's chronology, [NAMES] worked for [COMPANY] before they began working for Kales/Engga on [DATE].¹⁶² Kales/Engga also stated that [NAME AND COMPANY] from [DATE] to [DATE] and that [NAMES AND SITUATION DESCRIPTION].¹⁶³ Thus, [NAMES AND SITUATION DESCRIPTION] sometime during [DATE] to [DATE]. As previously noted, [NAME] and Sofie worked for CRS from September 2012 to the present and from December 2015 to the present, respectively.¹⁶⁴ Therefore, [NAME] and Sofie must have worked at [COMPANY] and CRS simultaneously sometime during December 2015 to [DATE]. [NAME]'s and Sofie's simultaneous employment at CRS and [COMPANY] indicates these companies are affiliates within the same company group. As previously noted, Xiamen Lexiang is also referred to as the Xiamen Lexiang

¹⁵⁸ See June Memorandum at Attachment 36, page 2.

¹⁵⁹ See, e.g., CBP RFI to Kales at Part I: Corporate Structure.

¹⁶⁰ See Kales/Engga RFI at Exhibit 1, pages 69-90.

¹⁶¹ See June Memorandum at Attachment 35, pages 4, 10-12, and Attachments 37-40.

¹⁶² See Kales/Engga Supplemental RFI at 3; see also Kales/Engga RFI at Exhibit 29.

¹⁶³ See Kales/Engga Supplemental RFI at 3-4.

¹⁶⁴ See June Memorandum at Attachment 35, pages 4-6; see also November Memorandum at Attachment 2, page 18. It said her starting date with CRS was September 2012 and that she had been with them 10 years and one month to the present. Therefore, the screenshot dates to October 2012.

Stone Group and is affiliated with Xiamen Stone Display.¹⁶⁵ Thus, this evidence collectively indicates that CRS, CRS UK, Xiamen Lexiang, and Xiamen Stone Display are within the same company group. Moreover, because CRS is affiliated with Kales/Engga and Strry, Kales/Engga and Strry are affiliated with Xiamen Lexiang and Xiamen Stone Display through CRS.

Evidence concerning Kales/Engga manager Jie Zheng corroborates Kales/Engga's affiliation with Xiamen Lexiang. Jie Zheng joined Kales/Engga's [EVENT DESCRIPTION] on [DATE].¹⁶⁶ Previously, on [DATE], Jie Zheng obtained a [DESCRIPTION] share that he still holds in Kales/Engga's affiliate [COMPANY].¹⁶⁷ After he became a [DESCRIPTION] owner of [COMPANY], Jie Zheng continued working for [COMPANY] for another year and a half until [DATE].¹⁶⁸ Thus, during that year and a half Jie Zheng simultaneously worked for [COMPANY] and [SITUATION DESCRIPITON] owned Kales/Engga's affiliate [COMPANY]. His simultaneous work/ownership corroborates that Kales/Engga, Strry, and [COMPANY] are affiliated with Xiamen Lexiang and Xiamen Stone Display.

Information concerning the two remaining [POSITION DESCRIPTION] also supports Kales/Engga and Strry's affiliation with Xiamen Lexiang. [SITUATION DESCRIPTION] from [DATE] to [DATE].¹⁶⁹ [NAME, COMPANIES, AND POSITION DESCRIPTION] to discuss.¹⁷⁰ CBP did not receive any explicit information on whether [SITUATION DESCRIPTION]. However, Kales/Engga reported that [NAME]'s address is at [ADDRESS].¹⁷¹ This address [SITUATION DESCRIPTION] Xiamen Lexiang's and Xiamen Stone Display's addresses, which are listed below.¹⁷²

Figure 4 – Addresses	
[NAME]'s Address	[]*
Xiamen Stone Display Address #1	Building 6, Huo ju Xin Tian Di, No 20-24 Huoju East Rd, Huli District, Xiamen City, China
Xiamen Stone Display Address #2	[]
Xiamen Lexiang	[]

Sources: November Memorandum at Attachment 7, pages 2, 4-6; Kales/Engga RFI at Exhibit 3; Exhibit 27.5, pages 1, 3-4; and Exhibit 27.7, pages 1-4. *Spaces added into address for comparison purposes.

¹⁶⁵ See June Memorandum at Attachment 27, pages 12-13. Corroborating that the Xiamen Lexiang Stone Group is essentially the same company as Xiamen Lexiang, the Xiamen Lexiang Stone Group person's LinkedIn profile denotes that her email domain is "@lxcc.com." This email domain matches Xiamen Lexiang's website address, www.lxcc.com, and another Xiamen Lexiang email address that also has an @lxcc.com domain. See June Memorandum at Attachment 27, pages 1-2, 4, 8, 19. Strry confirmed that Xiamen Lexiang and Xiamen Stone Display are affiliates. See Strry Supplemental RFI at 5.

¹⁶⁶ See Kales/Engga RFI at Exhibit 29.

¹⁶⁷ *Id.* at Exhibit 1, pages 91-93. Jie Zheng has retained the same [SITUATION DESCRIPTION] since then. See Kales/Engga RFI at Exhibit 3.

¹⁶⁸ *Id.* at Exhibits 1-3; see also Kales/Engga Supplemental RFI at 4.

¹⁶⁹ See Kales/Engga Supplemental RFI at 4.

¹⁷⁰ See Kales/Engga RFI at Exhibit 29.

¹⁷¹ *Id.* at Exhibit 3.

¹⁷² See November Memorandum at Attachment 7, pages 2, 4-6; see also Kales/Engga RFI at Exhibit 27.5, pages 1, 3-4, and Exhibit 27.7, pages 1-4.

The addresses' differences are superficial. [NAME]'s address states "[ADDRESS DISCUSSION] road number is merely an omission rather than an indication of a different address. For example, the addresses' [ADDRESS DISCUSSION]. Also, it is notable that Xiamen Stone Display Address #1 omitted the number that Xiamen Stone Display Address #2 and Xiamen Lexiang's address added before Building 6. In this sense, her address follows the same address convention of Xiamen Stone Display Address #1. Also, that fact that Xiamen Stone Display Address #2 and Xiamen Lexiang's address have different numbers could indicate that they occupy different spaces but are within the same complex. Consequently, these collective commonalities indicate that [NAME] is at the same address as Xiamen Lexiang and Xiamen Stone Display. This common address associates her with Xiamen Lexiang and Xiamen Stone Display and indicates that she may work for them [DESCRIPTION]. [SITUATION DESCRIPTION], at least one Kales/Engga employee, [NAME] worked for Xiamen Lexiang previously.¹⁷³

Although Kales/Engga and Strry indicated that the members of their [SITUATION DESCRIPTION], there are reasons to doubt that. First, CBP asked whether Cai Zong Zhu or Jie Zheng had ever lived in Vietnam and also asked for their beginning and ending dates living there. Kales/Engga responded that "Cai Zong Zhu had not lived in Vietnam before he went to Vietnam to start the business of Engga/Kales. After Engga/Kales were established, Cai Zong Zhu has been staying in Vietnam on a regular basis."¹⁷⁴ Kales/Engga made the same statement for Jie Zheng as well.¹⁷⁵ Notably, Kales/Engga did not supply the requested beginning and ending dates. The omission of these dates and the fact they merely stayed in Vietnam "on a regular basis" indicate that neither Cai Zong Zhu nor Jie Zheng established permanent residences in Vietnam but instead visited Vietnam, staying intermittently before returning to their permanent residences in [COUNTRY].¹⁷⁶

Second, the addresses that Kales/Engga reported for all [#] members of the Chinese management team indicate they all permanently reside in [CITY] City or [CITY] City, which is also in the [CITY] metropolitan area.¹⁷⁷ An Engga salesperson named [NAME] also lives in Fujian Province, where [CITY AND DESCRIPTION].¹⁷⁸ It is noteworthy that CRS, Xiamen Stone Display, and Xiamen Lexiang and are [DESCRIPTION] based in Xiamen.¹⁷⁹ As such, the Chinese management team's [SITUATION DESCRIPTION] is consistent with a continuing [DESCRIPTION] relationship with CRS, Xiamen Stone Display, and Xiamen Lexiang.

Third, Kales/Engga's procurement practices indicate Kales/Engga's and their management team's continuing relationship with Xiamen Lexiang. Notably, Kales/Engga obtained [SITUATION DESCRIPTION], and only their [DESCRIPTION] were obtained from [

¹⁷³ See June Memorandum at Attachment 27, page 4, and Attachment 35, pages 3, 14-16.

¹⁷⁴ See Kales/Engga Supplemental RFI at 4-5.

¹⁷⁵ *Id.*

¹⁷⁶ See Kales/Engga RFI at Exhibit 3.

¹⁷⁷ *Id.* [AMOUNT DESCRIPTION] named individuals are in [CITY, PROVINCE] Province. Only [NAME] is in [CITY] City, which is relatively close to [CITY] and is in the same province.

¹⁷⁸ See June Memorandum at Attachment 35, pages 32-34.

¹⁷⁹ *Id.* at Attachment 27, pages 3-4, 6-7, and Attachment 35, pages 4, 6, 10-11, 20; *see also* November Memorandum at Attachment 2, pages 18, 24, and Attachment 7.

COMPANY DESCRIPTION].¹⁸⁰ Kales/Engga also obtained non-subject sinks and [#] percent of their QSP slabs from Xiamen Lexiang and Xiamen Stone Display.¹⁸¹

Fourth, the situation with customer payments indicates Kales/Engga and Strry's continued affiliation with Xiamen Lexiang and Xiamen Stone Display. Kales/Engga stated that their affiliates [COMPANY NAMES] have "[

PROCEDURE DESCRIPTION

]."¹⁸² Because [

COMPANY NAMES AND PROCEDURE DESCRIPTION

] Xiamen Lexiang and Xiamen Stone Display in China.¹⁸³ Kales/Engga listed a Strry bank account on two payment documents that have the swift number [#], which belongs to a [BANK NAME AND ADDRESS] China.¹⁸⁴ Although Kales/Engga and Strry reported [#] bank accounts, they did not report this bank name or swift number.¹⁸⁵ The bank's location is consistent with the [PROCEDURE DESCRIPTION]. Further, its [SITUATION DESCRIPTION] Xiamen Lexiang and Xiamen Stone Display is consistent with their continuing ties.

[PREFIXES] are invoice number prefixes that usually appear on Engga's commercial invoices and packing lists.¹⁸⁶ Although [PREFIXES] are Engga-specific and do not neatly correspond to the letters in Xiamen Lexiang's company name, they appear nonetheless as invoice number prefixes on commercial invoices and packing lists that Xiamen Lexiang issued in four exports to U.S. importers not subject to this investigation.¹⁸⁷ In one of these exports, the commercial invoice and packing list denoted Xiamen Lexiang as the [SITUATION DESCRIPTION] but listed [COMPANY] and address on the documents' header.¹⁸⁸ In contrast, the entry's bill of lading contained no mention of [COMPANY] but listed Xiamen Lexiang as the [SITUATION DESCRIPTION] and [CITY] as the port of loading.¹⁸⁹ These four exports were thus recorded as being from Xiamen Lexiang and from China; thus, there should not have been any references to [COMPANY] in these documents. As such, they indicate that Xiamen Lexiang and Engga are affiliated companies involved in each other's operations. Furthermore, the four exports' documents are dated [FIVE DATES].¹⁹⁰ These dates are all well after Kales/Engga's August

¹⁸⁰ See Kales/Engga Supplemental RFI at Exhibit SQ1-3.

¹⁸¹ See Kales/Engga RFI at Exhibit 23; *see also* Allegation at Exhibits 8-9. See Figure 5 below as well.

¹⁸² See Kales/Engga RFI at Exhibit 2. [PROCEDURE DESCRIPTION]]."

¹⁸³ *Id.* at Exhibit 2.

¹⁸⁴ See NOI at 12; *see also* CF-28 Response at 36, 38, 40, 42; *see also* December Memorandum at Attachment 5, pages 1-5.

¹⁸⁵ See Kales/Engga Supplemental RFI at SQ1-8; *see also* Kales/Engga RFI at 19; *see also* Strry RFI at Exhibit 17.

¹⁸⁶ See November Memorandum at Attachment 2, pages 19, 27, and Attachment 3, pages, 3-4; *see also* June Memorandum at Attachment 47, pages 2, 4; Attachment 48, pages 2, 4; Attachment 49, pages 5, 7; and Attachment 52, pages 4, 10.

¹⁸⁷ See November Memorandum at Attachment 59, pages 1, 3; Attachment 60, pages 1-2; and Attachment 61, pages 1, 3; *see also* June Memorandum at Attachment 41.

¹⁸⁸ See November Memorandum at Attachment 59, pages 1, 3.

¹⁸⁹ *Id.* at Attachment 59, page 7.

¹⁹⁰ *Id.* at Attachments 59-61; *see also* June Memorandum at Attachment 41.

2019 registration in Vietnam and so evince Kales/Engga's continuing relationship/affiliation with Xiamen Lexiang.¹⁹¹

Based on the preceding evidence, CBP finds that substantial evidence indicates that Kales/Engga and Strry are affiliated with CRS, CRS UK, Xiamen Lexiang, and Xiamen Stone Display. Kales/Engga and Strry repeatedly denied any affiliation with Xiamen Lexiang and Xiamen Stone Display.¹⁹² Consequently, CBP determines that Kales/Engga and Strry provided several false statements to CBP concerning their affiliation with Xiamen Lexiang and Xiamen Stone Display. Furthermore, Kales/Engga and Strry concealed documents CBP requested on their affiliates, such as business licenses and articles of association. As such, Kales/Engga and Strry impeded CBP's investigation.

Imports and Production

Kales/Engga and Strry state that Strry "produces and sells quartz slabs," also known as QSP slabs.¹⁹³ They further state that Kales/Engga sourced some of its QSP slabs from Strry and then performed additional work on them.¹⁹⁴ Kales/Engga claimed it "purchased [PRODUCT DESCRIPITON] and produced the covered merchandise it sold to the United States. However, Kales produced the covered merchandise with [PRODUCT DESCRIPTION]{}"¹⁹⁵ Kales/Engga further claimed that "{n}ormally Kales purchased [PRODUCT AND PROCEDURE DESCRIPTION]."¹⁹⁶ To understand Kales/Engga's definition of "[PRODUCT DESCRIPTION]," CBP asked in what way these [PRODUCT DESCRIPTION]."¹⁹⁷ Kales/Engga responded that "[PRODUCT DESCRIPTION]. To produce a finished covered merchandise, Kales needs to go through several production steps, including [PROCEDURE DESCRIPTION]."¹⁹⁸

This statement incorrectly implies that a QSP slab is not covered merchandise until after several additional finishing steps are performed. The plain language of the scope of the *AD/CVD Orders* indicates that a QSP slab is covered merchandise regardless of whether any additional production steps are performed on it, such as [ADDITIONAL PRODUCTION STEPS].¹⁹⁹ The *AD/CVD Orders* state:

Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (e.g., quartz, quartz powder, cristobalite) as well as a resin binder.... Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of the orders includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of the

¹⁹¹ See November Memorandum at Attachment 2, page 21.

¹⁹² See Kales/Engga RFI at 30, 34; see also Kales/Engga Supplemental RFI at 5; see also Strry RFI at 13.

¹⁹³ See Strry RFI at 6, 11; see also Kales/Engga RFI at 9.

¹⁹⁴ *Id.*

¹⁹⁵ See Kales/Engga RFI at 16.

¹⁹⁶ *Id.* at 21.

¹⁹⁷ *Id.*

¹⁹⁸ See Kales/Engga Supplemental RFI at 9.

¹⁹⁹ See *AD/CVD Orders*.

orders includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops.... Certain quartz surface products are covered by the orders whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish....

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the quartz surface products.²⁰⁰

As indicated above, Chinese-origin QSP slabs are covered by the scope of the *AD/CVD Orders* regardless of whether any [PROCEDURE] and/or [PROCEDURE] was performed a third country such as Vietnam.²⁰¹ Put another way, any [PROCEDURE] and/or [PROCEDURE] Kales/Engga performed on its “[PRODUCT DESCRIPTION]” QSP slabs in Vietnam did not transform them from Chinese-origin QSP slabs into Vietnamese-origin QSP slabs for purposes of coverage under the *AD/CVD Orders*.²⁰² The *AD/CVD Orders* further indicate that even if Kales/Engga or Strry finished, packaged, cut, polished, cured, edged, thermoformed, attached to, packaged with another product, or fabricated their Chinese-origin QSP slabs in Vietnam, those activities would not remove them from the scope of the *AD/CVD Orders*.²⁰³ Thus, any “[ADDITIONAL PRODUCTION STEPS]” performed in Vietnam does not affect the QSP slabs’ country of origin for purposes of the scope of the order.²⁰⁴ Because these additional production steps do not affect the country of origin in this context, all of the QSP slabs Kales/Engga imported into Vietnam from China remain Chinese-origin QSP covered by the *AD/CVD Orders*.

Record evidence indicates that Kales/Engga imported from China a substantial quantity of the QSP slabs they exported to the United States. Kales/Engga provided a chart listing its QSP suppliers and the quantities of “[PRODUCT DESCRIPTION]” that it obtained from them.²⁰⁵ It was labeled as a “Raw Materials Supplier Chart;” however, as noted above, “[PRODUCT DESCRIPTION]” QSP slabs from China are covered merchandise and not raw materials.²⁰⁶ Using information from this chart and other sources, CBP created Figure 5 below.²⁰⁷ Figure 5 shows that Kales/Engga sourced [#] percent of its QSP slabs by quantity from China. It also shows that Kales/Engga sourced [#] percent of its QSP slabs from its Chinese affiliates Xiamen Lexiang and Xiamen Stone Display. In contrast, the chart shows that Kales/Engga obtained only [#] percent of its QSP slabs from Vietnamese suppliers and [#] percent from Strry in

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² See Allegation at Exhibit 8.

²⁰³ See *AD/CVD Orders*.

²⁰⁴ See Kales/Engga Supplemental RFI at 9.

²⁰⁵ See Kales/Engga RFI at Exhibit 23.

²⁰⁶ *Id.*

²⁰⁷ See Allegation at Exhibit 8; see also November Memorandum at Attachment 7; see also Kales/Engga RFI at Exhibit 23; see also Strry RFI at 4, 11.

particular. Therefore, Kales/Engga sourced a [SITUATION DESCRIPTION] of its QSP slabs from China.

Figure 5 - Kales/Engga's QSP Slab Sources				
	Source Companies	Location	Quantity [UNIT]	% of Total
1	Xiamen Lexiang	Xiamen, China	[]	[]
2	Xiamen Stone Display	Xiamen, China	[]	[]
3	Foshan Dava Imp. & Exp. Co., Ltd.	Foshan, China	[]	[]
4	Stry	Haiphong, Vietnam	[]	[]
5	[]			
6	Wuhan DC Stone Imp. & Exp. Co., Ltd	Wuhan, China	[]	[]
7	[]			
8	Hubei Orient Stone Imp. & Exp. Co., Ltd	Hubei, China	[]	[]
9	Yong Song Co., Ltd	[CITY], China	[]	[]
10	Vietnam Source Subtotal*		[]	[]
11	China Source Subtotal*		[]	[]
12	Total*		[]	

Sources: Allegation at Exhibit 8; November Memorandum at Attachment 7; Kales/Engga RFI at Exhibit 23; Stry RFI at 4, 11. *Calculated from the source companies' unrounded quantities.

One of Figure 5's sources was [SOURCE], which corroborates that Kales/Engga imported extensive quantities of QSP slabs into Vietnam from China.²⁰⁸ Specifically, [SOURCE] indicates that Kales received 66 import shipments of QSP slabs from China from the beginning of the POI on October 6, 2021, until the [SOURCE] ended in June 2022.²⁰⁹ Because [SOURCE] does not originate from parties under investigation, it constitutes an impartial third-party source of information. [SOURCE] is reliable and has been used in other settings as a reliable source of information, such as in [FOUR NEWS OUTLETS]'s trade-related articles.²¹⁰ Moreover, the reliability of this case's [SOURCE] is corroborated by several record documents. Specifically, Kales/Engga provided [DOCUMENT TYPE] and export declarations it submitted to Vietnam Customs that contain variables matching the [SOURCE]'s variables in the date, consignee, shipper, shipment origin, shipment destination, HS code, data source, goods shipped fields as well as similarities in quantities of goods shipped.²¹¹ Consequently, these documents corroborate the accuracy of Kales/Engga's numerous imports of Chinese-origin QSP in the [SOURCE].

Figure 5 indicates that Kales/Engga sourced [#] percent of its QSP slabs by quantity, [#], from its Chinese suppliers. Kales/Engga then drew from this Chinese covered merchandise for its exports to its U.S. customers, which included SCS. Kales/Engga's list of sales to SCS

²⁰⁸ See Allegation at Exhibit 8.

²⁰⁹ *Id.* at Exhibit 8, pages 1-43. This figure is derived from counting the dates that contained shipments of QSP slabs from the beginning of the POI on October 6, 2021, to the end of the [SOURCE] in June 2022. It did not count each individual shipment line or the dates that solely contained non-covered merchandise. The [SOURCE] ended in June 2022 because it was included in the Allegation and the Allegation was submitted to CBP a couple months afterward.

²¹⁰ See June Memorandum at Attachment 19, pages 6-9.

²¹¹ See Allegation at Exhibits 8-9; see also Kales/Engga RFI at Exhibits 27.5, 27.7; see also Kales/Engga Supplemental RFI at Exhibit SQ1-5; see also Appendix 1 at the end of this notice.

indicates that it exported [#] shipments totaling [#] to SCS during the POI; however, this figure is undercounted because it omits SCS' three earliest POI entries.²¹² Adjusting for these missing entries, Kales/Engga supplied about [#] of QSP to SCS in [#] POI shipments.²¹³ Because Figure 5 indicates that Kales/Engga only sourced [#] from Vietnam, a large proportion of the QSP Kales/Engga exported to SCS was sourced from Chinese-origin QSP. Hypothetically, if Kales/Engga exported all [#] of its Vietnamese-origin QSP to SCS and none to its other customers, it still would have exported *at least* [#] of Chinese-origin QSP slabs to SCS.²¹⁴ However, the actual quantity of Chinese-origin QSP that Kales/Engga's exported to SCS was much higher. Kales/Engga's sales list indicates that they exported [#] shipments of Chinese-origin QSP to SCS totaling [#], which was [#] percent of the POI QSP exported to SCS by quantity.²¹⁵

Likewise, SCS claimed that “[SITUATION DESCRIPTION]” and “[SITUATION DESCRIPTION]. As such, in the final determination, TRLED should find that the other shipments manufactured using Vietnamese-origin slabs {sic} are not ‘covered merchandise{.}’”²¹⁶ Because “[PRODUCT DESCRIPTION]” are covered merchandise, this statement effectively acknowledges that [#] SCS POI entries were composed of Chinese-origin QSP covered by the *AD/CVD Orders*.

Several other record documents corroborate that SCS entered Chinese-origin merchandise from Kales/Engga. Specifically, Vietnamese [DOCUMENT TYPE], Vietnamese export declarations, [SOURCE], commercial invoices, and packing lists contain matching dates, descriptions, dimensions, and quantities of QSP that documented how it moved from Xiamen Lexiang and Xiamen Stone Display in China to Kales/Engga in Vietnam to SCS in the United States. For example, with reference to SCS entry [#]0661, a Vietnamese [DOCUMENT TYPE] and [SOURCE] both indicate that, on November 15, 2021, Kales imported 23 pieces (PCE) of QSP measuring 311 x 648 x 20 mm from China.²¹⁷ Xiamen Lexiang also issued a contract and commercial invoice to Kales that accompanied this import and corroborated these variables.²¹⁸ One slight difference in terminology is that the [DOCUMENT TYPE] describes the QSP in Vietnamese as “[PRODUCT DESCRIPTION],” whereas the [SOURCE] translates this description as “Artificial quartz stone slab.”²¹⁹ Notably, the [PRODUCT DESCRIPTION] in the [DOCUMENT TYPE] was already cut into custom dimensions, which indicates they

²¹² See Kales/Engga RFI at Exhibit 24; see also NTAC EAPA Receipt Report, dated October 21, 2022, at 202, 205. The omitted entries were [#]9035, [#]9043, and [#]3796.

²¹³ See Kales/Engga RFI at Exhibit 24. The available quantities in exhibit 24 indicate an average of [#] per export. Thus, [EQUATION].

²¹⁴ See November Memorandum and June Memorandum for examples of Kales/Engga POI exports to other U.S. customers. The figure is derived as such: [EQUATION].

²¹⁵ See Kales/Engga RFI at Exhibit 24. [EQUATION] percent.

²¹⁶ See SCS Written Arguments at 7, 27; see also SCS Written Argument Response at 8.

²¹⁷ See Allegation at Exhibit 8, page 37, row 25; see also Kales/Engga RFI at Exhibit 27.5, page 9.

²¹⁸ See Kales/Engga RFI at Exhibit 27.5, pages 1, 3.

²¹⁹ See Allegation at Exhibit 8. The [SOURCE]'s right column indicates that its source was “Vietnam Imports.” See also June Memorandum at Attachment 19, which describes how [SOURCE] sources its import information from Vietnam trade data. See also June Memorandum at Attachment 5 for further information on Vietnam trade data.

were slabs when they arrived in Vietnam.²²⁰ Corroborating the [SOURCE] translation, Kales/Engga admitted that it imported “[PRODUCT DESCRIPTION]” into Vietnam.²²¹ Finally, Kales/Engga often described completed QSP using the same [PRODUCT DESCRIPTION] description in commercial invoices and packing lists it issued as part of their customers’ U.S. entry documents.²²² Thus, the slight difference in terminology does not reflect a difference in merchandise.

For the next stage of movement, a Vietnamese Customs export declaration and [SOURCE] indicate that Kales exported these 23 PCE of QSP measuring 311 x 648 x 20 mm on November 23, 2021.²²³ This export date is a few days before the bill of lading’s export date, [DATE], because Kales submitted the export declaration to Vietnamese Customs a few days before exportation occurred.²²⁴ The entry summary, commercial invoice, and packing lists Engga 2 issued to SCS indicate that on [DATE], SCS entered these 23 PCE of QSP from Engga measuring 311 x 648 x 20 mm as part of entry [#]0661.²²⁵ Thus, these 23 PCE of QSP travelled from Xiamen Lexiang in China to Kales in Vietnam to SCS in the United States. Using the same documents, entry [#]0661’s other shipment lines and other custom dimensions can also be traced from Xiamen Lexiang to Kales to SCS. Please see Appendix 1 at the end of this notice concerning each of entry [#]0661’s other shipment lines.

Notably, the company name and invoice number prefix Kales/Engga used in its Vietnamese export declarations often differed from the company name and invoice number prefix it used in the invoices it issued to SCS. After Engga’s June 2021 name change to Kales and subsequent re-registration of the Engga company name, it usually submitted export declarations to Vietnamese Customs in Kales’ name accompanied with invoices that had [PREFIX] invoice number prefixes.²²⁶ In contrast, Kales/Engga usually issued the corresponding commercial invoices to the customer under Engga’s name with [PREFIX] invoice number prefixes to SCS.²²⁷ This indicates that Kales/Engga submitted one invoice to Vietnamese Customs and another invoice to SCS. The practice of issuing two different invoices for the same sale is called double invoicing and is an indicator of evasion. The fact that double invoicing appeared after Engga’s name

²²⁰ See Allegation at Exhibit 8; see also Kales/Engga RFI at 22. A standard-sized, uncut slab measures 3200 x 1600 mm or 3000 x 1400 mm with a thickness of 20 or 30 mm. See, e.g., June Memorandum at Attachment 4, pages 5-6; Attachment 31, pages 1-4; and Attachment 32, page 2-3.

²²¹ *Id.*

²²² See November Memorandum at Attachments 9, 32-33; see also Kales/Engga RFI at Exhibits 15.1-15.3.

²²³ See Allegation at Exhibit 9, page 35, row 15; see also Kales/Engga Supplemental RFI at Exhibit SQ1-5, page 165.

²²⁴ See Kales/Engga Supplemental RFI at 8; see also Kales/Engga RFI at Exhibit 15.10, page 15.

²²⁵ See SCS RFI at Exhibit 27, pages 2, 7-11. The dimensions are [DIMENSIONS] in imperial units. The entry summary has the entry date, but it only has aggregated quantities rather than the individual shipment line quantities.

²²⁶ See Kales/Engga Supplemental RFI at Exhibit SQ1-5, pages 127, 144, 148, 163, 179, 183, 201, 214, 221, 225, 238, 242, 251, 256, 263; see also Allegation at Exhibit 9. After the June 2021 name change, there was only one instance on the record in which Kales/Engga submitted an export declaration in Engga’s name to Vietnam Customs accompanied with an Engga invoice with an [PREFIX] invoice number prefix.

²²⁷ See Kales/Engga RFI at Exhibit 15.8, page 11; Exhibit 15.9, page 7; Exhibit 15.10, page 7; Exhibit 15.11, page 5; Exhibit 15.13, page 4; Exhibit 15.14, page 15; Exhibit 15.15, page 6; and Exhibit 15.16, page 6; see also SCS RFI at Exhibits 25-28, 30-32. The exception is that there were three SCS entries from Kales in which Kales/Engga issued invoices to SCS in Kales’ name using an [PREFIX] invoice number prefix. However, the three corresponding export declarations were in Kales’ name with [PREFIX] invoices, which indicates that they did not use the same invoices.

change and re-registration indicates that these actions were likely intended to create two company names to facilitate double invoicing.

Double invoicing is often used for transshipment to distance the claimed exporter (such as Engga) from the actual exporter (such as Kales). Corroborating this, Engga attempted to distance itself from Kales early in the investigation and falsely stated that it had “no relation ship with Kales Quartz.”²²⁸ Double invoicing is also used to undervalue the declared dutiable amount. In this scenario, a party submits one invoice to a customs agency with a lower declared value and another invoice to its customer with the higher true value. Kales/Engga stated that the [

PROCEDURE DESCRIPTION

],²²⁹ SCS admitted that entry [#]0661’s [EVENT DESCRIPTION].²³⁰ In an email to SCS, Kales/Engga noted its [SITUATION DESCRIPTION] for the merchandise.²³¹ Although this was somewhat less than the invoice amount, it represents the true value of the merchandise which should have been declared to CBP for purposes of calculating duties. Thus, entry [#]0661 will be revalued to the actual value based upon the summed amounts, \$[#].²³² With respect to the entry’s actual value, there is almost a \$[

SITUATION DESCRIPTION

].²³³ This [SITUATION DESCRIPTION]. Furthermore, Kales/Engga [EVENT DESCRIPTION].²³⁴ The [

SITUATION DESCRIPTION

]. Therefore, [EVENT DESCRIPTION]. If Kales/Engga is willing to [PROCEDURE DESCRIPTION], Kales/Engga may be even more willing to facilitate the evasion of duties [PROCEDURE DESCRIPTION], for example, to undercut potential competition.

As noted, Kales/Engga claimed that [#] out of its [#] POI exports to SCS were composed of Chinese-origin QSP.²³⁵ However, because Kales/Engga and Stry did not permit CBP’s verification, CBP was unable to verify the information in Kales/Engga’s records to determine whether this was an accurate proportion. Therefore, CBP cannot rely on this proportion to discern which entries contain covered merchandise.

²²⁸ See CF-28 Response; *see also* NOI at 7, 9.

²²⁹ See Kales/Engga Supplemental RFI at 8.

²³⁰ See SCS RFI at 34.

²³¹ *Id.* at Exhibit 27, page 31.

²³² *Id.* [EQUATION].

²³³ See Kales/Engga Supplemental RFI at SQ1-5, pages 163, 179. [EQUATION].

²³⁴ *Id.* at 9; *see also* Kales/Engga RFI at Exhibit 27.5, pages 6, 37. [EQUATION].

²³⁵ See Kales/Engga RFI at Exhibit 24; *see also* SCS Written Arguments at 7, 27; *see also* SCS Written Argument Response at 8.

CBP's regulations state "Prior to making a determination under § 165.27, CBP may in its discretion verify information in the United States or foreign countries collected under § 165.23 as is necessary to make its determination."²³⁶ Due to Kales/Engga's and Stry's claims that they produced QSP in Vietnam, CBP decided that a verification was needed and planned to verify the information on the case record at Kales/Engga and Stry's facilities in Vietnam during June 22-23 and June 26-30, 2023.²³⁷ CBP informed Kales/Engga and Stry multiple times about these verification plans and Kales/Engga and Stry offered to host CBP's verification.²³⁸ As such, in April 2023, CBP asked that "Jie Zheng, Cai Zong Zhu, Sofie, [NAMES] be present in person at verification during at least June 26-28, 2023, to explain Kales/Engga's and Stry's ... procedures and records to CBP officials and to answer any resulting questions."²³⁹ On May 15, 2023, Kales/Engga and Stry affirmed that the "persons mentioned above will be present at the verification..."²⁴⁰ CBP referenced its upcoming verification again on June 2, 2023, when it extended the case's written arguments deadline to accommodate the parties to the investigation's review of the anticipated verification report.²⁴¹ However, on June 9, 2023, Kales/Engga and Stry withdrew from participating in the verification.²⁴² They stated "we hereby inform TRLED that the companies are not going to proceed with the verification in the last two weeks of June."²⁴³

Kales/Engga and Stry rescinding their offer to participate in verification, especially so close to the time the verification was meant to occur, impeded the investigation. Because Kales/Engga and Stry accepted CBP's verification request, CBP adjusted the case's timeline. CBP also anticipated discussing and verifying the information on the case record and making on-site requests for information. If CBP had known there would be no verification, it would have asked more supplemental RFI questions in lieu of the planned verification discussions. Consequently, Kales/Engga and Stry failed to cooperate and comply to the best of their ability with CBP's investigation. As such, CBP is applying an inference adverse to the interests of Kales/Engga and Stry.²⁴⁴

Moreover, because Kales/Engga and Stry failed to participate in verification, CBP was unable to observe their purported production or verify the reliability of the corresponding production documents. These production documents were handwritten and contain multiple soon-to-be discussed irregularities.²⁴⁵ The only corroboration Kales/Engga and Stry offer for these documents is their assertion that they are accurate. However, Kales/Engga and Stry have made multiple false statements, concealed material evidence that is consequential to the investigation, and submitted a fraudulent payment document pertaining to raw materials, all of which indicate

²³⁶ See 19 CFR 165.25(a).

²³⁷ See CBP Email, "EAPA 7783 - Extension of Written Arguments Deadline," dated June 2, 2023. Initially verification was scheduled for June 21-23, 26-30, 2023, but was changed to June 22-23, 26-30, 2023.

²³⁸ *Id.*; see also CBP Supplemental RFI to Kales/Engga at 8; see also CBP Supplemental RFI to Stry at 8.

²³⁹ See CBP Supplemental RFI to Kales/Engga at 8; see also CBP Supplemental RFI to Stry at 8.

²⁴⁰ See Kales/Engga Supplemental RFI at 1; see also Stry Supplemental RFI at 1.

²⁴¹ See CBP Email, "EAPA 7783 - Extension of Written Arguments Deadline," dated June 2, 2023.

²⁴² See Letter from Kales/Engga and Stry, "EAPA Case No. 7783 – Foreign Manufacturers Notice of Intent Not To Participate in Verification," dated June 9, 2023.

²⁴³ *Id.*

²⁴⁴ See 19 CFR 165.6.

²⁴⁵ See Kales/Engga RFI at Exhibits 16.1-16.11.

that the production documents are unreliable. Because the production documents are unreliable, they do not provide support for the claim that [#] of SCS' [#] POI entries contained Vietnamese-origin QSP. The unreliability of this claim and of the production documents is corroborated in the several instances discussed below.

Kales/Engga claimed it performed a [PROCEDURE DESCRIPTION].²⁴⁶ However, the QSP slabs that Kales/Engga sourced from China were already cut into a wide variety of custom dimensions when they received them.²⁴⁷ A standard-sized, uncut QSP slab measures 3200 x 1600 mm or 3000 x 1400 mm and usually has a thickness of 20 or 30 mm.²⁴⁸ In contrast, Kales/Engga's QSP slab imports from China, as documented in the [SOURCE], Vietnamese [DOCUMENT TYPE], and commercial invoices, were composed of numerous non-standard dimensions differing markedly from standard uncut slab measurements.²⁴⁹ Therefore, these QSP slabs were already cut to custom dimensions upon their arrival in Vietnam. As such, Kales/Engga did not perform "[PROCEDURE DESCRIPTION]" in Vietnam on these Chinese-origin QSP slabs, which casts doubt upon the accuracy of its other manufacturing-related claims.²⁵⁰

Correspondingly, Kales' handwritten Production Process Records for entry [#]0661 claimed that they removed these slabs from inventory and performed [PROCEDURE DESCRIPTION] on these slabs.²⁵¹ As discussed, none of these actions transform the Chinese QSP slabs into Vietnamese-origin QSP slabs. Thus, the slabs were still Chinese-origin QSP covered by the order regardless of whether Kales/Engga performed these actions. That being said, Kales/Engga purportedly performed [PROCEDURE AND NUMBER] of the QSP slabs.²⁵² Because "[PROCEDURE]" is listed as a separate task from "[PROCEDURE]" on the form, [PROCEDURE] the QSP slabs denotes [PROCEDURE]. As previously noted, the Vietnamese [DOCUMENT TYPE], [SOURCE], contract, and commercial invoice indicate that when Kales/Engga imported these QSP slabs from China, they were already cut to custom, nonstandard slab dimensions upon arrival in Vietnam.²⁵³ Furthermore, the QSP slabs imported into Vietnam had the same dimensions as those exported from Vietnam.²⁵⁴ The presence of the same custom dimensions on the Vietnamese [DOCUMENT TYPE] and export declarations indicate that Kales/Engga did not perform any additional [PROCEDURE] in Vietnam.²⁵⁵ Thus, this collective evidence indicates that the Production Process Records Kales/Engga provided to CBP are not reliable.

²⁴⁶ See Kales/Engga Supplemental RFI at 9.

²⁴⁷ See Allegation at Exhibit 8; see also Kales/Engga RFI at Exhibit 27.5, pages 6-36, and Exhibit 27.7, pages 5-12, 20-73.

²⁴⁸ See, e.g., June Memorandum at Attachment 4, pages 5-6; Attachment 31, pages 1-4; and Attachment 32, page 2-3.

²⁴⁹ See Allegation at Exhibits 8-9; see also Kales/Engga RFI at Exhibit 27.5, 27.7; see also Appendix 1 for example.

²⁵⁰ See e.g. Allegation at Exhibits 8-9.

²⁵¹ See Kales/Engga RFI at Exhibit 16.5.

²⁵² *Id.*

²⁵³ See Appendix 1.

²⁵⁴ *Id.*

²⁵⁵ *Id.*

Moreover, Kales/Engga provided a fraudulent payment document for raw materials that were purportedly used in the production of entry [#]9051's QSP.²⁵⁶ The fraudulent document's unique transaction reference number, payment description, payment trace number, and payment time (to the second) were identical to the unique transaction reference number, payment description, payment trace number, and payment time (to the second) on another raw material payment document dated almost nine months later and that pertained to a different entry.²⁵⁷ These matching variables indicated that Kales/Engga surreptitiously created a payment document from copied information and attempted to submit it for another entry. After CBP pointed out this fraudulent document in its NOI, Kales/Engga admitted that the document was [PROCEDURE].²⁵⁸ They then claimed that the document was [

EVENT DESCRIPTION

].²⁵⁹ However, several aspects of Kales/Engga's explanation are demonstrably false.

First, multiple [POSITION] worked for Kales/Engga and Strry when CBP issued the CF-28 response.²⁶⁰ Likewise, Kales/Engga stated "[SITUATION DESCRIPTION]".²⁶¹ If in fact the unnamed [

SITUATION DESCRIPTION

]. Second, [NAME] was the only person at Kales/Engga that SCS communicated with and so she would have sent the fraudulent document to SCS and not the unnamed [POSITION].²⁶² The fraudulent document was a representation by Kales/Engga regardless of who sent it on their behalf or to whom Kales/Engga delegated its retrieval/creation. Thus, their unsubstantiated task delegation scenario is irrelevant and their attempt to shift blame from Kales/Engga to an unnamed [POSITION] is without merit. Finally, it is untrue that "[SITUATION DESCRIPTION]".²⁶³ As part of the same response to this request, Kales/Engga addressed another document containing [NAME]'s signature as "Dear Homeland Security {sic}".²⁶⁴ This salutation indicates that Kales/Engga knew that the fraudulent document's purpose was to respond to a U.S. government request for information. Because [NAME] knew the purpose of the request and is a member of Kales/Engga's management team, she oversaw the creation of the document before she sent it to SCS. Therefore, this collective evidence indicates that Kales/Engga submitted a document to CBP to falsely substantiate a payment for raw materials used in their purported production.

Other raw material documents for entry [#]9051 are contradictory as well. Kales/Engga provided raw material documents for the CF-28 response that do not match the raw material

²⁵⁶ See CF-28 Response at 23-24, 145-146, 220-221, 297-298; *see also* NOI at 11.

²⁵⁷ *Id.* The matching items were the transaction reference number [#], time [#], payment description and trace number [PAYMENT DESCRIPTION AND TRACE NUMBER].

²⁵⁸ See Kales/Engga RFI at 39.

²⁵⁹ *Id.*

²⁶⁰ See Kales/Engga Supplemental RFI at Exhibit SQ1-7, page 1, row 5 and page 6, row 3; *see also* Strry Supplemental RFI at Exhibit SQ1-3, page 1, rows 3-4.

²⁶¹ See Kales/Engga Supplemental RFI at 1; *see also* Strry Supplemental RFI at 1.

²⁶² See SCS Supplemental RFI at 1.

²⁶³ See Kales/Engga RFI at 39.

²⁶⁴ See CF-28 Response at 197; *see also* NOI at 7.

documents that they provided later in their RFI responses. Specifically, Kales/Engga provided a delivery note and a contract for the CF-28 response that ostensibly indicated that it purchased [ITEM AND AMOUNT] and [ITEM AND AMOUNT], respectively, for production of the entry's merchandise.²⁶⁵ However, in its RFI response, Kales/Engga provided two different contracts listing [ITEM AND AMOUNT] and [ITEM AND AMOUNT] purportedly used for the entry.²⁶⁶ As such, the entry's raw material documents contradict each other and corroborate the general unreliability of the production documents.

Kales/Engga provided production documents for 11 entries, of which they claimed [#] were Vietnamese-origin and [#] were Chinese-origin.²⁶⁷ However, all of the production documents for the [#] purported Vietnamese-origin entries contain multiple irregularities and ultimately do not account for where Kales/Engga sourced most of the entries' QSP slabs.²⁶⁸ Entry [#]6816's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.²⁶⁹ It denotes "ST Strry" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.²⁷⁰ Kales/Engga and Strry did not provide production documents for the missing [#] QSP slabs.²⁷¹ As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.²⁷² Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.²⁷³ However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for most of the [#] PCE of QSP listed on the entry's commercial invoice.²⁷⁴ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#]6873's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.²⁷⁵ It denotes "ST Strry" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's

²⁶⁵ See CF-28 Response at 20-21, 26-27.

²⁶⁶ See Kales/Engga RFI at Exhibit 27.4, pages 1-2, 6-7.

²⁶⁷ *Id.* at Exhibits 16.1-16.11 and 24. The [#] entries, [#]0661 and [#]6958, that they claimed were Chinese origin were listed as commercial invoice numbers [NUMBERS] in Exhibit 24's chart.

²⁶⁸ *Id.* at Exhibits 16.1-16.4, 16.6, and 16.8-16.11. These were entries [#]6816, [#]6873, [#]6907, [#]9051, [#]6931, [#]1905, [#]0197, [#]4517, and [#]6426.

²⁶⁹ *Id.* at Exhibit 16.1. The dimensions listed in the Material Withdraw Ticket are a little different than those listed in the Strry Production Progress Sheet.

²⁷⁰ *Id.* at Exhibit 16.1, page 2. [EQUATION] QSP slabs.

²⁷¹ *Id.* at Exhibit 16.1.

²⁷² [EQUATION] percent.

²⁷³ *Id.* at Exhibit 16.1.

²⁷⁴ *Id.* at Exhibit 15.1, pages 13-16.

²⁷⁵ *Id.* at Exhibit 16.2.

QSP slabs.²⁷⁶ Kales/Engga and Strry did not provide production documents for the missing [#] QSP slabs.²⁷⁷ As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.²⁷⁸ Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.²⁷⁹ However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for all of the [#] PCE of QSP listed on the entry's commercial invoice.²⁸⁰ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#]6907's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.²⁸¹ It denotes "[DESCRIPTION]" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP slabs pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.²⁸² Kales/Engga and Strry did not provide production documents for the missing [#] QSP slabs.²⁸³ As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.²⁸⁴ Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.²⁸⁵ However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for most of the [#] PCE of QSP listed on the entry's commercial invoice.²⁸⁶ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#]9051's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.²⁸⁷ It denotes "[DESCRIPTION]" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.²⁸⁸ Kales/Engga and Strry did not provide production documents for the

²⁷⁶ *Id.* at Exhibit 16.2, page 2. [EQUATION] QSP slabs.

²⁷⁷ *Id.* at Exhibit 16.2.

²⁷⁸ [EQUATION] percent.

²⁷⁹ *Id.*

²⁸⁰ *Id.* at Exhibit 15.2, pages 5-6.

²⁸¹ *Id.* at Exhibit 16.3.

²⁸² *Id.* at Exhibit 16.3, page 2. [EQUATION] QSP slabs.

²⁸³ *Id.* at Exhibit 16.3.

²⁸⁴ [EQUATION] percent.

²⁸⁵ *Id.* at Exhibit 16.3.

²⁸⁶ *Id.* at Exhibit 15.3, pages 4-6.

²⁸⁷ *Id.* at Exhibit 16.4. [EQUATION] QSP slabs.

²⁸⁸ *Id.* at Exhibit 16.4, page 2.

missing [#] QSP slabs.²⁸⁹ As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.²⁹⁰ As noted, Kales/Engga provided the fraudulent payment document for the raw materials purportedly used in this entry.²⁹¹ Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.²⁹² However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for all of the [#] PCE of QSP listed on the entry's commercial invoice.²⁹³ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#]6931's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.²⁹⁴ It denotes "[DESCRIPTION]" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the corresponding Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.²⁹⁵ Kales/Engga and Strry did not provide production documents for the missing [#] QSP slabs.²⁹⁶ As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.²⁹⁷ Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.²⁹⁸ However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for all of the [#] PCE of QSP listed on the entry's commercial invoice.²⁹⁹ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#]1905's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.³⁰⁰ It denotes "[DESCRIPTION]" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.³⁰¹ Kales/Engga and Strry did not provide production documents for the

²⁸⁹ *Id.* at Exhibit 16.4.

²⁹⁰ [EQUATION] percent.

²⁹¹ See CF-28 Response at 23-24, 145-146, 220-221, 297-298; see NOI at 11.

²⁹² See Kales/Engga RFI at Exhibit 16.4.

²⁹³ *Id.* at Exhibit 15.9, pages 7-10.

²⁹⁴ *Id.* at Exhibit 16.6. [EQUATION] QSP slabs.

²⁹⁵ *Id.* at Exhibit 16.6, page 2. [EQUATION] QSP slabs.

²⁹⁶ *Id.* at Exhibit 16.6.

²⁹⁷ [EQUATION] percent.

²⁹⁸ *Id.* at Exhibit 16.6.

²⁹⁹ *Id.* at Exhibit 15.11, pages 5-7.

³⁰⁰ *Id.* at Exhibit 16.8.

³⁰¹ *Id.* at Exhibit 16.8, page 2. [EQUATION] QSP slabs.

missing [#] QSP slabs.³⁰² As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.³⁰³ Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.³⁰⁴ However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for most of the [#] PCE of QSP listed on the entry's commercial invoice.³⁰⁵ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#]0197's Material Withdraw Ticket ostensibly indicate that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.³⁰⁶ It denotes "[DESCRIPTION]" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.³⁰⁷ Kales/Engga and Strry did not provide production documents for the missing [#] QSP slabs.³⁰⁸ As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.³⁰⁹ Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.³¹⁰ However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for most of the [#] PCE of QSP listed on the entry's commercial invoice.³¹¹ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#]4517's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.³¹² It denotes "[DESCRIPTION]" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.³¹³ Kales/Engga and Strry did not provide production documents for the missing [#] QSP slabs.³¹⁴ As such, the source of [#] percent of the entry's QSP slabs remain

³⁰² *Id.* at Exhibit 16.8.

³⁰³ [EQUATION] percent.

³⁰⁴ *Id.*

³⁰⁵ *Id.* at Exhibit 15.13, pages 4-6.

³⁰⁶ *Id.* at Exhibit 16.9.

³⁰⁷ *Id.* at Exhibit 16.9, page 2. [EQUATION] QSP slabs.

³⁰⁸ *Id.* at Exhibit 16.9.

³⁰⁹ [EQUATION] percent.

³¹⁰ *Id.* at Exhibit 16.9.

³¹¹ *Id.* at Exhibit 15.14, pages 15-16.

³¹² *Id.* at Exhibit 16.10.

³¹³ *Id.* at Exhibit 16.10, page 2. [EQUATION] QSP slabs.

³¹⁴ *Id.* at Exhibit 16.10.

unaccounted for.³¹⁵ Additionally, the Kales Production Process Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order and [PROCEDURE AND AMOUNT] QSP slabs for the entry.³¹⁶ However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for most of the [#] PCE of QSP listed on the entry's commercial invoice.³¹⁷ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Entry [#] 6426's Material Withdraw Ticket ostensibly indicates that Kales/Engga pulled [#] QSP slabs out of inventory for this entry.³¹⁸ It denotes "[DESCRIPTION]" in the note column, however, the reference is not explained and the corresponding Strry Production Progress Sheet does not substantiate that Strry produced all of the QSP pulled out of inventory for this entry. Instead, the Strry Production Progress Sheet ostensibly indicates that Strry only produced [#] of the entry's QSP slabs.³¹⁹ Kales/Engga and Strry did not provide production documents for the missing [#] QSP slabs.³²⁰ As such, the source of [#] percent of the entry's QSP slabs remain unaccounted for.³²¹ Additionally, the Kales Production Progress Record indicates that Kales/Engga performed non-substantial alterations that would not remove the slabs from the scope of the order on [#] QSP slabs but only [PROCEDURE AND AMOUNT] QSP slabs for the entry.³²² However, these [PROCEDURE AND AMOUNT] QSP slabs do not account for most of the [#] PCE of QSP listed on the entry's commercial invoice.³²³ Stated another way, the Kales Production Process Record does not indicate that they packaged all of the [#] PCE of QSP that was reported upon entry to the United States, nor does it indicate that the [PROCEDURE AND AMOUNT] QSP slabs underwent additional [PROCEDURE] after they were [PROCEDURE] such that there ended up being a total of [#] PCE of QSP.

Notably, in each of the above entries, the production of [#] percent of the QSP slabs was unaccounted for and only [#] percent of the QSP slabs were ostensibly produced by Strry. It is odd that there is so little variation in these percentages. Nevertheless, these percentages are similar to Kales/Engga's overall sourcing of QSP slabs in which Kales/Engga sourced [#] percent of its QSP slabs from Chinese suppliers and [#] percent from Vietnamese suppliers such as Strry. The similarity of these percentages, the numerous irregularities in the QSP slab production amounts, Kales/Engga and Strry's affiliation to Chinese suppliers, and the fact that they sourced a [AMOUNT DESCRIPTION] of their QSP slabs from Chinese suppliers, indicate that Kales/Engga omitted production documents because they sourced the missing amounts from their Chinese suppliers. These entries appear to mostly contain Chinese-origin QSP slabs, but they were not counted among Kales/Engga's and SCS' previously claimed [#]

³¹⁵ [EQUATION] percent.

³¹⁶ *Id.* at Exhibit 16.10.

³¹⁷ *Id.* at Exhibit 15.15, pages 6-7.

³¹⁸ *Id.* at Exhibit 16.11.

³¹⁹ *Id.* at Exhibit 16.11, page 2.

³²⁰ *Id.* at Exhibit 16.11.

³²¹ [EQUATION] percent.

³²² *Id.* at Exhibit 16.11. [EQUATION] QSP slabs.

³²³ *Id.* at Exhibit 15.16, pages 6-8.

out of [#] Chinese-origin entries.³²⁴ This corroborates that Kales/Engga's and SCS' claimed proportion of Chinese-origin entries is unreliable and undercounted.

Adverse Inferences

CBP's regulations at 19 CFR 165.6(a) state that if "the importer, or the foreign producer or exporter of the covered merchandise fails to cooperate and comply to the best of its ability with a request for information made by CBP, CBP may apply an inference adverse to the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion...."³²⁵ The foreign producers or exporters of the covered merchandise, Kales/Engga and Strry, failed to cooperate and comply to the best of their ability with CBP's requests for information in multiple instances. These instances are as follows:

1. CBP requested that Kales/Engga and Strry report all of their affiliated companies.³²⁶ However, they did not report at least 12 of their affiliated companies, which are listed in Figure 2 and include CRS, Xiamen Lexiang, and Xiamen Stone Display. Consequently, Kales/Engga and Strry concealed material evidence concerning the names of their affiliates and so failed to cooperate and comply to the best of their ability.
2. Kales/Engga and Strry also did not provide the requested business licenses, articles of association, and other official documents for these 12 affiliated companies.³²⁷ As such, Kales/Engga and Strry concealed material evidence concerning its unreported affiliates.
3. Kales/Engga and Strry repeatedly denied their affiliation with Xiamen Lexiang.³²⁸ However, substantial evidence on the record indicates that they are affiliated. As such, Kales/Engga made multiple false statements concerning the affiliation status of Xiamen Lexiang.
4. Kales/Engga repeatedly denied its affiliation with [COMPANY].³²⁹ However, substantial evidence on the record indicates that they are affiliated. Consequently, Kales/Engga made multiple false statements concerning the affiliation status of [COMPANY].
5. Kales/Engga falsely stated to "Homland Security {sic}" that "Engga has no relation ship with Kales Quartz."³³⁰ As noted, Kales/Engga later stated that "Kales and Engga are operated as one company" and have a "close relationship."³³¹ Thus, Kales/Engga concealed material evidence concerning its affiliation.
6. Although its affiliates [COMPANY NAMES] changed their names to [COMPANY NAMES], Strry denied that [COMPANY NAMES] had undergone any further changes.³³² Thus, Strry provided a false statement. Strry also concealed the requested

³²⁴ *Id.* at Exhibit 24.

³²⁵ See also 19 USC 1517(c)(3)(A).

³²⁶ See Kales/Engga RFI at 2; see also Strry RFI at 2.

³²⁷ See Kales/Engga RFI at 4; see also Strry RFI at 2-3.

³²⁸ See Kales/Engga RFI at 30, 34; see also Kales/Engga Supplemental RFI at 5; see also Strry RFI at 13.

³²⁹ See Kales/Engga RFI at 32; see also Kales/Engga Supplemental RFI at 6-7.

³³⁰ See NOI at 7; see also CF-28 Response at 197 and 274.

³³¹ See RFI Extension Request at 2; see also Kales/Engga RFI at 2.

³³² See Strry Supplemental RFI at 3; see also June Memorandum at Attachment 20, page 1; Attachment 22, page 3; and Attachment 35, pages 14, 25.

documentation pertaining to these name changes. These false statements cast doubt on the overall reliability of information submitted by Strry.

7. Kales/Engga and Strry did not participate in CBP's verification and refused to participate close to the dates that the visits were to occur.³³³
8. Kales/Engga provided a fraudulent payment document for raw materials that were purportedly used in the production of entry [#]9051's QSP.³³⁴

CBP's regulations state that "Any interested party that provides a material false statement or makes a material omission or otherwise attempts to conceal material facts at any point in the proceedings may be subject to adverse inferences (see § 165.6)...."³³⁵ As noted above, Kales/Engga and Strry provided material false statements and omitted or otherwise attempted to conceal material facts in seven instances. Based on these instances listed above, CBP finds that Kales/Engga and Strry have not cooperated and complied to the best of their ability with CBP's requests for information during the investigation.

CBP is drawing an inference that is adverse to the interests of Kales/Engga and Strry by inferring that all of the QSP that they exported to the United States during the POI was Chinese-origin QSP.³³⁶ To draw this adverse inference, CBP is relying on factual information on the record, including the fact that Kales/Engga and Strry imported 66 shipments of QSP into Vietnam from their affiliated suppliers Xiamen Lexiang and Xiamen Stone Display in China and from other Chinese suppliers as well.³³⁷ CBP is also relying on factual information on the record that Kales/Engga and Strry subsequently exported some of this Chinese-origin QSP to SCS, such as entry [#]0661.³³⁸ Although CBP is applying an adverse inference with respect to Kales/Engga and Strry, enough evidence exists on the record to determine that there is evasion without its use.

Therefore, CBP determines that substantial evidence exists demonstrating that, by means of material false statements or material omissions, SCS entered Chinese-origin QSP subject to the *AD/CVD Orders* and failed to pay the requisite duties. While SCS essentially admitted that some of their POI entries of QSP from Kales/Engga and Strry were Chinese-origin, no reliable evidence exists to differentiate between their Chinese-origin and Vietnamese-origin QSP.³³⁹ As previously discussed, this unreliability is demonstrated by the submission of material false statements, fraudulent documentation, the omission of material facts, and the fact that the information was not verified. Thus, CBP determines that all of SCS' entries of QSP into the United States from Kales/Engga and Strry during the POI are Chinese-origin based on Kales/Engga and Strry's affiliation with its Chinese suppliers of QSP, record evidence that

³³³ See Letter from Kales/Engga and Strry, "EAPA Case No. 7783 – Foreign Manufacturers Notice of Intent Not To Participate in Verification," dated June 9, 2023.

³³⁴ See CF-28 Response at 23-24, 145-146, 220-221, 297-298; see NOI at 11.

³³⁵ See 19 CFR 165.5(b)(3).

³³⁶ See 19 USC 1517(c)(3); see also 19 CFR 165.6.

³³⁷ See Kales/Engga RFI at Exhibit 23; see also Allegation at Exhibit 8.

³³⁸ See Kales/Engga RFI at Exhibit 27.5; see also Allegation at Exhibits 8-9; see also Kales/Engga Supplemental RFI at Exhibit SQ1-5; see also SCS RFI at Exhibit 27. This is entry [#]0661. In Appendix 1, it can be traced from Xiamen Lexiang in China to Kales/Engga in Vietnam to SCS in the United States.

³³⁹ See SCS Written Arguments at 7, 27; see also SCS Written Argument Response at 8; see also Kales/Engga RFI at Exhibit 24.

Kales/Engga sourced [AMOUNT DESCRIPTION] of its QSP from China, and record evidence that Kales/Engga exported Chinese-origin QSP to SCS, as described above.³⁴⁰ This evidence is bolstered by the adverse inference that the QSP entered during the POI was Chinese-origin, but CBP reiterates that the adverse inference is not necessary to the determination that substantial evidence of evasion is present on the record.

Written Arguments

1. Adverse Inferences

Alleger asserted:

- In its determination, CBP should apply an adverse inference on all of the Vietnamese exporters' shipments of QSP to SCS during the POI because it failed to cooperate and provide complete responses.³⁴¹
- The EAPA statute and CBP's regulations state that if the importer, foreign producer, or exporter of the covered merchandise fails to cooperate and comply to the best of its ability, CBP may apply an inference adverse to the interests of that party.³⁴²
- CBP may apply an inference adverse to U.S. importers, foreign producers, and manufacturers "without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought."³⁴³
- In *All One God Faith, Inc.*, the U.S. Court of International Trade (CIT) upheld CBP's use of adverse inferences based on a foreign exporter's failure to cooperate in an EAPA investigation.³⁴⁴

SCS asserted:

- SCS does not dispute that the exporters failed to cooperate to the best of their abilities; however, they assert that CBP cannot apply adverse inferences in a way that affects SCS because it has fully cooperated with this investigation.³⁴⁵
- The EAPA statute at 19 USC 1517(c)(3)(A) and EAPA regulations at 19 CFR 165.6(a) mandate that CBP may only apply an inference that is adverse to the interests of the party who failed to cooperate to the best of that party's ability.³⁴⁶
- The Alleger's citation of and the CIT holding in *All One God Faith, Inc.* is not dispositive because it was based on a different set of facts.³⁴⁷

³⁴⁰ See Kales/Engga RFI at Exhibits 23-24, 27.5; see also Kales/Engga Supplemental RFI at Exhibit SQ1-5; see also Allegation at Exhibit 8-9; see also SCS RFI at Exhibit 27.

³⁴¹ See Alleger Written Arguments at 6; see also Alleger Written Argument Response at 8. The Alleger actually stated "adverse facts available" in its written arguments but appeared to mean adverse inferences.

³⁴² See Alleger Written Arguments at 7.

³⁴³ *Id.*

³⁴⁴ *Id.*; see also *All One God Faith, Inc. v. United States*, 589 F. Supp. 3d 1238, 1251 (Ct. Int'l Trade 2022)(*All One God Faith, Inc.*)(appeal pending).

³⁴⁵ See SCS Written Argument Response at 3.

³⁴⁶ *Id.* at 4.

³⁴⁷ *Id.*

- CBP should limit its application of adverse inference to the exporters by subjecting all their *future* shipments to the United States with the *AD/CVD Orders*’ applicable rate.³⁴⁸

CBP Position:

As a preliminary matter, the EAPA statute’s instructions concerning adverse inferences are quoted in full for convenience:

- (A) IN GENERAL.—If the Commissioner finds that a party or person described in clause (i) {the Allegor}, (ii) {the U.S. importer}, or (iii) {foreign producer or exporter} of paragraph (2)(A) has failed to cooperate by not acting to the best of the party or person’s ability to comply with a request for information, the Commissioner may, in making a determination under paragraph (1), use an inference that is adverse to the interests of that party or person in selecting from among the facts otherwise available to make the determination.
- (B) APPLICATION.—An inference described in subparagraph (A) may be used under that subparagraph with respect to a person described in clause (ii) {the U.S. importer} or (iii) {foreign producer or exporter} of paragraph (2)(A) without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought by the Commissioner, such as import or export documentation.
- (C) ADVERSE INFERENCE DESCRIBED.—An adverse inference used under subparagraph (A) may include reliance on information derived from—
 - (i) the allegation of evasion of the trade remedy laws, if any, submitted to U.S. Customs and Border Protection;
 - (ii) a determination by the Commissioner in another investigation, proceeding, or other action regarding evasion of the unfair trade laws; or
 - (iii) any other available information.³⁴⁹

The APPLICATION subparagraph indicates that an adverse inference may be used with respect to a foreign producer or exporter and so, due to the previously discussed reasons, CBP has drawn an adverse inference with respect to the affiliated foreign manufacturer and exporter Kales/Engga and Stry. Further, the IN GENERAL subparagraph states that CBP may use an inference that is adverse to the interests of that foreign manufacturer or exporter in selecting from among the facts otherwise available to make the determination. It is in Kales/Engga and Stry’s interest that the QSP they exported during the POI be considered Vietnamese-origin because that would mean the merchandise is not subject to the *AD/CVD Orders*. As such, CBP has drawn from the case record and inferred in a manner adverse to the interests of Kales/Engga and Stry that all of that QSP they exported during the POI is Chinese-origin.

That being said, SCS does not appear to disagree with CBP’s application of adverse inferences against Kales/Engga and Stry but rather with an application of adverse inferences “in a way that

³⁴⁸ *Id.* at 5.

³⁴⁹ See 19 USC 1517(c)(3). CBP’s regulations at 19 CFR 165.6 are similar.

affects SCS who has cooperated fully.”³⁵⁰ However, such an argument is unsupported by either the EAPA statute or EAPA regulations.

The EAPA statute and EAPA regulations contain no suggestion that an adverse inference used with respect to a foreign manufacturer or exporter cannot affect a cooperating importer. Instead, the EAPA statute states that an adverse inference may be used against a foreign producer or exporter “without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought by the Commissioner, such as import or export documentation.”³⁵¹ In other words, the importer’s full cooperation and provision of those documents does not affect CBP’s application of an adverse inference against the interests of the foreign manufacturer or exporter or the consequences of that inference. As such, the consequences of that inference may impact the interests of a cooperating importer. The CIT’s decision in *All One God Faith, Inc.* confirmed this interpretation.³⁵²

With regard to SCS’ position on *All One God Faith, Inc.*, CBP disagrees that it is inapplicable to this case.³⁵³ In *All One God Faith, Inc.*, the court stated:

As noted above, adverse inferences may be used against an uncooperative party ‘without regard to whether another person involved in the same transaction or transactions under Examination has provided the information sought.’ 19 U.S.C. 1517(c)(3)(B). Thus, CBP could apply adverse inferences in response to the alleged manufacturers’ failure to cooperate even if Consolidated Plaintiffs obtained accurate information regarding the original manufacturer and Exporter to the Subject Entries.³⁵⁴

Thus, even if importers are fully cooperative, that does not prevent CBP from applying inferences adverse to the interests of another non-cooperating party, such as a manufacturer. The adverse inferences applied with respect to the interests of a non-cooperating party may affect another cooperating party due to the parties being involved in the same transactions. The adverse inference in this case is that all of the QSP that Kales/Engga and Stry exported during the POI is Chinese origin. As such, once the inference has been applied to the QSP, that inference remains regardless of the QSP’s change in geographic location or ownership. Therefore, the inference would necessarily impact downstream importers.

The CIT has even more recently found that “collateral consequences” to an importer resulting from applying adverse inferences against a manufacturer are permissible where inferences were properly drawn adverse to the interests of a non-cooperating manufacturer and the importer did not provide information itself to lessen the impact of the adverse inferences.³⁵⁵ SCS was responsible for providing CBP with all information necessary to establish the correct duty amounts for its imports. In its written arguments, SCS admitted that some of the QSP it entered

³⁵⁰ See SCS Written Argument Response at 3-4.

³⁵¹ See 19 USC 1517(c)(3)(B).

³⁵² See *All One God Faith, Inc.*

³⁵³ *Id.*; see also CBP Letter “Notice of Final Determination as to Evasion,” dated March 9, 2020 (EAPA 7281 Determination) at 11, 18-19, which can be found at <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa/notices-action>.

³⁵⁴ See *All One God Faith, Inc.* at 1251.

³⁵⁵ See *Skyview Cabinet USA, Inc. v. United States*, 2023 WL 4073781, 8-9 (Ct. Int’l Trade 2023) (appeal pending).

from Kales/Engga and Strry was Chinese-origin. However, SCS did not provide the correct duty amount upon entry for those QSP entries or for any of the other entries at issue. Therefore, SCS has not provided information that would limit the impact of an adverse inference against its own interests. Accordingly, SCS is liable for the AD/CVD on the entries of QSP made by Kales/Engga and Strry during the POI.

Interestingly, SCS proposed that CBP should limit its application of adverse inference to the foreign exporters' future shipments to the United States. However, a debate on the utility of such a policy is beyond the purview of this notice.³⁵⁶ Additionally, SCS does not explain how the EAPA statute and EAPA regulations, as they currently exist, would facilitate the application of this proposal.

2. Procedural Deficiencies

SCS alleged:

- CBP failed to timely notify SCS or the exporters of EAPA 7783.³⁵⁷
- Due process requires that CBP provide SCS and the exporters the opportunity to defend against all allegations and evidence used against them.³⁵⁸
- Due process requires that CBP allow the exporters to submit written arguments.³⁵⁹

Alleger asserted:

- CBP provided timely notice of interim measures and of the investigation.³⁶⁰
- CBP's treatment of confidential information does not raise any due process concerns.³⁶¹
- Due process does not require that CBP allow the exporters to submit written arguments.³⁶²

CBP Position:

Regarding CBP's notification obligations, EAPA's regulations state the following:

CBP will issue notification of its decision to initiate an investigation to all parties to the investigation no later than 95 calendar days after the decision has been made, and the actual date of initiation will be specified therein. However, notification to all parties to the investigation will occur no later than five business days after interim measures are taken pursuant to § 165.24.³⁶³

³⁵⁶ See SCS Written Argument Response at 5.

³⁵⁷ See SCS Written Arguments at 17.

³⁵⁸ *Id.* at 19.

³⁵⁹ *Id.* at 24.

³⁶⁰ See Alleger Written Argument Response at 9.

³⁶¹ *Id.* at 11.

³⁶² *Id.* at 13.

³⁶³ See 19 CFR 165.15(d)(1).

On the 90th calendar day (January 26, 2023) after its decision to initiate an investigation, CBP notified the parties to the investigation of the initiation of an EAPA investigation, of the actual date of the initiation, and of the interim measures CBP took against SCS.³⁶⁴ Five business days later, on February 2, 2023, CBP provided its NOI to the parties to the investigation, which provided further explanation of its initiation decision and interim measures.³⁶⁵ As such, CBP provided SCS with notification of its EAPA investigation initiation and of its interim measures five days earlier than the 95-calendar day timeline in the EAPA regulations. Therefore, SCS was incorrect when it charged CBP with failing to timely notify them.

SCS implies that CBP should have alerted it shortly after the allegation was filed against it.³⁶⁶ SCS also stated that CBP placed two memoranda on the record without notice to SCS; therefore, they argue they had no opportunity to rebut them.³⁶⁷ Regarding the first point, the EAPA statute and EAPA regulations, as explained above, do not provide for notifying a party mentioned in the allegation before the notification of initiation and interim measures. Regarding the second point, it is untrue that CBP did not provide SCS with notice of these memoranda and that CBP did not provide an opportunity to rebut them. Pursuant to the timeline outlined in the EAPA regulations, CBP provided the parties to the investigation with all of the public documents and public versions of documents containing business confidential information on the case record, including the allegation and the two memoranda, and an opportunity to rebut them.³⁶⁸

Also, in its written arguments, SCS appeared to make arguments that could be interpreted to be on behalf of the exporters Kales/Engga and Strry. For example, SCS contended that CBP failed to timely notify the exporters of the investigation. SCS also contended that CBP should allow the exporters to submit written arguments. However, EAPA's regulations only instruct CBP to notify parties to the investigation and only allow for parties to the investigation to submit written arguments.³⁶⁹ Under EAPA's regulations, exporters are interested parties but not parties to the investigation.³⁷⁰ Therefore, the EAPA statute and EAPA regulations do not instruct CBP to notify the exporters about the investigation or allow for them to submit written arguments.

SCS claimed that its due process was violated because it was not given access to unredacted record documents.³⁷¹ In accordance with the EAPA statute and EAPA's regulations, CBP provided SCS access to all public documents and public versions of documents containing public summarizations of business confidential information. As such, SCS has had access to all documents on the record. Additionally, Kales/Engga and Strry are affiliated companies and so they would seem to be able to review each other's unredacted documentation. In its CF-28 response, SCS submitted Kales/Engga's fraudulent document pertaining to raw materials purportedly used in production.³⁷² This suggests that SCS also has access to documentation of

³⁶⁴ See CBP Email, "CBP EAPA Investigation 7783 – Notice of Initiation of Investigation and Interim Measures," dated January 26, 2023.

³⁶⁵ See NOI.

³⁶⁶ See SCS Written Arguments at 18.

³⁶⁷ *Id.* at 4; see also November Memorandum; see also December Memorandum.

³⁶⁸ See 19 CFR 165.24(c).

³⁶⁹ See 19 CFR 165.1; see also 19 CFR 165.15(d); see also 19 CFR 165.26.

³⁷⁰ See 19 CFR 165.1.

³⁷¹ See SCS Written Arguments at 19-20.

³⁷² See CF-28 Response.

the purported Vietnamese manufacturers outside of the versions placed on the public record, including records central to CBP’s determination of evasion. Furthermore, CBP’s determination of evasion relies in large part on information that SCS, Kales/Engga, and Stry submitted to CBP and, as such, they already have access to much of the evidence in its unredacted form.

Kales/Engga submitted the information that it sourced [AMOUNT DESCRIPTION] of its QSP slabs from China from Xiamen Lexiang.³⁷³ In contrast, Kales/Engga submitted that it sourced [DESCRIPTION].³⁷⁴ SCS and Kales/Engga also provided Vietnamese [DOCUMENT TYPE], Vietnamese export declarations, commercial invoices, packing lists, bills of lading, and an entry summary that contained matching dates, descriptions, dimensions, and quantities of QSP that documented how SCS entered QSP from Xiamen Lexiang in entry [#]0661.³⁷⁵ Although SCS, Kales/Engga, and Stry did not provide the [SOURCE] evidence, they were still able to view all of Kales/Engga’s numerous imports of QSP slabs from Xiamen Lexiang and Xiamen Stone Display that were listed on it.³⁷⁶ The only bracketed item in that evidence was the source name [SOURCE].

SCS also complained that CBP’s public summarization of business confidential information “such as ‘Number,’ ‘Description,’ and ‘Company Name’ does not provide sufficient detail to allow for any meaningful rebuttal.”³⁷⁷ CBP notes that it takes great care to guard the business confidential information that parties submit to it. As such, when summarizing this information, such as in a notice or a memorandum, CBP strives to provide a public summary that is specific enough to permit a reasonable understanding of the information’s substance but general enough to avoid inadvertently revealing it.³⁷⁸ Often, summarizing business confidential information more specifically than “Number,” “Description,” or “Company Name” risks revealing details that parties may use to deduce the business confidential information, which was also the case here. It is noteworthy that SCS also provided general public summarizations, such as “#,” “name,” “time,” and “company name,” which, if judged by SCS’ standard, would not provide the other party to the investigation (the Alleger) with sufficient detail to allow for any meaningful rebuttal.³⁷⁹ Thus, SCS’ complaint is without merit.

3. False Statements at Entry

SCS alleged:

- SCS did not make false statements at entry.³⁸⁰
- SCS exercised reasonable care in declaring the country of origin of the QSP at issue.³⁸¹
- *Diamond Tools* indicates that a false statement must include culpability.³⁸²

³⁷³ See Kales/Engga RFI at Exhibit 23; see also Allegation at Exhibits 8-9 to corroborate.

³⁷⁴ See Kales/Engga RFI at 23-24 and Exhibit 23.

³⁷⁵ See Kales/Engga RFI; see also Kales/Engga Supplemental RFI; see also SCS RFI.

³⁷⁶ See Allegation at Exhibit 8.

³⁷⁷ See SCS Written Arguments at 21.

³⁷⁸ See 19 CFR 165.4(a)(2).

³⁷⁹ See Public Version of SCS RFI at 3-35.

³⁸⁰ See SCS Written Arguments at 11.

³⁸¹ *Id.* at 13.

³⁸² *Id.* at 11; see also *Diamond Tools Tech. LLC v. United States*, 609 F. Supp. 3d 1378, 1383 (Ct. Int’l Trade 2022) (*Diamond Tools*).

Alleger asserted:

- SCS made false statements at entry.³⁸³
- Whether SCS “exercised reasonable care in declaring the country of origin” is irrelevant. It made an objectively false statement to CBP.³⁸⁴
- SCS’ reliance on *Diamond Tools* regarding culpability is misplaced due to the unique facts of that case.³⁸⁵ The CIT’s recent decision in *Ikadan* to uphold CBP’s interpretation of the EAPA statute as having no intent requirement is more appropriate.³⁸⁶

CBP Position:

The EAPA statute states:

the term “evasion” refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral 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 merchandise.³⁸⁷

As such, evasion occurs where a material false statement or omission is made that results in the applicable AD/CVD duties not being paid. In its EAPA determinations, CBP has always held that one may make a material false statement with reference to objective facts and regardless of whether one had any state of mind, knowledge, or culpability concerning those facts. In contrast, SCS argues that one must have knowledge or culpability to make a false statement; it did not have knowledge or culpability that the QSP was Chinese origin; and therefore, it did not make a false statement.

The CIT acknowledged this difference in interpretation in *Ikadan* and stated that “the precise question before the court is whether EAPA’s definition of ‘evasion’ contains a requirement that CBP find that importers acted culpably in making material false statements or omissions before determining whether the importers engaged in evasion.”³⁸⁸ Regarding the evasion definition, the CIT stated that “nothing in the definition requires that a materially false statement or omission be made with a particular state of mind.”³⁸⁹

The CIT further stated in *Ikadan* that the “Plaintiffs’ reliance on the court’s observations in *Diamond Tools* regarding culpability under EAPA is misplaced” due to unique circumstances.³⁹⁰

³⁸³ See Alleger Written Arguments Response at 1.

³⁸⁴ *Id.* at 2.

³⁸⁵ *Id.* at 4.

³⁸⁶ *Id.* at 3; see also *Ikadan Sys. USA, Inc. v. United States*, No. 21-00592, 2023 WL 3962058 (Ct. Int’l Trade June 13, 2023) (*Ikadan*).

³⁸⁷ See 19 USC 1517(a)(5).

³⁸⁸ See *Ikadan*.

³⁸⁹ *Id.*

³⁹⁰ *Id.*

Regarding those circumstances, the CIT noted that in *Diamond Tools*, Commerce changed its position on the proper scope of the AD order and then CBP concluded that the new scope applied to the importer's entries, including its entries before Commerce changed its position.³⁹¹ The court noted that the importer in *Diamond Tools* was following Commerce's guidance when declaring the country of origin before Commerce changed its guidance. Therefore, the *Ikadan* court found that *Diamond Tools* was inapplicable with regard to determining whether evasion required a culpability element. Thus, *Diamond Tools* was distinguishable from the facts in this case.

The court in *Ikadan* rejected the arguments that a material false statement must include culpability.³⁹² As such, an importer need not be culpable or have knowledge that they are making a material false statement to be liable for evasion. In this case, SCS made material false statements when it declared that the country of origin of the QSP it entered from Kales/Engga was Vietnam.

4. Production in Vietnam

SCS alleged:

- The voluminous factual information submitted in response to CBP's RFI questionnaires demonstrates that the exporters have capacities to produce and indeed produced all QSP sold to SCS in Vietnam.³⁹³
- Kales/Engga and Strry submitted production records to demonstrate actual production.³⁹⁴
- Substantial evidence on the administrative record supports a finding of no evasion for [AMOUNT DESCRIPTION] POI shipments, where Kales produced QSP sold to SCS from slabs entirely made in Vietnam.³⁹⁵

Alleger asserted:

- CBP should reach a final determination of evasion for all of the exporters' shipments to SCS during the POI.³⁹⁶
- None of Kales/Engga's and Strry's RFI responses can be relied upon as accurate and so SCS' claim of Vietnamese production is unsupported.³⁹⁷
- Because Kales/Engga and Strry failed to cooperate with CBP's verification procedures, it is impossible to verify the accuracy of their RFI responses.³⁹⁸

CBP Position:

³⁹¹ *Id.*

³⁹² *Id.*

³⁹³ See SCS Written Argument Response at 2.

³⁹⁴ *Id.* at 15.

³⁹⁵ *Id.* at 14.

³⁹⁶ See Alleger Written Argument Response at 5.

³⁹⁷ *Id.* at 6.

³⁹⁸ *Id.* at 7.

Sttry and Kales/Engga both provided production capacity calculations.³⁹⁹ Because Kales/Engga only performs minor steps that would not remove the merchandise from the scope of the *AD/CVD Orders* after it receives QSP slabs from China, its capacity calculations are irrelevant for this discussion. As for Sttry, Kales/Engga claimed that it obtained [#] percent of its QSP slabs from Sttry, some of which it exported to SCS.⁴⁰⁰ Sttry's capacity calculations ostensibly indicate that it has some degree of QSP production in Vietnam.⁴⁰¹ However, these calculations appeared to originate from Sttry and no substantiating underlying documentation accompanied them. Due to the significant incentive for bias, machinery production figures are unreliable when they originate from company personnel estimates and lack substantiating evidence. Furthermore, Sttry did not permit CBP to conduct a verification of its production and so those calculations and any claimed capacity are unverified.

SCS also argues that Kales/Engga's and Sttry's production is substantiated by the voluminousness of their submissions. However, such an assertion is unpersuasive. A submission can be voluminous and yet be deficient and lack substantive quality. For example, if a voluminous submission provides evasive responses, voluminous irrelevant documents, duplicate pages, false statements, fraudulent documents, or omits requested information, such a response would be deficient and lack substantive quality in spite of its great length. In *American Pacific Plywood*⁴⁰², the CIT similarly stated that the

Plaintiffs and Plaintiff-Intervenors, however, contend that they "submitted voluminous evidence for the record" proving their position.... Indeed it was voluminous: They cite massive blocks of material ... Citing those huge blocks of material, Plaintiffs argue that Customs ignored their "documented proof" of their operations in Cambodia and their documents that "confirm that the companies possessed sufficient manufacturing capacity and quantity to produce all of the merchandise sold to the U.S." ECF 49, at 92–93. But those block citations establish only one thing— that Plaintiffs merely submitted copious filings to Customs.⁴⁰³

Therefore, voluminous submissions, by themselves, cannot substantiate production solely by virtue of their own great length.

Sttry and Kales/Engga provided production documents for the 11 entries CBP requested.⁴⁰⁴ For the [#] entries in which Kales/Engga claimed they exported Vietnamese-origin merchandise to SCS, Kales/Engga provided handwritten production documents that contained the previously-mentioned irregularities, namely the production documents did not account for the production of [#] percent of the QSP slabs nor did they account for all of the QSP PCE listed in the commercial invoices. Also, the claim that [#] of the 11 entries are Vietnamese-origin is inconsistent with the fact that a [AMOUNT DESCRIPTION AND NUMBER] percent, of the QSP slabs Kales/Engga sourced overall were from China. As noted, Sttry and its affiliate

³⁹⁹ See Sttry RFI at Exhibit 15; see also Kales/Engga RFI at Exhibit 10.

⁴⁰⁰ See Kales/Engga RFI at Exhibit 23.

⁴⁰¹ See Sttry RFI at Exhibit 15.

⁴⁰² See *American Pacific Plywood, Inc. v. United States*, CIT No. 20-03914, Slip Op. 23-93 (Ct. Int'l Trade June 30, 2023) (*American Pacific Plywood*).

⁴⁰³ *Id.*

⁴⁰⁴ See Kales/Engga RFI at Exhibits 16.1-16.11.

Kales/Engga have already provided false statements, omitted material evidence, and submitted a fraudulent payment document related to raw materials used in purported production. Record evidence also indicates that Kales/Engga [PROCEDURE DESCRIPTION]. Consequently, these actions reveal that Strry and Kales/Engga will resort to various modes of deception to advance its business interests. There is no indication that Strry and Kales/Engga will resort to deception with the sole exception of its production documents submitted to CBP. Furthermore, Strry and Kales/Engga did not permit CBP to verify their production documents for reliability. Therefore, because of Kales/Engga's and Strry's pattern of deception and unverified production documents, their production documents are unreliable.

As noted, Kales/Engga provided production documents for 11 entries, of which it claimed that [#] were Vietnamese-origin.⁴⁰⁵ Kales/Engga provided a chart indicating that [AMOUNT DESCRIPTION] POI shipments to SCS contained Vietnamese-origin QSP.⁴⁰⁶ Notably this chart omitted Kales/Engga's first [#] shipments to SCS that entered during the POI, so there were actually [#] POI shipments/entries.⁴⁰⁷ In light of Strry's and Kales/Engga's provision of false statements, omission of material facts, and provision of a fraudulent documents, CBP does not consider Strry and Kales/Engga's assertions credible. Furthermore, because Strry and Kales/Engga refused to participate in a CBP's verification of its production capabilities, CBP does not consider their production figures reliable either.

Based on the aforementioned information, CBP determines that there is no reliable evidence to substantiate that Strry or Kales/Engga produced in Vietnam any of the QSP it exported to SCS. Furthermore, even if some of Strry's or Kales/Engga's production were substantiated, CBP lacks any reliable way to determine which entries or portions of entries were Vietnamese-origin. As such, based on the totality of the evidence on the record, CBP determines that all of SCS' entries of QSP from Kales/Engga and Strry during the POI were Chinese-origin.

Determination as to Evasion

In conclusion, the previously discussed facts on the record establish that Chinese-origin QSP was undervalued and/or transshipped through Vietnam and imported into the United States. Furthermore, evidence on the record indicates that SCS subsequently entered the Chinese-origin QSP into the United States as type 01 entries that evaded the payment of AD/CVD duties on QSP from China.⁴⁰⁸ CBP determines that substantial evidence exists demonstrating that, by means of material false statements or material omissions, SCS entered Chinese-origin QSP that was undervalued and/or transshipped through Vietnam into the United States. The QSP that SCS entered from Engga and Kales during the POI is subject to the AD/CVD rates on QSP from

⁴⁰⁵ *Id.*

⁴⁰⁶ *Id.* at Exhibit 24; *see also* SCS Written Arguments at 7, 27; *see also* SCS Written Argument Response at 8.

⁴⁰⁷ *See* NTAC EAPA Receipt Report at 202, 205. The omitted entries were [#]9035, [#]9043, and [#]3796.

⁴⁰⁸ Entry type "01" is the code that CBP requires importers use to designate a standard consumption entry that is not subject to AD/CVD duties. *See* <https://www.cbp.gov/trade/automated/ace-transaction-details>.

China.⁴⁰⁹ Because SCS did not declare that the merchandise was subject to the *AD/CVD Orders* on entry, the requisite cash deposits were not collected on the merchandise.

Actions Taken Pursuant to the Affirmative Determination as to Evasion

In light of CBP's determination that substantial evidence demonstrates that SCS entered covered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the entries subject to this investigation, until instructed to liquidate. For those entries previously extended in accordance with Interim Measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries.⁴¹⁰ CBP will also make a correction to the valuation of an entry as discussed herein. Finally, CBP will continue to evaluate SCS' continuous bonds in accordance with CBP's policies and will require single transaction bonds as appropriate. None of the above actions preclude CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,



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

⁴⁰⁹ SCS' QSP entries from Engga and Kales are subject to the "China-Wide Entity" rate of 326.15 percent for AD case A-570-084 and the "All-Others" rate of 45.32 percent for CVD case C-570-085. These two rates equal a combined rate of 371.47 percent. *See AD/CVD Orders.*

⁴¹⁰ Entry type "03" is the code that CBP requires importers use to designate a consumption – Antidumping/ Countervailing Duty entry as subject to AD and/or CVD duties. The instructions for CBP Form 7501 (Entry Summary) state that code 03 shall be used for entries subject to AD/CVD duties. *See* <https://www.cbp.gov/trade/automated/ace-transaction-details>.

Appendix 1 – Tracing Entry [#]0661’s QSP from China to Vietnam (VN) to the United States								
VN [DOC TYPE]	[SOURCE] – Kales’ Imports from Xiamen Lexiang			VN Export Declar- ation	[SOURCE] – Kales’ Exports from Vietnam			Invoice & Packing List to SCS
Kales/ Engga RFI Location	Import Date into VN	Description of Goods Shipped	Alleg- ation Location	Kales/ Engga Supp RFI Location	Export Date from VN 411	Description of Goods Shipped	Alleg- ation Location	SCS RFI Location
Exh 27.5, Page 9	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 311x648mm (23 PCE), 100% brand new ⁴¹²	Exh 8, Page 37, Row 25	Exh SQ1- 5, Page 165	2021- 11-23	2QG871-133 Artificial quartz stone countertop, size 311 x 648 mm, thickness 2cm (23 PCE), 100% brand new	Exh 9, Page 35, Row 15	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 10	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 337x648mm (23 PCE), 100% brand new	Exh 8, Page 38, Row 21	Exh SQ1- 5, Page 165	2021- 11-23	2QG871-134 Artificial quartz stone cooktop, size 337 x 648 mm, thickness 2cm (23 PCE), 100% brand new	Exh 9, Page 35, Row 7	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 11	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 552x102mm (143 PCE), 100% brand new	Exh 8, Page 38, Row 18	Exh SQ1- 5, Page 166	2021- 11-23	QG871-02 Countertops made of artificial quartz stone, size 552 x 102 mm, thickness 2cm (143 PCE), 100% brand new	Exh 9, Page 34, Row 19	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 12	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 629x102mm (14 PCE), 100% brand new	Exh 8, Page 38, Row 8	Exh SQ1- 5, Page 166	2021- 11-23	QG871-03 Artificial quartz stone kitchen counter, size 629 x 102 mm, thickness 2cm (14 PCE), 100% brand new	Exh 9, Page 35, Row 18	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 13	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 813x102mm (34 PCE), 100% brand new	Exh 8, Page 38, Row 19	Exh SQ1- 5, Page 167	2021- 11-23	QG871-06 Artificial quartz stone kitchen counter, size 813 x 102 mm, thickness 2cm (34 PCE), 100% brand new	Exh 9, Page 35, Row 9	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 14	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 813x572mm (34 PCE), 100% brand new	Exh 8, Page 37, Row 24	Exh SQ1- 5, Page 167	2021- 11-23	QG871-07 Artificial quartz stone cooktop, size 813 x 572 mm, thickness 2cm (34 PCE), 100% brand new	Exh 9, Page 34, Row 12	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 15	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 889x102mm (14 PCE), 100% brand new	Exh 8, Page 37, Row 26	Exh SQ1- 5, Page 168	2021- 11-23	QG871-49 Artificial quartz stone cooktop, size 889 x 102 mm, 2cm thick (14 PCE), 100% brand new	Exh 9, Page 35, Row 11	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 16	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 889x648mm (14 PCE), 100% brand new	Exh 8, Page 38, Row 13	Exh SQ1- 5, Page 168	2021- 11-23	2QG871-135 Artificial quartz stone cooktop, size 889 x 648 mm, 2cm thick (14 PCE), 100% brand new	Exh 9, Page 34, Row 15	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 17	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 1041x102mm (9 PCE), 100% brand new	Exh 8, Page 38, Row 14	Exh SQ1- 5, Page 169	2021- 11-23	QG871-09 Artificial quartz stone cooktop, size 1041 x 102 mm, thickness 2cm (9 PCE), 100% brand new	Exh 9, Page 35, Row 5	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 18	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1041x572mm (9 PCE), 100% brand new	Exh 8, Page 37, Row 21	Exh SQ1- 5, Page 169	2021- 11-23	QG871-10 Artificial quartz stone cooktop, size 1041 x 572 mm, 2cm thick (9 PCE), 100% brand new	Exh 9, Page 33, Row 20	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 19	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1118x102mm (10 PCE), 100% brand new	Exh 8, Page 38, Row 20	Exh SQ1- 5, Page 170	2021- 11-23	QG871-11 Artificial quartz stone cooktop, size 1118 x 102 mm, 2cm thick (10 PCE), 100% brand new	Exh 9, Page 33, Row 16	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 20	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 1118x572mm (10 PCE), 100% brand new	Exh 8, Page 38, Row 7	Exh SQ1- 5, Page 170	2021- 11-23	QG871-12 Artificial quartz stone cooktop, size 1118 x 572 mm, 2cm thick (10 PCE), 100% brand new	Exh 9, Page 34, Row 13	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 21	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 1130x648mm (10 PCE), 100% brand new	Exh 8, Page 38, Row 17	Exh SQ1- 5, Page 171	2021- 11-23	2QG871-136 Artificial quartz stone cooktop, size 1130 x 648 mm, 2cm thick (10 PCE), 100% brand new	Exh 9, Page 35, Row 4	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 22	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1575x102mm (3 PCE), 100% brand new	Exh 8, Page 37, Row 23	Exh SQ1- 5, Page 171	2021- 11-23	2QG871-32 Artificial quartz stone cooktop, size 1575 x 102 mm, thickness 2cm (3 PCE), 100% brand new	Exh 9, Page 34, Row 10	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 23	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1575x572mm (3 PCE), 100% brand new	Exh 8, Page 37, Row 22	Exh SQ1- 5, Page 172	2021- 11-23	2QG871-33 Artificial quartz stone kitchen countertop, size 1575 x 572 mm, thickness 2cm (3 PCE), 100% brand new	Exh 9, Page 34, Row 2	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 24	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1588x648mm (13 PCE), 100% brand new	Exh 8, Page 38, Row 1	Exh SQ1- 5, Page 172	2021- 11-23	2QG871-137 Countertops made of artificial quartz stone, size 1588 x 648 mm, thickness 2cm (13 PCE), 100% brand new	Exh 9, Page 34, Row 18	Exh 27 Pages 7- 8, 10-13
Exh 27.5, Page 25	2021- 11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1638x648mm (27 PCE), 100% brand new	Exh 8, Page 38, Row 6	Exh SQ1- 5, Page 173	2021- 11-23	2QG871-138 Artificial quartz stone countertop, size 1638 x 648 mm, thickness 2cm (27 PCE), 100% brand new	Exh 9, Page 35, Row 12	Exh 27 Pages 7- 8, 10-13

⁴¹¹ The export date according to [SOURCE] and the export declaration. As noted, the bill of lading and entry summary’s export date is slightly different because the export declaration was submitted a few days before export.

⁴¹² EGNL01 may be a product number because the corresponding QG871 in the export description column is a product number. See e.g. NOI at 9, 14. Regardless of the product number used, it was the same merchandise.

Exh 27.5, Page 26	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1702x705mm (21 PCE), 100% brand new	Exh 8, Page 38, Row 15	Exh SQ1-5, Page 173	2021-11-23	2QG871-130 Artificial quartz stone cooktop, size 1702 x 705 mm, 2cm thick (21 PCE), 100% brand new	Exh 9, Page 35, Row 6	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 27	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1848x1067mm (44 PCE), 100% brand new	Exh 8, Page 38, Row 16	Exh SQ1-5, Page 174	2021-11-23	2QG871-139 Artificial quartz stone kitchen counter top, size 1848 x 1067 mm, 2cm thick (44 PCE), 100% brand new	Exh 9, Page 34, Row 20	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 28	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 1905x1067mm (4 PCE), 100% brand new	Exh 8, Page 38, Row 12	Exh SQ1-5, Page 174	2021-11-23	2QG871-140 Artificial quartz stone cooktop, size 1905 x 1067 mm, 2cm thick (4 PCE), 100% brand new	Exh 9, Page 34, Row 3	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 29	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 1956x102mm (10 PCE), 100% brand new	Exh 8, Page 38, Row 5	Exh SQ1-5, Page 175	2021-11-23	2QG871-141 Artificial quartz stone cooktop, size 1956 x 102 mm, thickness 2cm (10 PCE), 100% brand new	Exh 9, Page 34, Row 1	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 30	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 1956x572mm (10 PCE), 100% brand new	Exh 8, Page 37, Row 27	Exh SQ1-5, Page 175	2021-11-23	2QG871-142 Artificial quartz stone countertop, size 1956 x 572 mm, thickness 2cm (10 PCE), 100% brand new	Exh 9, Page 35, Row 19	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 31	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 2235x102mm (13 PCE), 100% brand new	Exh 8, Page 38, Row 4	Exh SQ1-5, Page 176	2021-11-23	2QG871-143 Artificial quartz stone cooktop, size 2235 x 102 mm, 2cm thick (13 PCE), 100% brand new	Exh 9, Page 34, Row 7	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 32	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 2235x572mm (13 PCE), 100% brand new	Exh 8, Page 38, Row 11	Exh SQ1-5, Page 176	2021-11-23	2QG871-144 Artificial quartz stone countertop, size 2235 x 572 mm, 2cm thick (13 PCE), 100% brand new	Exh 9, Page 35, Row 3	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 33	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 2362x102mm (3 PCE), 100% brand new	Exh 8, Page 38, Row 3	Exh SQ1-5, Page 177	2021-11-23	2QG871-145 Artificial quartz stone countertop, size 2362 x 102 mm, thickness 2cm (3 PCE), 100% brand new	Exh 9, Page 34, Row 17	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 34	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2 cm, size 2362x572mm (3 PCE), 100% brand new	Exh 8, Page 38, Row 9	Exh SQ1-5, Page 177	2021-11-23	2QG871-146 Artificial quartz stone countertop, size 2362 x 572 mm, thickness 2cm (3 PCE), 100% brand new	Exh 9, Page 34, Row 5	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 35	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 2400x102mm (21 PCE), 100% brand new	Exh 8, Page 38, Row 2	Exh SQ1-5, Page 178	2021-11-23	2QG871-147 Artificial quartz stone cooktop, size 2400 x 102 mm, 2cm thick (21 PCE), 100% brand new	Exh 9, Page 34, Row 4	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 36	2021-11-15	EGNL01 Artificial quartz stone slab, thickness 2cm, size 2400x572mm (21 PCE), 100% brand new	Exh 8, Page 38, Row 22	Exh SQ1-5, Page 178	2021-11-23	2QG871-148 Artificial quartz stone cooktop, size 2400 x 572 mm, 2cm thick (21 PCE), 100% brand new	Exh 9, Page 34, Row 8	Exh 27 Pages 7-8, 10-13
Exh 27.5, Page 39	2021-11-18	Single sink (1 drawer), size 800x645 mm (132 PCE) stainless steel (without faucet and drainer included), 100% brand new	Exh 8, Page 37, Row 10	Exh SQ1-5, Page 181	2021-11-23	Single sink (1 drawer), size 800x645 mm (132 PCE) stainless steel (without faucet and drainer included), 100% brand new	Exh 9, Page 35, Row 1	Exh 27 Pages 7-8, 10-13