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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-106; C-570-107

Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China:
Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of
Commerce

SUMMARY: In response to a request from the American Kitchen Cabinet Alliance, (AKCA), a petitioner, the U.S. Department of Commerce (Commerce) is initiating two country-wide circumvention inquiries to determine whether: (1) U.S. imports from Vietnam of wooden cabinets and vanities and components thereof (wooden cabinets and vanities) from the People's Republic of China (China), which are further processed in the Socialist Republic of Vietnam (Vietnam) and include Vietnamese components, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on wooden cabinets and vanities from China; and (2) U.S. imports from Malaysia of wooden cabinets and vanities and components thereof (wooden cabinets and vanities) from China, which are further processed in Malaysia and include Malaysian components, are circumventing the AD and CVD orders on wooden cabinets and vanities from China.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Michael Romani or Richard Roberts, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0198 or (202) 482-3464, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2022, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.226(c), AKCA filed circumvention inquiry requests alleging that wooden cabinets and vanities from China, which are further processed in Vietnam or Malaysia, and which include Vietnamese or Malaysian components, respectively, are circumventing the *Orders*¹ and, accordingly, should be included within the scope of the *Orders*.² On May 13, 2022, Commerce asked AKCA to clarify the coverage of the products subject to the circumvention inquiry requests, and AKCA responded on May 17, 2022.³

From May 16 through 19, 2022, we received comments from certain exporters (collectively, DH Exporters) and America Home Furnishings Alliance (AHFA) concerning

¹ See *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 85 FR 22126 (April 21, 2020); and *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Countervailing Duty Order*, 85 FR 22134 (April 21, 2020) (collectively, *Orders*).

² See AKCA's Letters, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China – Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Malaysia," dated April 22, 2022 (Malaysia Circumvention Request); and "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China – Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Vietnam," dated April 22, 2022 (Vietnam Circumvention Request).

³ See Commerce's Letters, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China – Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Malaysia: Questionnaire," dated May 13, 2022; and "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China – Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Vietnam: Questionnaire," dated May 13, 2022; see also AKCA's Letter, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China – Response to Request for Additional Information," dated May 17, 2022 (Supplemental Questionnaire Response).

AKCA's request.⁴ On May 19, 2022, we extended the deadline to initiate these circumvention inquiries by 15 days, in accordance with 19 CFR 351.226(d)(1).⁵

Scope of the Orders

The products covered by these *Orders* are wooden cabinets and vanities that are for permanent installation (including floor mounted, wall mounted, ceiling hung or by attachment of plumbing), and wooden components thereof. A full description of the scope of the *Orders* is provided in the Circumvention Initiation Memorandum.⁶

Merchandise Subject to the Circumvention Inquiries

(1) One circumvention inquiry covers wooden cabinets and vanities from China, which are further processed in Vietnam and include Vietnamese components, and which are subsequently exported from Vietnam to the United States.

(2) The second circumvention inquiry covers wooden cabinets and vanities from China, which are further processed in Malaysia and include Malaysian components, and which are subsequently exported from Malaysia to the United States.

⁴ See DH Exporters' Letters, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Comments to Petitioner's Request for Scope/Anti-Circumvention Inquiry," dated May 16 and 17, 2022. The DH Exporters are Home Styler Furniture Sdn. Bhd.; Honsoar Jaycorp Cabinetry Sdn. Bhd.; Ly Furniture Sdn. Bhd.; and Artz Master Sdn. Bhd. (all for Malaysia); and Sanyang Vietnam Furniture Co., Ltd, Goldenland Vietnam Furniture Company LTD; Blue Valley Wood Co., Ltd; Xin Hong Company Limited; Advanced Cabinets Supply Viet Nam Company Limited; Eagle Wood (Viet Nam) Company Limited; Hong Sheng (Viet Nam) Industrial Company Limited; Fusion Vina Company Limited; Monogram Home Viet Nam Company Limited; Star Un Co., Ltd; GIAI MY P&B CO., LTD; Wissen Wood Vietnam Co. Ltd, VY KIET Company Co., Ltd; and Song Ngan Industrial Wood Company Limited (all for Vietnam); see also AHFA's Letter "Antidumping and Countervailing Duty Orders on Wooden Cabinets and Vanities from the People's Republic of China: Pre-initiation Comments," dated May 19, 2022 (AHFA Letter).

⁵ See Memorandum, "Wooden Cabinets and Vanities: Extension of Time to Determine Whether to Initiate Anti-Circumvention Inquiry," dated May 19, 2022.

⁶ See Memorandum, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders," dated concurrently with, and hereby adopted by, this notice (Circumvention Initiation Memorandum).

Initiation of Circumvention Inquiries

Section 351.226(d) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce "will accept the request and initiate a circumvention inquiry." Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each circumvention inquiry request allege "that the elements necessary for a circumvention determination under section 781 of the Act exist" and be "accompanied by information reasonably available to the interested party supporting these allegations." AKCA alleged circumvention pursuant to section 781(b) of the Act (merchandise completed or assembled in other foreign countries).

Section 351.226(m)(2) of Commerce's regulations states, for companion AD and CVD duty proceedings, that "the Secretary will initiate and conduct a single inquiry with respect to the product at issue for both orders only on the record of the antidumping proceeding." Further, once "the Secretary issues a final circumvention determination on the record of the antidumping duty proceeding, the Secretary will include a copy of that determination on the record of the countervailing duty proceeding." Accordingly, once Commerce concludes these circumvention inquiries, Commerce intends to place its final circumvention determinations on the record of the companion CVD proceeding.

Section 781(b)(1) of the Act provides that Commerce may find circumvention of an order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting a circumvention inquiry, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an AD or CVD order; (B) before importation

into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order.

In determining whether the process of assembly or completion in a foreign country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country; (B) the level of research and development in the foreign country; (C) the nature of the production process in the foreign country; (D) the extent of production facilities in the foreign country; and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a foreign country is minor or insignificant.⁷ Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the foreign country, depending on the totality of the circumstances of the particular circumvention inquiry.⁸

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a foreign country within

⁷ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, Vol. 1 (1994), at 893.

⁸ See *Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum, at 4.

the scope of an AD or CVD order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise that was shipped to the foreign country is affiliated with the person who, in the foreign country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the foreign country have increased after the initiation of the investigation that resulted in the issuance of such order.

Based on our analysis of AKCA's circumvention requests, Commerce determines that AKCA has satisfied the criteria under 19 CFR 351.226(c) to warrant the initiation of circumvention inquiries of the *Orders*. For a full discussion of the basis for our decision to initiate these circumvention inquiries, *see* the Circumvention Initiation Memorandum. A list of topics discussed in the Circumvention Initiation Memorandum is included as the appendix to this notice. As explained in the Circumvention Initiation Memorandum, the information provided by domestic interested parties warrants initiating these circumvention inquiries on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.⁹

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue two questionnaires (one for Vietnam, and one for Malaysia) to solicit information from producers and exporters in Vietnam and Malaysia,

⁹ *See, e.g., Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018); *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

respectively, concerning their shipments to the United States and the origin of any imported wooden cabinets and vanities-components being further processed into wooden cabinets and vanities. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce will notify U.S. Customs and Border Protection (CBP) of the initiation of these circumvention inquiries and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiries that were already subject to the suspension of liquidation under the *Orders* and to apply the cash deposit rate that would be applicable if the products were determined to be covered by the scope of the *Orders*. Should Commerce issue preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)-(4).

Notification to Interested Parties

In accordance with 19 CFR 351.226(d) and section 781(b) of the Act, Commerce determines that the AKCA's requests for these circumvention inquiries satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of these two circumvention inquiries to determine whether: (1) U.S. imports from Vietnam of wooden cabinets and vanities from China, which are further processed in Vietnam and include Vietnamese components, are circumventing the *Orders*; and (2) U.S. imports from Malaysia of wooden cabinets and vanities from China, which are further processed in Malaysia and include Malaysian components, are circumventing the *Orders*. In addition, we included a description of the products that are the subject of these inquiries, and an explanation of the

reasons for Commerce's decision to initiate these inquiries as provided above and in the accompanying Circumvention Initiation Memorandum. In accordance with 19 CFR 351.226(e)(1), Commerce intends to issue its preliminary determination no later than 150 days from the date of publication of the notice of initiation of these circumvention inquiries in the *Federal Register*.

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.226(d)(1)(ii).

Dated: June 6, 2022

/S/ Lisa W. Wang

Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

Appendix

List of Topics Discussed in the Circumvention Initiation Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to the Circumvention Inquiries
- V. Statutory and Regulatory Framework for Circumvention Inquiries
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- VII. Whether Process of Assembly or Completion is Minor or Insignificant
- VIII. Additional Factors to Consider in Determining Whether Circumvention Inquiries Are Warranted
- IX. Comments on the Initiation of the Circumvention Inquiries
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