



A-570-106

Scope Inquiry – Vietnam

~~Business Proprietary Document~~

E&amp;C/OI: MR

PUBLIC VERSION

July 10, 2024

**MEMORANDUM TO:** Scot Fullerton  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**THROUGH:** Alex Villanueva  
Senior Director, Office I  
Antidumping and Countervailing Duty Operation

**FROM:** Michael Romani  
Senior International Trade Compliance Analyst, Office I  
Antidumping and Countervailing Duty Operations

**SUBJECT:** Wooden Cabinets and Vanities and Components Thereof from the  
People's Republic of China – Final Scope Ruling on Certain  
Wooden Cabinets that Are Further Processed in the Socialist  
Republic of Vietnam

## I. SUMMARY

In accordance with 19 CFR 351.225(k)(1), and 351.225(j), we recommend the U.S. Department of Commerce (Commerce) determine that Scenarios 1, 2, and 3 wooden cabinets and vanities and components thereof (wooden cabinets) produced in the People's Republic of China (China), and combined in the Socialist Republic of Vietnam (Vietnam) with wooden cabinet wooden component parts produced in Vietnam, and exported to the United States, are Chinese in origin and, thus, covered by the scope of the antidumping duty (AD) and countervailing duty (CVD) orders on wooden cabinets from China.<sup>1</sup> Further, we recommend finding that for Scenario 4 wooden cabinets, containing a wooden toe kick produced in China and all other wooden parts

<sup>1</sup> See *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 85 FR 22126 (April 21, 2020) (AD Order) 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).

Scenario 1: finished wooden doors, drawer faces, and frames produced in China are combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam;

Scenario 2: semifinished wooden doors, drawer faces, and frames produced in China are further processed in Vietnam and then combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam;

Scenario 3: semifinished parts of wooden cabinet and vanity doors, drawer faces, and frames (including the rails, stiles, and panels) are produced in China and are further processed in Vietnam and then combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam; and

Scenario 4: finished wooden toe kicks produced in China are combined in Vietnam with all other components necessary to build a complete wooden cabinet that are started and finished in Vietnam.



produced in Vietnam, are third country in origin and, thus, not covered by the scope of the *Orders*.

Additionally, pursuant to 19 CFR 351.226(f)(6)(ii), we are rescinding the circumvention inquiry with respect to Scenarios 1, 2, 3, and 4. Specifically, because we determine that the scope of the *Orders* cover imports of wooden cabinets completed in Vietnam under Scenarios 1, 2, and 3, we are rescinding the circumvention inquiry. Further, the American Kitchen Cabinet Alliance (the petitioner) withdrew its request for a circumvention inquiry on wooden cabinets exported from Vietnam under Scenario 4 (*i.e.*, using only a wooden component part, a toe kick, produced in China).<sup>2</sup> As such, we are rescinding the circumvention inquiry in its entirety.<sup>3</sup>

Finally, we recommend establishing a certification regime. This final scope ruling memorandum discusses the establishment of the scope certification process and analyzes the comments submitted by parties on the draft scope certification.

Below is a list of issues for which we received comments from interested parties:

First, we respond to comments on the decisions related to making the scope determination:

- Comment 1: Whether the Scope Inquiries Were Properly Initiated
- Comment 2: Whether Parts Not Specified in the Scope Are Subject to the *Orders*
- Comment 3: Whether Use of the Petitioner's New Factual Information (NFI) Is Appropriate
- Comment 4: Whether Commerce Weighted Outcomes of the Substantial Transformation Analysis
- Comment 5: Whether Certain Wooden Cabinets Are Subject to the *Orders*
- Comment 6: Whether Wooden Cabinets Wholly Produced in Third Countries Are Subject to the *Orders*

Second, we respond to comments with respect to certification and whether to continue the circumvention inquiry:

- Comment 7: Whether Commerce Has the Authority to Implement Certification in a Scope Inquiry
- Comment 8: Whether Commerce's Proposed Certification Regime Is Reasonable
- Comment 9: Whether 45 Days Is Sufficient Time to File All Certifications
- Comment 10: Whether All Parties Are Eligible to Certify
- Comment 11: Whether Other Revisions to the Certification Language Are Appropriate
- Comment 12: Whether to Rescind the Circumvention Inquiry

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<sup>2</sup> See Petitioner's Letter, "Comments on the Proposed Certification Regime," dated April 24, 2024 (Petitioner's Post-Certification Proposal Comments), at 5.

<sup>3</sup> See unpublished *Federal Register* notice titled, "Final Scope Determination, Certification Requirements, and Recission of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders," issued concurrently with this memorandum.

Finally, several arguments made earlier in this proceeding are now moot or were dealt with in their entirety when considering earlier arguments.

Comment 13: Whether Incorporations by Reference Are Necessary or Valid

Comment 14: Whether the Product Scenarios Are Ill-Defined

## II. BACKGROUND

On April 21, 2020, Commerce issued the *Orders*. On June 10, 2022, Commerce published in the *Federal Register* the notice of initiation of circumvention inquiries of the *Orders* which are further processed in Vietnam and include Vietnamese wooden components.<sup>4</sup> On May 24, 2022, Commerce initiated a country-wide scope inquiry into whether Scenarios 1, 2, 3, and 4 which are further processed in Vietnam were within the scope of the *Orders*.<sup>5</sup>

### *Preliminary Scope Determination*

On March 16, 2023, Commerce issued a preliminary scope determination finding that Scenario 1 wooden cabinets are subject to the *Orders*, Scenario 4 wooden cabinets are not subject to the *Orders*, and concluding that there was insufficient information on the record to issue a decision regarding Scenarios 2 and 3.<sup>6</sup> As such, we provided interested parties the opportunity to provide additional information regarding factors needed to conduct substantial transformation analyses of Scenarios 2 and 3.<sup>7</sup>

### *Post-Preliminary Scope Analysis*

On April 13, 2023, the petitioner submitted NFI.<sup>8</sup> We did not receive rebuttal factual information from any other parties. On May 15, 2023, we received comments on aspects of the scope determination from interested parties.<sup>9</sup> We also received comments from several parties

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<sup>4</sup> See *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*, 87 FR 35499 (June 10, 2022) (*Circumvention Initiation Notice*), and accompanying Initiation Memorandum.

<sup>5</sup> See Memorandum, "Initiation of Scope Inquiry," dated May 24, 2022 (Scope Initiation).

<sup>6</sup> See Memorandum, "Wooden Cabinets and Vanities and Components thereof from the People's Republic of China – Vietnam Preliminary Scope Determination," dated March 16, 2023 (Preliminary Scope Determination).

<sup>7</sup> *Id.* at 58.

<sup>8</sup> See Petitioner's Letter, "Factual Information," dated April 13, 2023 (Petitioner's NFI).

<sup>9</sup> See American Woodmark Corporation's (American Woodmark) Letter, "Comments on Preliminary Scope Determination," dated May 15, 2023 (American Woodmark's Comments); Brokering Solutions, Inc., Cabinets To Go, LLC, Viet Nam Thien An Wood Co., Ltd., Asia Italian Door Co., Ltd., and Aid Cabinetry Co., Ltd. (collectively, Brokering Solutions) Letter, "Comments on Preliminary Scope Ruling," dated May 15, 2023 (Brokering Solutions' Comments); Cabinetworks Companies' Letter, "Comments on Preliminary Scope Determination," dated May 15, 2023 (Cabinetworks' Comments); Home Styler Furniture Sdn. Bhd, Ly Furniture Sdn. Bhd., and Artz Master Sdn. Bhd.'s (collectively DH Exporters) Letter, "Comments on the Preliminary Determination," dated May 15, 2023 (DH Exporters' Comments); MasterBrand Cabinets, Inc.'s Letter, "Comments on Preliminary Scope Ruling," dated May 15, 2023; Petitioner's Letter, "Case Brief," dated May 15, 2023 (Petitioner's Comments); and, Sudima Panels Co., Ltd.'s (Sudima) Letter, "Comments on Preliminary Scope Ruling," dated May 15, 2023 (Sudima's Comments).

regarding cabinet production methods in Vietnam.<sup>10</sup> On May 22, 2023, we received rebuttal comments from interested parties.<sup>11</sup>

On May 22, 2023, we received rebuttal comments from Two Thousand Two which incorporated the rebuttal comments of the other respondents.<sup>12</sup>

On September 28, 2023, Commerce issued a Post-Preliminary Analysis finding that Scenarios 2 and 3 are within the scope of the *Orders*.<sup>13</sup> On October 19, 2023, we received case briefs on the Post-Preliminary Analysis from Cabinetworks, DH Exporters, the petitioner, and Sudima Panels Co., Ltd. (Sudima).<sup>14</sup> On October 26, 2023, we received rebuttal case briefs from American Woodmark, and the petitioner.<sup>15</sup> On December 4, 2023, we accepted the petitioner's comments, although they contained additional arguments concerning whether Commerce should implement a certification regime and provided other interested parties an opportunity to rebut those arguments.<sup>16</sup> On December 11, 2023, we received additional rebuttal case briefs from American Woodmark, Cabinetworks, and Two Thousand Two which were responsive to our December 4, 2023, request.<sup>17</sup>

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<sup>10</sup> See Anh Khoa Co., Ltd.'s (*a.k.a.*, El Mondo Co.) Letter, "Scope Inquiry Comments," dated April 11, 2022 (filed on April 11, 2023); Cong Ty TNHH Van Ep Co Khi Xay Dung Nhat Nam's Letter, "Comments on Preliminary Scope Determination," dated May 15, 2023; and, ONP-Vietnam, LLC's Letter, "Preliminary Scope Determination," dated April 27, 2023.

<sup>11</sup> See American Woodmark's Letter, "Rebuttal Comments on Preliminary Scope Determination," dated May 22, 2023 (American Woodmark's Rebuttal Comments); Cabinetworks' Letter, "Rebuttal Comments," dated May 23, 2023 (Cabinetworks' Rebuttal Comments); DH Exporters' Letter, "Rebuttal Comments," dated May 22, 2023 (DH Exporters' Rebuttal Comments); Essential Home Furniture Corporation Limited's (Essential Home) Letter, "Rebuttal Comments on Preliminary Scope Ruling," dated May 22, 2023; and Petitioner's Letter, "Petitioner's Rebuttal Brief," dated May 22, 2023 (Petitioner's Rebuttal Comments).

<sup>12</sup> See Two Thousand Two Co., Ltd., Art Furniture Industrial Co., Ltd., Fuyuan Wood Industry, Co., Ltd., Greatree Industrial Corporation (VN), and Hukon International (Vietnam) Co., Ltd., (collectively, Two Thousand Two) Letter, "Rebuttal Comments on the Preliminary Determination," dated May 22, 2023.

<sup>13</sup> See Memorandum, "Post-Preliminary Analysis," dated September 28, 2023 (Post-Preliminary Analysis).

<sup>14</sup> See American Woodmark's Letter, "Letter in Lieu of Case Brief," dated October 19, 2023 (American Woodmark's Post-Preliminary Comments); see also "Cabinetworks' Letter, "Response to Post-Preliminary Scope Analysis," dated October 19, 2023 (Cabinetworks' Post-Preliminary Comments); DH Exporters' Letter, "Comments on Post-Preliminary Analysis," dated October 19, 2023; Petitioner's Letter, "Petitioner's Case Brief," dated October 19, 202 (summarized in the Certification Proposal along with other comments and rebuttals concerning certification); and Sudima's Letter, "Case Brief," dated October 19, 2023 (Sudima's Post-Preliminary Comments).

<sup>15</sup> See DH Exporters' Letter, "Rebuttal Comments on Post-Preliminary Analysis," dated October 26, 2023; see also Petitioner's Letter, "Rebuttal Brief," dated October 26, 2023 (Petitioner's Post-Preliminary Rebuttal Comments).

<sup>16</sup> See Commerce's Letter, "Providing an Opportunity to Rebut Arguments Concerning Certification," dated December 4, 2023.

<sup>17</sup> See American Woodmark's Letter, "Rebuttal Comments on Certification Requirement," dated December 11, 2023 (American Woodmark's Certification Rebuttal Comments); see also Cabinetworks and Veitbac Plywood LLC's Letter, "Rebuttal Comments on Certification," dated December 11, 2023 ; and Two Thousand Two's Letter, "Rebuttal Comments on Post-Preliminary Determination," dated December 11, 2023 .

### *Certification Proposal*

On April 3, 2024, based on comments from interested parties, Commerce issued a memorandum proposing establishment of a certification regime and invited parties to comment.<sup>18</sup> On April 24, 2024, we received comments on the proposed certification regime from American Woodmark, Cabinetworks, DH Exporters, Khai Vy, JSI, MasterBrand and the petitioner.<sup>19</sup> On May 1, 2024, we received rebuttal comments from DH Exporters and the petitioner.<sup>20</sup>

We extended the final determination on numerous occasions.<sup>21</sup> The final determination is currently due on July 15, 2024.

### **III. SCOPE OF THE *ORDERS***

The merchandise subject to these *Orders* consists of 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. Wooden cabinets and vanities and wooden components are made substantially of wood products, including solid wood and engineered wood products (including those made from wood particles, fibers, or other wooden materials such as plywood, strand board, block board, particle board, or fiberboard), or bamboo. Wooden cabinets and vanities consist of a cabinet box (which typically includes a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves) and may or may not include a frame, door, drawers and/or shelves. Subject merchandise includes wooden cabinets and vanities with or without wood veneers, wood, paper or other overlays, or laminates, with or without non-wood components or trim such as metal, marble, glass, plastic, or other resins, whether or not surface finished or unfinished, and whether or not completed.

Wooden cabinets and vanities are covered by these *Orders* whether or not they are imported attached to, or in conjunction with, faucets, metal plumbing, sinks and/or sink bowls, or

<sup>18</sup> See Memorandum, “Proposal to Establish a Certification Requirement,” dated April 3, 2024 (Certification Proposal).

<sup>19</sup> See American Woodmark’s Letter, “Comments on Proposed Certification Requirement,” dated April 24, 2024 (American Woodmark’s Post-Certification Proposal Comments); see also Cabinetworks’ Letter, “Cabinetworks’ Comments on Proposed Certification Requirement,” dated April 24, 2024 (Cabinetworks Post-Certification Proposal Comments); DH Exporters’ Letter, “Comments on Certification,” dated April 24, 2024 (DH Exporters’ Post-Certification Proposal Comments); Khai Vy Joint Stock Company’s (Khai Vy) Letter, “Proposal to Establish a Certification Regime,” dated April 24, 2024 (Khai Vy’s Post-Certification Proposal Comments); JS International Inc.’s (JSI) Letter, “Comments on Proposed Certification Regime,” dated April 24, 2024; MasterBrand’s Letter, “Comments on Proposed Certification Regime,” dated April 24, 2024 (MasterBrand’s Post-Certification Proposal Comments); Petitioner’s Letter, “Comments on the Proposed Certification Regime,” dated April 24, 2024 (Petitioner’s Post-Certification Proposal Comments).

<sup>20</sup> See DH Exporters’ Letter, “DH Exporters’ Rebuttal Comments on Certification,” dated May 1, 2024 (DH Exporters’ Post-Certification Proposal Rebuttal Comments); see also MasterBrand’s Letter, “Rebuttal Comments on Certification,” dated May 1, 2024 (MasterBrand’s Post-Certification Proposal Rebuttal Comments); and, Petitioner’s Letter, “Comments on the Proposed Certification Regime,” dated May 1, 2024 (Petitioner’s Post-Certification Proposal Rebuttal Comments).

<sup>21</sup> See Memoranda, “Extension of Deadlines,” dated September 21, 2022; see also Memorandum, “Extension of Deadlines,” dated March 16, 2023; “Extension of Deadlines,” dated June 2, 2023; “Extension of Deadlines,” dated August 10, 2023; “Extension of Deadlines,” dated September 29, 2023; “Extension of Deadlines; see also Certification Proposal at 12.

countertops. If wooden cabinets or vanities are imported attached to, or in conjunction with, such merchandise, only the wooden cabinet or vanity is covered by the scope.

Subject merchandise includes the following wooden component parts of cabinets and vanities: (1) wooden cabinet and vanity frames (2) wooden cabinet and vanity boxes (which typically include a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves), (3) wooden cabinet or vanity doors, (4) wooden cabinet or vanity drawers and drawer components (which typically include sides, backs, bottoms, and faces), (5) back panels and end panels, (6) and desks, shelves, and tables that are attached to or incorporated in the subject merchandise.

Subject merchandise includes all unassembled, assembled and/or “ready to assemble” (RTA) wooden cabinets and vanities, also commonly known as “flat packs,” except to the extent such merchandise is already covered by the scope of antidumping and countervailing duty orders on *Hardwood Plywood from the People’s Republic of China*. See *Certain Hardwood Plywood Products from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018); *Certain Hardwood Plywood Products from the People’s Republic of China: Countervailing Duty Order*, 83 FR 513 (January 4, 2018). RTA wooden cabinets and vanities are defined as cabinets or vanities packaged so that at the time of importation they may include: (1) wooden components required to assemble a cabinet or vanity (including drawer faces and doors); and (2) parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a cabinet or vanity. RTAs may enter the United States in one or in multiple packages.

Subject merchandise also includes wooden cabinets and vanities and in-scope components that have been further processed in a third country, including but not limited to one or more of the following: trimming, cutting, notching, punching, drilling, painting, staining, finishing, assembly, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the in-scope product.

Excluded from the scope of these *Orders*, if entered separate from a wooden cabinet or vanity are:

(1) Aftermarket accessory items which may be added to or installed into an interior of a cabinet and which are not considered a structural or core component of a wooden cabinet or vanity. Aftermarket accessory items may be made of wood, metal, plastic, composite material, or a combination thereof that can be inserted into a cabinet and which are utilized in the function of organization/accessibility on the interior of a cabinet; and include:

- Inserts or dividers which are placed into drawer boxes with the purpose of organizing or dividing the internal portion of the drawer into multiple areas for the purpose of containing smaller items such as cutlery, utensils, bathroom essentials, *etc.*
- Round or oblong inserts that rotate internally in a cabinet for the purpose of accessibility to foodstuffs, dishware, general supplies, *etc.*



- (2) Solid wooden accessories including corbels and rosettes, which serve the primary purpose of decoration and personalization.
- (3) Non-wooden cabinet hardware components including metal hinges, brackets, catches, locks, drawer slides, fasteners (nails, screws, tacks, staples), handles, and knobs.
- (4) Medicine cabinets that meet all of the following five criteria are excluded from the scope:  
(1) wall mounted; (2) assembled at the time of entry into the United States; (3) contain one or more mirrors; (4) be packaged for retail sale at time of entry; and (5) have a maximum depth of seven inches.

Also excluded from the scope of the *Orders* are:

- (1) All products covered by the scope of the antidumping duty order on *Wooden Bedroom Furniture from the People's Republic of China*. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China*, 70 FR 329 (January 4, 2005).
- (2) All products covered by the scope of the antidumping and countervailing duty orders on *Hardwood Plywood from the People's Republic of China*. See *Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018); *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order*, 83 FR 513 (January 4, 2018).

Imports of subject merchandise are classified under Harmonized Tariff Schedule of the United States (HTSUS) statistical numbers 9403.40.9060 and 9403.60.8081. The subject component parts of wooden cabinets and vanities may be entered into the United States under HTSUS statistical number 9403.90.7080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

#### IV. SCOPE RULING

Pursuant to 19 CFR 351.225(k)(1), we preliminarily determined that Scenarios 1, 2, and 3 merchandise are covered by the scope of the *Orders* because they contain wooden cabinet component parts which make up wooden cabinet doors, a frame, and drawer faces (consisting of wooden rails, stiles, and panels) which were, at a minimum, formed in China. Specifically, for Scenarios 1, 2, and 3 merchandise, all phase 1(a) forming operations (*i.e.*, cutting and shaping) are conducted in China, for doors, drawer fronts and frames. Scenario 1 doors, drawer fronts and frames also go through phase 1(b) door, drawer faces and frame assembly, and phase 2 surface finishing, while Scenario 2 moves the phase 2 surface finishing to the third country, and Scenario 3, moves both the phase 1(b) door, drawer faces and frame assembly, and phase 2 surface finishing to the third country. All three scenarios conduct all phase 1(a), phase 1(b) and phase 2 production of wooden cabinet boxes and the drawer box constituent wooden parts of the drawer

(i.e., sides, backs and bottoms) in the third country. Further, all three scenarios conduct all phase 3 assembly in the third country.

Next, we conducted a substantial transformation analysis pursuant to 19 CFR 351.226(j) to determine country of origin, because our preliminary 19 CFR 351.225(k)(1) analysis indicated that products completed in third countries may have a Chinese country of origin. Based on our substantial transformation analysis, we preliminarily determined that Scenarios 1, 2, and 3 merchandise were Chinese in origin and thus subject to the *Orders*. We also preliminarily determined that Scenario 4, consisting of a wooden cabinet completed in a third country, containing only a single wooden component part of the cabinet box subassembly (i.e., a toe kick), contains sufficient third country origin wooden cabinet component parts that the complete wooden cabinet was substantially transformed in the third country and therefore does not have Chinese country of origin.

## V. DISCUSSION OF THE ISSUES – SCOPE DETERMINATION AND SUBSTANTIAL TRANSFORMATION

### Comment 1: Whether the Scope Inquiries Were Properly Initiated

Several interested parties argue that Commerce should rescind these scope inquiries because the petitioner’s production scenarios are based on hypotheticals and are ill defined.<sup>22</sup> For example, parties commented that the petitioner’s failed to identify any specific product and it is unclear which Scenario 2 and 3 production processes occur in China or the third country.<sup>23</sup> Interested parties also claim that courts have determined it unlawful for Commerce to initiate vague scope ruling requests.<sup>24</sup>

**Commerce’s Position:** On May 24, 2022, Commerce initiated these scope inquiries<sup>25</sup> based on information provided in the petitioner’s scope ruling request and in response to a supplemental questionnaire.<sup>26</sup> In determining whether to initiate these inquiries, Commerce assessed whether petitioner’s scope application satisfied the requirements for initiation, as provided in 19 CFR 351.225(c)(2).<sup>27</sup> This required the petitioner to provide reasonably available information. In its scope inquiry application, the petitioner included all items requested under this provision. Further, the petitioner prepared its scope inquiry application using the standard application.<sup>28</sup>

<sup>22</sup> See American Woodmark’s Comments at 2; see also American Woodmark’s Rebuttal Comments at 2; American Woodmark’s Post Prelim Comments at 3; American Woodmark’s Certification Rebuttal Comments at 1; and DH Exporter’s Post-Certification Proposal Comments at 3-4.

<sup>23</sup> See DH Exporter’s Comments at 5-7.

<sup>24</sup> *Id.* at 7 (citing *Fabuwood Cabinetry Corp. v. United States*, 469 F. Supp. 3d 1373, 1383 (CIT 2020) (*Fabuwood Cabinetry I*) sustained in *Fabuwood Cabinetry Corp. v. United States*, 519 F. Supp. 3d 1335, 1339 (CIT 2021) (*Fabuwood Cabinetry II*)).

<sup>25</sup> See Memoranda, “Initiation of Scope Inquiry,” dated May 24, 2022 (Scope Initiation).

<sup>26</sup> See Petitioner’s Letter, “Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Vietnam,” dated April 22, 2022 (Petitioner’s Scope Ruling Application).

<sup>27</sup> See Petitioner’s Letter, “Response to Request for Additional Information,” dated May 17, 2022 (Petitioner’s SQR).

<sup>28</sup> See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions, 86 FR 53205 (September 27, 2021).



Interested parties claim that the petitioner failed to provide certain required items in its scope ruling request application including: (1) clear and legible photographs of the wooden cabinet and component parts and a description of them; (2) actual products currently in production; and (3) detailed production scenarios. We disagree. First, the petitioner provided clear and legible photographs, marketing materials, and schematic drawings of the products at issue.<sup>29</sup> This information came from Chinese producers and exporters of wooden cabinets that were selected for individual examination in the AD investigation. The petitioner also provided a detailed description of the parts, materials, and production processes at issue. Specifically, the petitioner referenced the U.S. International Trade Commission's three phase description of the wooden cabinet manufacturing process.<sup>30</sup>

Next, we determined that the petitioner identified products in production and provided detailed production scenario descriptions using reasonably available information. The petitioner reported that following the imposition of the *Orders*, Vietnamese imports of wooden cabinets and cabinet components from China increased 249 percent.<sup>31</sup> During the same period, U.S. imports of the subject merchandise from China decreased 53.9 percent, while U.S. imports of wooden cabinets and cabinet components grew by 137 percent.<sup>32</sup> As such, the petitioner provided trade data and other supporting documents as support in its request for a scope ruling.

To support this claim in Vietnam, the petitioner provided a final determination of evasion from an U.S. Customs and Border Protection (CBP) Enforce and Protect Act (EAPA) investigation involving the importation of Chinese wooden cabinet components further processed in Vietnam, which were declared as non-subject merchandise by the U.S. importer.<sup>33</sup> Information in the EAPA determination identifies a range of production processes and wooden components or parts completed in Vietnam following shipment from China.<sup>34</sup> Further, as part of the EAPA investigation, the petitioner provided additional information discussing the stages of cabinet production.<sup>35</sup> For example, in an affidavit, an industry official explained that 60 percent of a completed cabinet's value is represented by cabinet drawers and door faces. Based on this information, CBP concluded that a Vietnamese cabinet company and its Chinese suppliers obtained numerous Chinese wooden cabinet components and parts that underwent various forms of processing, and that such merchandise is included in the scope of the *Orders*.<sup>36</sup>

On May 13, 2022, Commerce issued a supplemental questionnaire to the petitioner concerning its scope ruling request.<sup>37</sup> In this letter, we requested the petitioner be as specific as possible on the wooden cabinet and component variations for which it was seeking scope and circumvention inquiries. In response to Commerce's request, the petitioner provided four illustrative production

<sup>29</sup> See Petitioner's Scope Ruling Application at 10 and Exhibits 4, 5, and 6.

<sup>30</sup> *Id.* at 11 (citing Wooden Cabinets and Vanities from China, Inv. Nos. 701-TA-620 and 731-TA-1445 (Final), USITC Pub. 5042 (April 2020) at I-11 (citations omitted)).

<sup>31</sup> See Petitioner's Scope Ruling Application at 12 and Exhibits 7-8.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* (citing Exhibit 9).

<sup>34</sup> *Id.* (citing Exhibit 9 at *e.g.*, 8-15).

<sup>35</sup> *Id.* (citing Exhibit 9 at *e.g.*, 15).

<sup>36</sup> *Id.* (citing Exhibit 9 at *e.g.*, 19-22).

<sup>37</sup> See Commerce's Letter, "Questionnaire," dated May 13, 2022.

scenarios that involved varying degrees of production in China and the third country.<sup>38</sup> Further, the petitioner explained that these scenarios encompass any and all merchandise covered by the scope of the *Orders* as well as language which preserves Chinese country of origin status for wooden cabinet components that undergo certain processing/finishing in third countries.<sup>39</sup> As such, the four production scenarios identified by the petitioner cover a range of products, also involve third country processing, and are based on reasonably available information, including evidence regarding the products at issue in the EAPA investigation.

Several interested parties argue that the production scenario descriptions presented by the petitioner are still impermissibly vague. As evidence, parties cite *Fabuwood Cabinetry I*, in which the U.S. Court of International Trade held that:

{b}ecause Commerce relied on the Amended Scope Ruling Request, rather than on self-initiation, to initiate the inquiry and issue the Final Scope Ruling, the Final Scope Ruling is invalid. As is discussed above, Commerce failed to show that it accepted the Amended Scope Ruling Request based on substantial evidence.<sup>40</sup>

Such circumstances are not present in these scope inquiries. As discussed above, Commerce conducted an evaluation of the scope ruling request and issued a supplemental questionnaire to clarify the products and third country manufacturing processes at issue. Further, Commerce did not rely on an amended scope ruling request for initiation. For these inquiries, Commerce completed an initiation memorandum analyzing (1) the products covered by the scope ruling request application; (2) third country processing; and (3) the non-exhaustive list of processing covered by the scope ruling request application.<sup>41</sup> We also invited interested parties to file comments and information to rebut, clarify, or correct the factual information provided in the scope ruling application.<sup>42</sup>

In response to our request for comment, we received numerous submissions from interested parties. Notably, no party argued that the production scenarios were vague or unclear. Instead, most parties, based on the production scenarios provided by the petitioner, claimed not to source wooden cabinets, components, or component parts from China, while other parties argue even though they had sourced such items from China, these items should not be considered covered by the scope of the *Orders* for various reasons.<sup>43</sup> As such, we find that the products at issue in these scope inquiries were described in sufficient detail.

Finally, based on the nature of the scope language and information submitted by interested parties, we find that the petitioner used a variety of reasonably available information to sufficiently define the products at issue in these scope inquiries. While the production scenarios cover a range of manufacturing processes in China and a third country, it would be unreasonable (and inconsistent with 19 CFR 351.225(c)(2)) to require that the petitioner further limit its scope

<sup>38</sup> See Petitioner's SQR at 5-6.

<sup>39</sup> *Id.* at 3-4.

<sup>40</sup> See *Fabuwood Cabinetry I*, 469 F. Supp. 3d at 1383, sustained in *Fabuwood Cabinetry II*, 519 F. Supp. 3d at 1339 (CIT 2021).

<sup>41</sup> See Scope Initiation at 2-3.

<sup>42</sup> *Id.* at 3-4.

<sup>43</sup> See, e.g., Appendix A; see also Preliminary Scope Determination at Appendix.

ruling request to certain individual production scenarios given that detailed firsthand knowledge of the production experiences of Vietnamese cabinet producers is not information that is reasonably available to it. Given these circumstances, we find that the petitioner adequately described the production scenarios at issue using reasonably available evidence, which included affidavits, EAPA investigation determinations, trade data, and evidence of the types of wooden cabinets and components produced by Chinese companies. Therefore, we conclude that the scope inquiries were properly initiated following an evaluation of the evidence provided and nature of the products covered by the scope of the *Orders*.

## **Comment 2: Whether Parts Not Specified in the Scope Are Subject to the *Orders***

Several parties commented that the scope provides an exhaustive list of covered wooden cabinet component parts.<sup>44</sup> As such, they argue that component parts included in petitioners' production Scenarios 2 and 3, but not explicitly listed in the scope of the *Orders*, should be found not to be covered by the *Orders*.<sup>45</sup> Further, interested parties claimed that "semifinished" wooden cabinet components or wooden component parts are not covered, because the scope of the *Orders* does not contemplate semifinished merchandise.<sup>46</sup>

Further, an interested party argues that Commerce erred in performing a substantial transformation analysis.<sup>47</sup> The petitioner also argues that we should apply a mixed media approach and value any wooden component part from China as subject merchandise when combined with third country component parts included in RTA kits exported from third countries.<sup>48</sup>

**Commerce's Position:** Interested parties contend that because certain individual wooden cabinet parts are not explicitly listed in the scope of the *Orders*, Commerce should find these items not covered and, thus, not dutiable. In the *Preliminary Scope Determination*, Commerce explained that the scope of the *Orders* identifies two types of merchandise (*i.e.*, "wooden cabinets and vanities" (complete wooden cabinets) and "wooden components thereof" (wooden cabinet components)).<sup>49</sup> Further, the scope provides a list of six wooden cabinet components and identifies parts *typically* (emphasis added) included within each component. The scope states:

Subject merchandise includes the following wooden component parts of cabinets and vanities: (1) wooden cabinet and vanity frames (2) wooden cabinet and vanity boxes (which *typically* include a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves), (3) wooden cabinet or vanity doors, (4) wooden cabinet or vanity drawers and drawer components (which *typically* include sides, backs, bottoms, and faces), (5) back panels and end panels,

<sup>44</sup> See American Woodmark's Rebuttal Comments at 2; *see also* American Woodmark's Post-Preliminary Comments at 3; and DH Exporter's Comments at 12.

<sup>45</sup> See Cabinetworks' Comments at 9; *see also* Cabinetworks' Rebuttal Comments at 3, Cabinetworks' Post-Preliminary Comments at 11; Cabinetworks' Rebuttal Comments at 3-4; DH Exporter's Comments at 12 and 15.

<sup>46</sup> See American Woodmark's Rebuttal Comments at 2; *see also* Cabinetwork's Rebuttal Comments at 1; and DH Exporter's Comments at 12.

<sup>47</sup> See DH Exporter's Comments at 15

<sup>48</sup> See Petitioner's Comments at 2.

<sup>49</sup> See Preliminary Scope Determination at 8.

(6) and desks, shelves, and tables that are attached to or incorporated in the subject merchandise.<sup>50</sup>

Thus, the scope of the *Orders* did not list every individual wooden component part that could be included in a complete wooden cabinet or component in the scope, it provided an illustrative list of *typical* subcomponent parts for some but not all the described components. Further, the scope includes language concerning specifically excluded products, such as “inserts or dividers,” “non-wooden cabinet hardware,” and “medicine cabinets” meeting five specific criteria.<sup>51</sup> None of the scenario merchandise subject to these inquiries includes any of these excluded items.

Next, parties claim that “semifinished” wooden cabinet components or parts are not covered, because the scope of the *Orders* does not contemplate semifinished merchandise. We disagree. The scope specifically addresses in-scope components that may undergo processing in a third country. The scope states:

Subject merchandise also includes wooden cabinets and vanities and in-scope components that have been further processed in a third country, including but not limited to one or more of the following: trimming, cutting, notching, punching, drilling, painting, staining, finishing, assembly, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the in-scope product.

For this reason, in the *Preliminary Scope Determination*, we explained that pursuant to 19 CFR 351.225(k)(1) and the plain language of the *Orders*, that the wooden cabinets produced in China in Scenarios 1, 2, 3, and 4 are subject to the *Orders*.<sup>52</sup> We also found that it was necessary to conduct a substantial transformation analysis to determine the country of origin of the third country wooden cabinets produced using the four scenarios. These country-of-origin determinations are governed by 19 CFR 351.225(j).<sup>53</sup> We stated that while the scope contains further processing language which preserves China as the country of origin for wooden cabinet components that undergo certain finishing or processing in third countries, such language does not address the specific productions scenarios subject to these scope inquiries. Further, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) has determined that “Commerce is entitled to use substantial transformation analysis to determine country of origin” before resorting to a circumvention inquiry.<sup>54</sup>

### **Comment 3: Whether Use of the Petitioner’s NFI Is Appropriate**

Following the Post-Preliminary Analysis, interested parties commented that Commerce’s use of the Petitioner’s NFI data from Wellborn Cabinet Inc. (Wellborn) and [ ] in the substantial

<sup>50</sup> See the scope of the *Orders* at paragraph 3 (emphasis added).

<sup>51</sup> *Id.*

<sup>52</sup> See Preliminary Scope Determination at 13.

<sup>53</sup> *Id.* at 13-14.

<sup>54</sup> See *Bell Supply Co. v. United States*, 888 F.3d 1222, 1229 (Fed. Cir. 2018).

transformation analysis is flawed and needs further explanation.<sup>55</sup> In addition, interested parties commented on the individual factors of the substantial transformation analysis.

**Commerce's Position:** In the Preliminary Scope Determination, Commerce conducted complete substantial transformation analyses for Scenarios 1 and 4.<sup>56</sup> An analysis of each of the factors enumerated under 19 CFR 351.225(j) led Commerce to determine China as the country of origin for merchandise under Scenario 1 and Vietnam as the country of origin for Scenario 4.<sup>57</sup> Further, Commerce explained that it did not possess sufficient information required to make a decision under each factor of the substantial transformation analysis for Scenarios 2 and 3.<sup>58</sup> As such, Commerce requested that interested parties provide additional information to analyze the remaining substantial transformation factors to determine the country of origin for Scenarios 2 and 3.

The only party that submitted information to enable Commerce to complete its analysis was the petitioner.<sup>59</sup> The Petitioner's NFI contained data from [ ], a [ ] wooden cabinets producer, and Wellborn, a U.S. wooden cabinets producer.<sup>60</sup> The petitioner also provided a four-phase description of wooden cabinet production. We explained that we intended to use this production categorization in the Post-Preliminary Analysis, because it enabled us to more clearly distinguish cost differences between China and the third country and identify the inputs and tasks required for each phase of production.<sup>61</sup> As such, in the Post-Preliminary Analysis we utilized this information to complete our substantial transformation analysis on Scenarios 2 and 3 and conduct a more robust analysis of Scenario 1. Further, because the petitioner did not provide additional NFI for Scenario 4, we did not revise our substantial transformation analysis for Scenario 4, except to account for minor differences in production using the petitioner's more detailed four-phase production descriptions.<sup>62</sup>

Utilizing the Petitioner's NFI, we continued to preliminarily find that merchandise produced under Scenario 1 is Chinese in origin, while merchandise produced under Scenario 4 is third country in origin. In addition, we also preliminarily found that merchandise produced under Scenarios 2 and 3 are Chinese in origin. Following the issuance of the Post-Preliminary Analysis, interested parties submitted comments regarding Commerce's substantial transformation analysis and/or certain factors of this analysis. Those arguments are described here:

#### **Substantial Transformation:**

- **Factor (j)(1)(iii): Intended End-Use:** An interested party claims that Scenarios 2 and 3 upstream products (*i.e.*, wooden components) may not share the same intended end-use

<sup>55</sup> See American Woodmark's Post-Preliminary Comments at 2-3; *see also* Cabinetworks' Post-Preliminary Comments at 6; and DH Exporter's Rebuttal Comments at 6-8.

<sup>56</sup> See Preliminary Scope Determination at 31-33 and 35-36.

<sup>57</sup> *Id.*

<sup>58</sup> See Preliminary Scope Determination at 33-34.

<sup>59</sup> See (Petitioner's NFI).

<sup>60</sup> *Id.*

<sup>61</sup> See Post-Preliminary Analysis at 2-3.

<sup>62</sup> *Id.* at 4.

as complete wooden cabinets, which serve as permanently installed cabinetry, but could rather be used in non-subject free-standing furniture.<sup>63</sup>

- **Factor (j)(1)(iv): Cost of Production/Value Added:** Interested parties claim that Wellborn's cost of production model is based on the experience of a U.S. manufacturer and may not be relevant to the experiences of manufacturers in China or Vietnam.<sup>64</sup> Further, parties claim the Wellborn cost data have several deficiencies (*e.g.*, inflated costs, a lack of solid wood offsets to account for yield loss, missing costs, unverified consumption rates, *etc.*)<sup>65</sup>
- **Factor (j)(1)(v): Nature and Sophistication of Third Country Processing:** An interested party argues that this prong of the analysis supports finding Vietnam as the country of origin for Scenarios 2 and 3.<sup>66</sup> Another interested party argues that the petitioner's method of multiplying production steps with the number of component parts is flawed and a greater piece count is not an indication of which production steps are more sophisticated.<sup>67</sup>
- **Factor (j)(1)(vi): Level of Investment in the Third Country:** An interested party comments that the Petitioner's NFI is sufficient to analyze this prong of the analysis and it supports finding Vietnam as the country of origin for Scenarios 1, 2, and 3.<sup>68</sup> The Petitioner's NFI indicates that the production steps for Scenarios 2 and 3 involve the most expensive equipment and Wellborn's data was not categorized under phases 1(a) and (1b), which means it cannot be used to evaluate Scenario 3.<sup>69</sup>
- **Factor (j)(2): The Essential Component or Character:** Interested parties claim that the cabinet box or the doors, drawers and frame are the essential component,<sup>70</sup> and, Qufu Xinyu Furniture Company Ltd.'s (Qufu) reported costs understates the amount of yield loss involved for the production of cabinets compared to Wellborn's.<sup>71</sup> Interested parties also claim that wooden component parts have a different use because the parts could not have the mechanical or physical properties of a finished wooden cabinet yet, because they are acquired only following the finishing and assembly process in the third country.<sup>72</sup>

**Commerce's Position:** We address the arguments raised by interested parties for each factor below:

#### **Factor (j)(1)(iii): Intended End-Use**

In the Preliminary Scope Determination, Commerce found that for Scenarios 1, 2, 3, and 4, the intended end-use of the downstream product (*i.e.*, complete wooden cabinets) does not change from when a company produced the first component in China until the packaging of the finished

<sup>63</sup> See DH Exporters' Comments at 18.

<sup>64</sup> See, *e.g.*, American Woodmark's Post-Preliminary Comments at 2-3.

<sup>65</sup> See DH Exporters' Rebuttal Comments at 2--8

<sup>66</sup> See Petitioner's Comments at 14-15.

<sup>67</sup> See DH Exporters' Rebuttal Comments at 8-9.

<sup>68</sup> See Petitioner's Comments at 16-18.

<sup>69</sup> See DH Exporters' Rebuttal Comments at 8-9.

<sup>70</sup> See DH Exporters' Comments at 18-20; *see also* Petitioner's Rebuttal Comments at 24.

<sup>71</sup> See Petitioner's Comments at 18-19.

<sup>72</sup> See Petitioner's Rebuttal Comments at 26-27.



wooden cabinet in the third country.<sup>73</sup> Further, we explained that whether the wooden cabinet contains entirely Chinese-origin components or only some Chinese components is inapposite because the completed wooden cabinet has the same end-use.<sup>74</sup> As such, we determined that this factor supports finding China as the country of origin for all scenarios, because in each instance third country processing did not alter the physical characteristics of the complete wooden cabinet beyond subject merchandise.

One party claims that the upstream products may have different intended end-uses as permanently installed or free-standing furniture.<sup>75</sup> However, the language in the scope of the *Orders* explicitly covers “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 ... .” Further, these scope inquiries cover RTA kits for permanent installation in Scenarios 1, 2, 3, and 4.<sup>76</sup> As a result, we are not ruling on any scenario involving the use of wooden cabinet components to produce free-standing wooden cabinets and thus do not agree that the intended end-use of the components at issue is for anything except complete wooden cabinets for permanent installation.

#### **Factor (j)(1)(iv): Cost of Production/Value Added**

In the Preliminary Scope Determination, Commerce relied on cost of production (COP) data from the first administrative review of the *AD Order* to analyze the cost of production in its substantial transformation analysis.<sup>77</sup> As part of this analysis, we explained that we selected the most similar design to the scenario merchandise and how we intended to compute COP values using this information.<sup>78</sup> For Scenarios 1 and 4, we were able to assess in which country processing occurred. As such, we preliminarily determined that the COP was higher in the third country for each scenario, which indicated for this factor that substantial transformation occurred in the third country.<sup>79</sup> However, for Scenarios 2 and 3, we were unable to analyze COP because the production descriptions did not clearly indicate in which countries certain processes occurred. Therefore, we could not allocate and calculate COP for these scenarios.<sup>80</sup>

As discussed above, we invited interested parties to file COP information, which would enable Commerce to complete its analysis.<sup>81</sup> The only party that submitted this data was the petitioner. To value COP, the petitioner provided reasonably available data (*i.e.*, Wellborn’s cost information, organized by component and phase for a specific, RTA cabinet and [ ] production data for one month of RTA wooden cabinet production [ ]).<sup>82</sup> We used this data in the Post-Preliminary Analysis because it was for an RTA wooden cabinet which is similar to scenario merchandise and the data was reported by component, and phase specific,

<sup>73</sup> See Preliminary Scope Determination at 15-16.

<sup>74</sup> *Id.* at 15-16.

<sup>75</sup> See DH Exporters’ Comments at 18.

<sup>76</sup> See Petitioner’s SQR at 5-6.

<sup>77</sup> See Preliminary Scope Determination at 19.

<sup>78</sup> *Id.* at 18-21.

<sup>79</sup> *Id.* at 22.

<sup>80</sup> *Id.* at 22-23.

<sup>81</sup> *Id.* at 58.

<sup>82</sup> See Petitioner’s NFI at Exhibits 2, 3, 4 and 5; *see also* Petitioner’s Comments at Exhibit 2(g) and 4(a)-(f).

which enabled us to identify where the processing steps were conducted for each country for the analyses of Scenario 2 and 3. Further, this breakdown allowed us to more accurately determine COP for Scenario 1 in the Post-Preliminary Analysis compared to our previous finding in the Preliminary Scope Determination. The petitioner did not provide NFI to price the cost of production with respect to Scenario 4, therefore apart from a few modifications to account for more specific data, our analysis of Scenario 4 remained unchanged in the Post-Preliminary Analysis.<sup>83</sup> In sum, we determined that the COP analysis alone supports finding that substantial transformation occurred in the third country for Scenarios 3 and 4, but it did not occur in the third country for Scenarios 1 and 2.<sup>84</sup>

Interested parties argue that the Wellborn cost buildup has several deficiencies:

First, they argue that this product is selected by the petitioner to inflate the cost for doors, drawer faces, and frames because (1) its largely made of particleboard but it is common to use more expensive plywood,<sup>85</sup> and (2) it consists of an untypical mix of 4 doors and 4 drawer faces, but only 2 drawer boxes and no shelf.<sup>86</sup>

The interested parties did not provide any information that we could use to determine whether the Qufu or Wellborn cabinet was more representative of costs used to produce inquiry merchandise although they are similar in overall dimensions. We used the Wellborn data as the best data that fit the description of the production phases from the Petitioner's NFI. For the consumption of the maple hardwood, the petitioner relied on the surrogate value for birch, a more expensive wood than maple according to its own reported information.<sup>87</sup> For the consumption of oak and particle board, the petitioner relied on Malaysian import data from the first review period to value consumption.<sup>88</sup>

Second, DH Exporters argues that the petitioner only provided the consumption rates of various wood inputs in different stages but did not provide the by-product rates. Therefore, the cost percentage for phase 1(a) would be significantly overstated and more distortive than the allocation methodology applied to Qufu's information.<sup>89</sup>

Our analysis seeks to value the total volume of wood at the input stage as this accounts for the total volume of wood required to produce each wooden component part. The petitioner argues that Qufu information does not account for the much higher yield losses resulting from cutting the complex shapes and profiles of especially doors and drawer faces. We disagree with that contention, considering that we used the input volume of the wood before forming for both the Qufu and Wellborn data; however, the Wellborn data are the only data that accounted for the

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<sup>83</sup> See Post-Preliminary Analysis at 4-5.

<sup>84</sup> *Id.* at 5.

<sup>85</sup> See DH Exporters' Rebuttal Comments at 5.

<sup>86</sup> *Id.* at 6.

<sup>87</sup> See Petitioner's Comments at Exhibits 2F (POR Maple is valued at 345\$/m<sup>3</sup> in Malaysia) and 5 (POR [ ] is valued at [ ]\$/m<sup>3</sup> in Malaysia) (thus [ ] is more expensive than maple)

<sup>88</sup> See Petitioner's Comments at 13; *see also* Petitioner's NFI at Exhibit 8 (Malaysian import average unit values).

<sup>89</sup> See DH Exporters' Rebuttal Comments at 6.

differences between phase 1(a) and 1(b) with respect to cost.<sup>90</sup> Because no party valued millings and cuttings, we did not value scrap, or include an offset.

Third, DH Exporters argues that for glue, staples, and abrasives, the petitioner used the direct U.S. Dollar (USD) cost reported by Wellborn and for others used consumption quantity multiplied by surrogate values. DH Exporters asserts this approach is not appropriate, and Commerce has never constructed cost using such mixed calculations between non-comparable market economies and surrogate countries.<sup>91</sup>

The petitioner provided consumption and surrogate values for nearly all inputs in the surrogate country used in the first administrative review (*i.e.*, Malaysia) to make the data comparable, except for several minor inputs including glue, staples, and abrasives which were reported in USD. No party valued these inputs in Malaysia. Because those minor inputs account for a small part of cost, however, we considered this difference inconsequential compared to total costs in China and the third country. Moreover, DH Exporters did not identify or quantify any specific distortions resulting from the use of the petitioner's data. Glue, staples, and abrasives are minor cost elements of the production of wooden cabinets (*e.g.*, glue amounts to [ ] percent of Wellborn's cost), and thus any impact resulting from any difference between the cost of the input in Vietnam compared to the US price would be of little consequence.

Fourth, DH Exporters argue that the petitioner's phase 3 cost buildup is highly inaccurate because: (1) the number of workers employed in phase 3 assembly is based on an unsupported allocation; and (2) Scenarios 2 and 3 buildups did not include the correct number of drawer slides or any screws needed to install hinges, drawer slides, drawer pulls, doorknobs, *etc.*<sup>92</sup> In the Post-Preliminary Analysis, rather than rely on Wellborn labor data, we relied on the [ ] labor data because it differentiates phases 2 and 3 labor.<sup>93</sup> For this final determination, we added value to phase 3 production to value a second set of drawer slides for the Wellborn cabinet compared to the Post-Preliminary Analysis. To include a value for additional screws we included the same amount in phase 3 assembly as we included for phase 1(b) nails as the most similar item in the input list. These additions did not change our findings with respect to whether the cost of production in the third country indicated that substantial transformation occurred in the third country; Scenarios 1 and 2 still have less than 50 percent of the cost in the third country, and Scenario 3 still has more than fifty percent of the cost in the third country.<sup>94</sup>

Fifth, DH Exporters also argues that the petitioner did not demonstrate that the reported consumption data are reliable by providing a reconciliation to their financial statements, and Commerce did not verify the accuracy of the reported data, making these data unusable.<sup>95</sup> The

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<sup>90</sup> See Petitioner's Comments at Exhibit 2G. See details about the Wellborn and Qufu data used in our analysis of the cost of production at Appendices B and C.

<sup>91</sup> See DH Exporters' Rebuttal Comments at 6.

<sup>92</sup> See DH Exporters' Rebuttal Comments at 6-7.

<sup>93</sup> See Post-Preliminary Analysis at 2.

<sup>94</sup> See Memorandum, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China – Final Scope Determination – Analysis Memorandum," dated concurrently with this memorandum (Final Analysis Memorandum), at Attachment 1 'Phases & Outcomes' tab.

<sup>95</sup> See DH Exporters' Comments at 21; *see also* DH Exporters' Rebuttal Comments at 7-8.

petitioner argues that other interested parties did not provide any rebuttal information.<sup>96</sup> The petitioner certified the accuracy of its submissions, and our review of the information did not reveal any inconsistencies that would undermine the reliability of the data or necessitate verification. Further, DH Exporters did not explain how the data were unreliable or identify any specific aspect of the data that could not be used. We have thus continued to use the petitioner's data in this final scope ruling.

Finally, the petitioner argues that Commerce “does not have an established threshold for determining whether a certain percent of COP in a third country, by itself, represents a substantial transformation.”<sup>97</sup> The petitioner argues that even when COP in a third country represents a relatively high portion of the total value of the finished merchandise, Commerce has not always found substantial transformation to occur in the third country when assessing other relevant factors.<sup>98</sup> Here, we determined it is reasonable to use all the prongs of the substantial transformation analysis including the essential characteristic prong, which in this case is the wood. We find there is no basis to use a form of analysis other than determining which country's production requires most of the items analyzed under each factor examined using a quantitative analysis.

#### **Factor (j)(1)(v): Nature and Sophistication of Third Country Processing**

In the Preliminary Scope Determination, Commerce relied on information from the first administrative review of the *AD Order* to analyze the nature and sophistication of processing in the third country for its substantial transformation analysis.<sup>99</sup> For Scenarios 1 and 4, almost all production is completed in China or the third country. As such, we determined for this factor substantial transformation occurred in China for Scenario 1 and in the third country for Scenario 4.<sup>100</sup> However, for Scenarios 2 and 3, we explained that we needed further information regarding (1) where every processing step occurred; (2) the tooling used to process every wooden component part in China or the third country; and (3) the complexity of processing at each stage of production. Absent such information, we explained that we were unable to analyze the nature and sophistication of processing in the third country for these scenarios.<sup>101</sup>

As discussed above, we also invited interested parties to submit information regarding the nature and sophistication factor, which would enable Commerce to complete its analysis.<sup>102</sup> The petitioner was the only party to submit any data for this factor. To assess this factor for Scenarios 1, 2, and 3, we used the petitioner's four-phase production descriptions and the

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<sup>96</sup> See Petitioner's Rebuttal Comments at 29.

<sup>97</sup> See Petitioner's Comments at 13 (citing *Tapered Roller Bearings from the People's Republic of China*, 76 FR. 3086 (January 19, 2011) (*TRBs from China*), and accompanying Issues and Decision Memorandum (IDM) at Comment 6).

<sup>98</sup> See Petitioner's Comments at 13 (citing, e.g., *Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 69 FR. 11834 (March 12, 2004), and accompanying IDM at Comment 1 (finding that jumbo rolls originating in Japan but slit in a third country would still be of Japanese origin as no substantial transformation takes place in third country despite 34 percent of the total cost of production taking place in third country)).

<sup>99</sup> See Preliminary Scope Determination at 24-28.

<sup>100</sup> *Id.* at 32 and 36.

<sup>101</sup> *Id.* at 25.

<sup>102</sup> *Id.* at 58.

[ ] data regarding job and equipment counts to measure the degree to which this prong occurred in the third country.<sup>103</sup> Further, this breakdown also allowed us to more accurately determine nature and sophistication in each country for Scenario 1 compared to Qufu's experience based on calculations performed in the Preliminary Scope Determination. The petitioner did not provide NFI for Scenario 4 with respect to the nature and sophistication of processing in the third country, therefore, we made no changes to this prong of the analysis since the Preliminary Scope Determination.<sup>104</sup> Overall, we determined that the nature and sophistication analysis alone supports finding that substantial transformation occurred in the third country for Scenario 3 and 4, but did not occur in third country with respect to for Scenarios 1 and 2.<sup>105</sup>

Interested parties claim that certain parts of the petitioner's NFI is not probative with respect to the nature and sophistication of processing in the third country.

For the merchandise we are examining in this ruling, we agree with DH Exporters that a greater piece count is not the strongest indicator of the sophistication of the set of processes conducted in a country available on the record. Therefore, in the Post-Preliminary Analysis we used piece count as part of our analysis of the essential characteristic, rather than including it in the analysis of the nature and sophistication of processing required in the third country.<sup>106</sup> Most of the large wooden cabinet component parts (*e.g.*, cabinet box panels, drawer bottoms, and shelves) have rectangular shapes and do not require sophisticated equipment to produce, while the rails and stiles, of doors, drawer faces, and frames are medium or small but require more sophisticated equipment to form. In the absence of data to rank the sophistication of every job and equipment piece, we determined that it was reasonable to account for the nature and sophistication of production by analyzing the job count and equipment count used to make various components. Specifically, we found it reasonable to conclude that phases requiring more equipment and jobs indicate a greater level of sophistication required. The petitioner argues that certain pieces of equipment required to produce wooden cabinets are more complex. We captured this idea by using equipment value, in part, to determine the level of investment in the third country prong of the analysis.<sup>107</sup>

We agree with DH Exporters, that the nature and sophistication prong of the analysis weighs in favor of finding Scenario 3 merchandise to have third country country-of-origin because the outcome of the averaging of the ratio for job and equipment count is [ ] percent; but, we disagree that sufficient nature and sophistication occurs in the third country in the production of Scenarios 2 merchandise for it to be substantially transformed in the third country because only [ ] percent of the nature and sophistication was required in the third country.<sup>108</sup>

<sup>103</sup> See Post-Preliminary Analysis at 6.

<sup>104</sup> *Id.* at 6.

<sup>105</sup> *Id.* at 8.

<sup>106</sup> See Post-Preliminary Analysis at Attachment 1, 'Phases & Outcomes' Tab, "Part 2 - Factors Included in Each Prong of Analysis."

<sup>107</sup> *Id.*

<sup>108</sup> See DH Exporters' Rebuttal Comments at 8-9 (citing Memorandum, "Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China – Post-Preliminary Analysis Memorandum," dated September 28, 2023 (Post-Preliminary Analysis Memorandum), at Attachment 1, 'Phases & Outcomes' tab, unchanged in Final Analysis Memorandum at Attachment 1, 'Phases & Outcomes' tab).

### Factor (j)(1)(vi): Level of Investment in the Third Country

In the Preliminary Scope Determination, Commerce relied on information from the first administrative review of the *AD Order* to analyze the level of investment in the third country for its substantial transformation analysis.<sup>109</sup> For Scenario 1, we preliminarily found that almost all processing occurred in China because more wooden cabinet component parts are started and completed in China. Further, we preliminarily determined the opposite held true for Scenario 4 merchandise because nearly every process occurs in the third country.<sup>110</sup> We also explained that we could not complete an analysis of this factor for Scenarios 2 and 3 because there was insufficient information on the record to determine which processes were completed in China or the third country.<sup>111</sup>

As discussed above, we also invited interested parties to submit level of investment information, which would enable Commerce to complete its analysis.<sup>112</sup> The only party that submitted data of this type was the petitioner. To assess this factor for Scenarios 1, 2, and 3, we used information from [ ] to measure the investment involved in each of the four production phases by required equipment value, factory space and the number of workers.<sup>113</sup> Further, we revised our analysis of Scenario 1 using the more detailed production phases information and [ ] data provided for this factor.<sup>114</sup> The petitioner did not provide NFI for Scenario 4 with respect to the level of investment; thus, we made no changes to our analysis under this prong in the Post-Preliminary Analysis.<sup>115</sup> Overall, we determined that the COP analysis alone supports finding that substantial transformation occurred in the third country for Scenarios 2, 3, and 4, but did not occur in the third country for Scenario 1.<sup>116</sup>

Interested parties have differing views on which factory space data supplied in the Petitioner's NFI is more accurate for purposes of this ruling and the petitioner supported our use of equipment value data as part of the analysis.<sup>117</sup> In the Post-Preliminary Analysis, we averaged the percentage of equipment value, factory space, and number of workers required to produce Scenarios 1, 2, and 3 in the third country to analyze the level of investment in the third country.<sup>118</sup>

The petitioner argues that an evaluation of factory space shows that the largest investment to produce an RTA wooden cabinet is the investment in Phase 1 production for doors, drawer faces, and face frames. We used the Petitioner's NFI from [ ] to measure required factory space rather than Wellborn's data because they accounted for factory space for phases 1, 2, and 3 (and thus were more complete), rather than reporting amounts for only phases 1 and 2. Further, the

<sup>109</sup> See Preliminary Scope Determination at 28-29.

<sup>110</sup> *Id.* at 28-29.

<sup>111</sup> *Id.* at 29.

<sup>112</sup> *Id.* at 58.

<sup>113</sup> See Post-Preliminary Analysis at 8-9.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* at 12.

<sup>117</sup> See Petitioner's Comments at 14-15, and 17-18; see also DH Exporter's Rebuttal Comments at 8.

<sup>118</sup> See Post-Preliminary Analysis at 12.



Wellborn data did not contain a detailed breakdown of the names and counts of tools by phase, but the [ ] data did. Neither the Wellborn data nor the [ ] data reported a breakdown by phases 1(a) and 1(b). Allocating [ ] factory space to phases 1(a) and 1(b) by tool count indicates that phase 1(a) (forming) requires the most factory space, and phase 1(a) is conducted in China for doors, drawer faces and frames. Also, Wellborn produces complete, ready to install wooden cabinets rather than RTA kits; therefore, it is reasonable to conclude that its final assembly area needs differ compared to a producer of an RTA kit. For these reasons, we find the [ ] data are better suited for purposes of our analysis even though it is not model specific. The [ ] data support the petitioner's contention that phase 1 requires the most factory space for production of doors, drawer faces, and face frames. These [ ] factory space data indicates that Scenario 1 requires [ ] percent of the total investment in factory space in the third country, [ ] percent for Scenario 2, and [ ] percent for Scenario 3.<sup>119</sup>

We also agree with DH Exporters that the production steps that take place in the third country require more expensive equipment in the third country than in China for Scenarios 2 and 3; Scenario 2 requires [ ] percent of equipment value in the third country and Scenario 3 requires [ ] percent.<sup>120</sup> Scenario 1 only requires [ ] percent of equipment value in the third country. We were able to use [ ] detailed, four-phase production-specific equipment value information to make this determination.<sup>121</sup> Equipment value is one of three factors (along with factory space and worker count) we used to determine the percentage of the total investment required in the third country. This prong of the analysis supports finding that substantial transformation occurred in the third country with respect to Scenario 2 requiring [ ] percent of investment in the third country and Scenario 3 requiring [ ] percent of investment in the third country, but it does not support that contention with respect to Scenario 1 which only requires [ ] percent of investment in the third country.<sup>122</sup>

### **Factor (j)(2): The Essential Component or Characteristics**

In the Preliminary Scope Determination, Commerce relied on information from the first administrative review of the *AD Order* to analyze the essential characteristics or component in the third country for its substantial transformation analysis.<sup>123</sup> We determined that taken together, the different wooden cabinet components impart the completed cabinets' functionality, thus establishing the wooden inputs as the essential elements of the cabinet.<sup>124</sup> For each scenario, we analyzed the wooden piece count, overall wood volume, solid wood volume, and wood value started into production in each country.<sup>125</sup> We determined that the essential component or characteristic was Chinese in origin for Scenarios 1 through 3, and third country in origin for Scenario 4.<sup>126</sup>

<sup>119</sup> *Id.* at Attachment 1, 'Phases & Outcomes' tab unchanged in Final Analysis Memorandum at Attachment 1, 'Phases & Outcomes' tab.

<sup>120</sup> *Id.* at Attachment 1, 'Phases & Outcomes' Tab, "Part 2 - Factors Included in Each Prong of Analysis."

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at Attachment 1, 'Phases & Outcomes' Tab, "Part 3 – Quantitative Outcomes for Each Prong of Analysis."

<sup>123</sup> See Preliminary Scope Determination at 29-31.

<sup>124</sup> *Id.* at 28.

<sup>125</sup> *Id.* at 29-31.

<sup>126</sup> *Id.* at 31-36.

In the Post-Preliminary Analysis, we revised our analysis of this factor because we used the Petitioner's NFI to analyze COP for Scenarios 1, 2, and 3.<sup>127</sup> As a result, for consistency, we also used the same data to analyze the essential characteristic. For Scenario 4, we updated the analysis to use the petitioner's more detailed production descriptions but continued to rely on the same data from the first administrative review of the *AD Order*.<sup>128</sup> Overall, we determined that of the four scenarios, an examination of this factor alone indicated that substantial transformation occurred in the third country for Scenario 4 but not for Scenarios 1, 2, and 3.<sup>129</sup>

Interested parties offer competing claims as to what the essential characteristic or component of a wooden cabinet is, arguing that wooden component parts only gain their mechanical or physical properties once finished and that Qufu's data underreports yield loss.

In determining country of origin, Commerce may, pursuant to 19 CFR 351.225(j)(2), consider where the essential component of the product is produced or where the essential characteristics are imparted. To determine where the essential characteristic is imparted, the essential characteristic must first be identified. In the Preliminary Scope Determination, we found that the important qualities and end-use of wooden cabinets are established by all the wooden component parts that make up the structure of the cabinet, rather than selecting a subset of the complete wooden cabinet as essential.<sup>130</sup> We concluded that a wooden cabinet consists of many wooden parts that are intrinsically connected and together are necessary for the cabinet to meet its design functionality.<sup>131</sup> Wooden cabinets are used in a variety of ways including providing accessible storage, which may or may be open, covered by a door, or be a drawer and are often made to incorporate certain tables, counters and electrical and plumbing fixtures. We disagree with DH Exporters and the petitioner, that either the cabinet box and frame or doors, drawers and the frame capture the essential characteristic of wooden cabinets. Here, conducting qualitative analysis of whether the internal structure (*i.e.*, the cabinet box and frame) or the visible, more-complex component parts (*i.e.*, the frame, doors, drawer faces) imparts the essential character of a wooden cabinet only provides nominal data (*i.e.*, data that is not susceptible to ranking and has no natural order), which, given the complexity of the inquiry scenarios in this case, is of little use in determining whether substantial transformation occurred in the third country.

Our selection of the 'wood' as the essential characteristic of wooden cabinets provides a method of determining an instructive ratio for how much of the essential characteristic is imparted in China and the third country. This is because we are measuring variables that describe the piece count and the volume and value of wood started in each country to establish how much wood enters production in China and the third country. This enables us to determine the country in which most of the essential characteristics are imparted. Examining several variables shows how much of the important part (*e.g.*, the wood) of the merchandise entered production in China compared to the third country and creates a more robust analysis based on multiple data points. Therefore, we compared the amount of wooden inputs for an RTA kit entered into the production process in China and the third country by averaging four different metrics – (1) wooden piece

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<sup>127</sup> See Post-Preliminary Analysis at 12.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at 14.

<sup>130</sup> See Preliminary Scope Determination at 29.

<sup>131</sup> *Id.* at 30.

count; (2) wood volume; (3) solid wood volume; and (4) wood value – to determine where the majority of wood was incorporated into the components that become a complete wooden cabinet at phase 3 (assembly) in the third country. These statistics represents all known available information on the record that quantifies the amount of wood used in China and the third country. Contrary to DH Exporters and the petitioner’s contentions that we determine where the essential characteristic was imparted by examining where a group of wooden cabinet components were produced, we accounted for where each wooden component part was started into production to assess country of origin.

DH Exporters argues that wooden component parts have a different use than complete wooden cabinets, like RTA kits, because the parts could not have the mechanical or physical properties of a finished wooden cabinet, since they acquired those properties following the finishing and assembly process in the third country.<sup>132</sup> The scope of the *Orders* applies to finished and unfinished wooden cabinet component parts, which can be further processed in a third country. DH Exporters’ reliance on *Peer Bearing* is misplaced, as the order at issue in that case did not cover tapered roller bearing (“TRB”) parts and did not contain a further processing provision in contrast to the *Orders* on wooden cabinets.

Further, the situations with respect to the essential characteristic are different between TRBs and the instant case. In *TRBs from China*, the machining and heat treatment of unfinished cups and cones was a critical step in TRB production which occurred only in Thailand, and those production steps, combined with TRB assembly (of those unfinished parts (after processing in Thailand) and finished rollers and cages from China), were required for the product to receive its commercial identity in Thailand.<sup>133</sup> In the instant case, some wooden cabinet components and component parts go through the critical forming step in China, while others are processed in the third country. Therefore, a ratio analysis, like we conducted here, indicates where the country of origin of the completed wooden cabinet was imparted, and thereby aids in determining whether the product was substantially transformed in the third country. The complete wooden cabinet, assembled in the third country (as an RTA kit) is derived from the combination of the wooden component parts and their origins. Here, we are thus using the essential characteristic as an indicator of where country of origin is established to determine whether a product is substantially transformed in the third country.

While the forming of doors and drawer faces requires the most sophisticated machinery and processes, all wooden inputs require some forming (*e.g.*, cutting and shaping). For this reason, the amount of wood started into production in China and the third country is a good indicator of where the shape of the wooden cabinet component parts was imparted. Therefore, summing the amount of volume of the wooden inputs started into production in each country allows us to build up an instructive ratio.

Finally, the petitioner’s point concerning whether Qufu underreported yield loss is moot considering that we used Wellborn information to make our determinations with respect to

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<sup>132</sup> See DH Exporters’ Comments at 20 (citing *Peer Bearing Company - Changshan v. United States*, 128 F. Supp. 3d 1286, 1289-90 (CIT 2015) (*Peer Bearing*) (citing the earlier opinion in *Peer Bearing Company - Changshan v. United States*, 914 F. Supp. 2d 1343 (CIT 2013) (*Peer Bearing Company*)).

<sup>133</sup> See *Peer Bearing Company* at 914 F. Supp. 2d at 1352.

Scenarios 1, 2, and 3, and did not use Qufu data except where no parties provided any other information with which to analyze Scenario 4.

#### **Comment 4: Whether Commerce Weighted Outcomes of the Substantial Transformation Analysis**

Cabinetworks argues that Commerce's analysis fails to provide an explanation as to why or how certain prongs of the substantial transformation analysis were weighed for purposes of its analysis.<sup>134</sup> Commerce found that for Scenario 3, three of the prongs support a determination that substantial transformation occurs in the third country. Yet, according to Cabinetworks, there is no discussion explaining why, in Commerce's view, the other prongs are more important than Scenario 3's COP, nature and sophistication of production, and level of investment, which was deemed to occur in the third country.<sup>135</sup>

**Commerce's Position:** There were seven factors examined in the substantial transformation analysis, including the essential characteristic. In this case, all seven prongs of the analysis were weighted equally.<sup>136</sup> Qualitative analysis of the first prong (class or kind), the second prong (physical characteristics), and the third prong (intended end use) all indicated that substantial transformation did not occur in the third country and China is the country of origin.<sup>137</sup> Outcomes of our quantitative analysis are described in the Post-Preliminary Analysis calculations, where we calculated an average outcome of the items used to determine each prong of the analysis.<sup>138</sup> We found that an average outcome above 50 percent for a prong of the analysis indicated that the product was substantially transformed in the third country.

For Scenario 3, three factors – the COP/value added in the third country, nature and sophistication of processing in the third country, and level of investment in the third country – indicate that substantial transformation occurred in the third country. In contrast, the essential characteristic factor indicates that substantial transformation did not occur in the third country.<sup>139</sup> Therefore, three of the seven prongs of the analysis indicate that substantial transformation occurred in the third country but four of the seven factors (the three qualitative prongs and the essential characteristics) indicate that substantial transformation did not occur in the third country. As such, most of the factors indicate that substantial transformation did not occur in the third country, and therefore the country of origin is China. Further, no qualitative factors supported finding that Scenario 1 was substantially transformed in the third country, thus all seven prongs support the finding that China is the country of origin for Scenario 1. Only one qualitative factor supporting finding that substantial transformation occurred in the third country for Scenario 2; thus, six of the seven factors supporting finding China as the country of origin. Finally, all four quantitative factors of the analysis supported finding that substantial transformation occurred in the third country for Scenario 4, and the three qualitative factors of

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<sup>134</sup> See Cabinetworks' Post-Preliminary Comments at 6-7.

<sup>135</sup> *Id.*

<sup>136</sup> See Post-Preliminary Analysis at 15.

<sup>137</sup> *Id.* at 14.

<sup>138</sup> *Id.* at Attachment 1, 'Phases & Outcomes' Tab, "Part 3 - Quantitative Outcomes for Each Prong of Analysis."

<sup>139</sup> *Id.*

the analysis supported finding that China was the country of origin; thus, four of seven factors of the analysis support finding that the merchandise is of third country origin.

#### **Comment 5: Whether Certain Wooden Cabinets Are Subject to the *Orders***

Sudima commented that [ ]<sup>140</sup> Further, Sudima claims that because [ ], Commerce should conclude [ ]<sup>141</sup>. As such, Sumida requests [ ].

**Commerce's Position:** As a preliminary matter, Commerce determines whether to initiate scope inquiries based on information provided in the scope ruling application and in response to any clarification requests on such material, pursuant to 19 CFR 351.225(d). Further, in its scope ruling application, the interested party must specify the product(s) on which it requests a scope ruling and provide detailed supporting information under 19 CFR 351.225(c). On May 24, 2024, Commerce initiated this scope inquiry solely on the products covered by Scenarios 1 through 4.<sup>142</sup> As such, this scope ruling applies only to the scenarios for which Commerce initiated these inquiries.

While Commerce [ ], Commerce's scope inquiry initiation did not identify [ ] specific wood cabinets. As a result, Commerce cannot issue a scope determination specific to [ ] merchandise in this scope ruling. For this reason, [ ] exports of wooden cabinets are subject to certification requirement to the extent they are not produced according to Scenarios 1 through 3, *see* Comments 7-12 below.

#### **Comment 6: Whether Wooden Cabinets Wholly Produced in Third Countries Are Subject to the *Orders***

An interested party argues that Commerce should determine that wooden cabinets produced entirely in third countries are not subject to the *Orders*.<sup>143</sup> As such, Commerce should find such wooden cabinets are not dutiable.

**Commerce's Position:** As explained above, Commerce conducts scope ruling requests on certain products requested by interested parties. Should Commerce determine that the information provided in the scope ruling application is sufficient, it will then initiate a scope inquiry under 19 CFR 351.225(d). These scope inquiries pertain to products manufactured under Scenarios 1, 2, 3, and 4. None of these scenarios contemplate wooden cabinets produced entirely in third countries. In these scope inquiries, Commerce can only make determinations regarding the specific products at issue.

<sup>140</sup> See Sudima's Comments at 2.

<sup>141</sup> See Sudima's Post-Preliminary Comments at 2.

<sup>142</sup> See Scope Initiation at 1-4.

<sup>143</sup> See Brokering Solutions' Comments at 2 and 3.

## VI. DISCUSSION OF THE ISSUES – CERTIFICATION

For Comments 7-13, interested parties submitted comments pursuant to our request that they provide executive summaries limited to 450 words.<sup>144</sup>

### **Comment 7: Whether Commerce Has the Authority to Implement Certification in a Scope Inquiry**

*Cabinetworks Post-Certification Proposal Comments:*

The following is verbatim summary of argument submitted by Cabinetworks. For further details, see Cabinetworks' Post-Certification Proposal Comments at 4-6.

CBP, not Commerce, is the agency responsible for enforcement of AD and CVD duties. Indeed, CBP has the authority to address the misdeclaration of imports. CBP has robust and administrable avenues to combat issues of evasion and/or false declarations at the time of import. It is CBP's responsibility, where necessary, to verify that representations made by an importer at the time of entry are correct. Commerce has no legal authority to verify documentation and statements related to the entry of non-subject merchandise. Rather than creating unnecessary legal hurdles, Commerce should focus on clearly defining inquiry merchandise in order for CBP to conduct its role as the enforcement agency of AD/CVD.

*Petitioner's Post-Certification Proposal Comments:*

The petitioner did not provide the requested public executive summary regarding this argument. The petitioner's argument may be found at pages 3-8 of its case brief.

**Commerce's Position:** As an initial matter, under 19 CFR 351.228, Commerce may establish certification requirements in the context of an AD or CVD proceeding. In the *2021 Final Rule*, we explained:

Commerce has determined that the establishment of a certification scheme is necessary to ensure the enforcement of AD/CVD orders or suspension agreements.<sup>145</sup>

Further, we explained that this provision is intended to complement, not replace CBP's authority. Overall, 19 CFR 351.228 enhances Commerce's authority to determine whether establishment of a certification regime is warranted and how to act if deficient or unreliable information is provided under a certification regime.<sup>146</sup>

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<sup>144</sup> See Certification Proposal at 12.

<sup>145</sup> See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 85 FR 49472, 49491 (August 13, 2020); see also *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300, 52362-64 (September 20, 2021) (*2021 Final Rule*).

<sup>146</sup> *Id.*



Commerce has exercised its authority to implement certifications requirements in investigations, circumvention inquiries, and scope inquiries.<sup>147</sup> Commerce's standard practice with respect to in-scope inquiry merchandise that is indistinguishable on its face from out of scope merchandise at entry is to establish certification programs that require parties to affirmatively declare, and maintain supporting documentation demonstrating, that the merchandise being entered is not the specific in-scope product(s) subject to the inquiry.<sup>148</sup> Thus, certification is often established in instances where "CBP may not be able to ascertain certain identifying details relevant to the products classification" as subject or not subject to AD/CVD orders by reviewing relevant sales documentation (e.g., entry summaries or invoices).<sup>149</sup> In such instances, CBP and Commerce may need to examine certifications to determine whether an entry has been correctly identified as type 3 (i.e., subject to AD/CVD duties) or type 1 (i.e., not subject to AD/CVD duties).<sup>150</sup> In addition, we explained, in the Certification Proposal, that Commerce has also determined to implement a certification regime in scope and circumvention inquiries involving: (1) country-wide determinations; (2) third country production; and (3) circumvention concerns.<sup>151</sup> These circumstances existed in the *Quartz Surface Products from China Scope Final* and *Hardwood Plywood from China Circumvention Final*.

These concerns exist in this scope ruling, because the in-scope inquiry merchandise is facially or physically indistinguishable from non-scope merchandise at the time of entry and is produced partially in third countries. We are also making country-wide determinations and have concerns regarding whether circumvention and/or evasion is occurring. As such, we continue to find the establishment of a certification requirement is appropriate and within Commerce's authority.

The Federal Circuit has held that "Commerce is entitled to substantial deference with regard to its interpretations of its own antidumping {and countervailing} duty orders {,}" and that Commerce is entitled to deference with regard to scope issues because of its expertise in this area.<sup>152</sup> Therefore, in light of the above, we find it reasonable to implement a certification regime under 19 CFR 351.228 as a tool to administer and enforce this final scope determination.

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<sup>147</sup> See, e.g., *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium from France*, 67 FR 6680 (February 13, 2002); see also *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Scope Determination and Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders*, 87 FR 45753 (July 29, 2022), unchanged in *Certain Hardwood Plywood Products from the People's Republic of China: Final Scope Determination and Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders*, 88 FR 46740 (July 20, 2023) (*Hardwood Plywood Circumvention from China Circumvention Final*); and *Certain Quartz Surface Products from the People's Republic of China: Final Scope Ruling on Malaysian Processed Quartz Slab and Recission of the Circumvention Inquiry*, 87 FR 64009 (October 21, 2022) (*Quartz Surface Products from China Scope Final*).

<sup>148</sup> See *Final Affirmative Determination of Circumvention of Antidumping and Countervailing Duty Orders, and Partial Recission of Aluminum Extrusions from the People's Republic of China*, 84 FR 39805 (August 12, 2019), and accompanying IDM at Comment. 3; *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 84 FR. 29,164 (June 21, 2019), and accompanying IDM at 21.

<sup>149</sup> See *2021 Final Rule* 86 FR at 52364.

<sup>150</sup> *Id.*

<sup>151</sup> See Certification Proposal at Comment 1.

<sup>152</sup> See *King Supply Co., LLC v. United States*, 674 F.3d 1343, 1348 (Fed. Cir. 2012) (quoting *Sandvik Steel Co. v. United States*, 164 F.3d 596, 600 (Fed. Cir. 1998)).

## **Comment 8: Whether Commerce's Proposed Certification Regime Is Reasonable**

### *American Woodmark's Post-Certification Proposal Comments:*

American Woodmark did not provide the requested public executive summary regarding this argument. American Woodmark's argument may be found at page 2 of its case brief.

### *Cabinetworks Post-Certification Proposal Comments:*

The following is verbatim summary of argument submitted by Cabinetworks. For further details, see Cabinetworks' Post-Certification Proposal Comments at 3-4.

In a departure from its own Preliminary Scope Determination, Commerce has now proposed a certification program because of their affirmative preliminary scope determination in this scope inquiry. The Certification Proposal establishes an unnecessary, burdensome, and complicated processes for U.S. importers, Commerce and CBP. Should Commerce continue to find a certification program necessary, any certification process must be reasonable and narrowly tailored. The Certification Proposal lacks both. First, Commerce's proposal imposes unreasonable requirements on freely-traded goods and amounts to a restriction on free trade.

### *Khai Vy's Post-Certification Proposal Comments:*

Khay Vy did not provide the requested public executive summary regarding this argument. Khay Vy's argument may be found at page 1 of its case brief.

### *Petitioner's Post-Certification Proposal Comments:*

The petitioner did not provide the requested public executive summary regarding this argument. The petitioner's argument may be found at pages 3-8 of their case brief.

### *Petitioner's Post-Certification Proposal Rebuttal Comments:*

The petitioner did not provide the requested public executive summary regarding this argument. The petitioner's argument may be found at pages 11-13 of their case brief.

**Commerce's Position:** We disagree that the proposed certification requirements are unduly burdensome or unnecessary. As explained in Comment 7 above, this scope inquiry involves a country-wide determination, in-scope inquiry merchandise that is not facially discernible from non-subject merchandise, and evasion concerns. As such, the imposition of a certification regime is reasonable because it will ensure that Commerce can effectively enforce the *Orders*. The regime merely requires that exporter and importer certifications be filed at the time of entry and that exporters and importers maintain documentation supporting their claim that their wooden cabinets are non-subject merchandise. These limited requirements ensure that

Commerce, and CBP, as appropriate, can verify such claims and that parties cannot avoid the discipline of the *Orders*.

Further, we state that the certification requirements proposed in this scope inquiry are like those required in the *Quartz Surface Products from China Scope Final* and *Hardwood Plywood from China Circumvention Final*. Specifically, in those and other proceedings, Commerce required (1) importers to complete and maintain importer and exporters certifications; (2) exporters to complete and maintain the applicable exporter certification and provide the importer a copy of that certification and all supporting documentation; and (3) importers or their agents were required to upload both certifications to CBP's document imaging system.<sup>153</sup>

As such, we do not find that the proposed certification requirements are unreasonable or impose any requirements outside of those included in our standard certification regimes. For these reasons, we find certification requirements to be reasonable and consistent with Commerce practice.

#### **Comment 9: Whether 45 Days Is Sufficient Time to File All Certifications**

##### *American Woodmark's Post-Certification Proposal Comments:*

American Woodmark did not provide the requested public executive summary regarding this argument. American Woodmark's argument may be found at page 2 of its case brief.

##### *Cabinetworks Post-Certification Proposal Comments:*

The following is verbatim summary of argument submitted by Cabinetworks. For further details, see Cabinetworks' Post-Certification Proposal Comments at 6.

In its Certification Proposal, Commerce indicates that importers will have 45 days from the final scope ruling to submit certifications for imports entered for consumption starting on November 4, 2021, through the date of the final scope ruling. Such a requirement is both unreasonable and arbitrary. Even if {Commerce} imposes a retroactive requirement on non-subject merchandise under this scope proceeding, this 45-day period is unreasonable and should be extended to 180 days to allow importers and their suppliers to prepare the necessary documentation.

##### *DH Exporters Post-Certification Proposal Comments:*

The following is a verbatim summary of the argument submitted by DH Exporters. For further details, see DH Exporters' Post-Certification Proposal Comments at 9-11

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<sup>153</sup> See *Quartz Surface Products from China Scope Final*; see also *Hardwood Plywood from China Circumvention Final*; and *Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 88 FR 77266 (November 9, 2023).

{Commerce} should also clarify whether the U.S. importer is required to upload through DIS the relevant certification for unliquidated entries from November 4, 2021, through the date of the final scope ruling and allow 90 days (instead of the proposed 45 days) for the exporters and importers to prepare certifications on such past entries. Further, {Commerce} should not start imposing the requirement of certifications being uploaded as part of the entry process until 14 days after the final scope ruling, as the certification template will not become final until {Commerce} releases the final scope ruling.

*JSI Post-Certification Proposal Comments:*

The following is a verbatim summary of argument submitted by JSI. For further details, see JSI's Post-Certification Proposal Comments at 2-5.

{Commerce} should amend the deadline for interested parties to submit certifications for unliquidated entries (and entries that have not been finally liquidated) from 45 to 90 days after the {Commerce}'s final scope ruling. The current deadline of 45 days from the final scope ruling is not enough time for parties to complete the relevant certifications insofar as the type of analysis and tracing required—for potentially more than a year of entries—is too complex to be undertaken within that timeframe. Amending the deadline to file certifications for all unliquidated entries (and entries that have not finally liquidated) will ensure that {Commerce} gives interested parties sufficient opportunity to comply with the certification requirements. Amending the deadline to file certifications is consistent with prior practice involving complex certifications and will not undermine {Commerce}'s ability to enforce its final scope ruling. Accordingly, good cause exists to extend the deadline to submit certifications in this inquiry.

*MasterBrand Post-Certification Proposal Comments:*

The following is verbatim summary of argument submitted by MasterBrand. For further details, see MasterBrand's Post-Certification Proposal Comments at 5-6.

For the retroactive certifications (*i.e.*, for wooden cabinets entered, or withdrawn from warehouse, for consumption during the period November 4, 2021, through the date of the final scope ruling (for entries that have not been liquidated and for entries for which liquidation has not become final)), {Commerce} should extend the deadline to complete the certifications to 60 days from the later of either the date of the final scope ruling or the date of publication of the final scope ruling. This is consistent with {Commerce}'s approach in the *Quartz Surface Products from China Scope Final*.<sup>154</sup> {Commerce} should also clarify whether and how the importer should submit the retroactive certifications.

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<sup>154</sup> See MasterBrand's Post-Certification Proposal Rebuttal Comments at 3-4 (citing *Quartz Surface Products from China Scope Final*, 87 FR. 64009 (October 21, 2022) (final scope ruling on Malaysian processed quartz slab and recission of the circumvention inquiry)).

**Commerce's Position:** Given the complexities of this case, we agree that additional time is needed for interested parties to provide certifications. Thus, we are providing parties with 90 days from the issuance of the final scope *Federal Register* notice to submit certifications for imports entered for consumption starting on November 4, 2021, through the date of the final scope determination. For further details, *see* the accompanying *Federal Register* notice.

**Comment 10: Whether All Parties Are Eligible to Certify**

*Cabinetworks Post-Certification Proposal Comments:*

The following is verbatim summary of argument submitted by Cabinetworks. For further details, *see* Cabinetworks' Post-Certification Proposal Comments at 7.

In its proposed certification, Commerce indicates that importers may lose their right to certify. If such a provision continues in Commerce's final scope ruling, a process must be created to allow importers the ability to regain the right to certify.

*DH Exporters' Post-Certification Proposal Comments:*

The following is a verbatim summary of argument submitted by DH Exporters. For further details, *see* DH Exporters' Post-Certification Proposal Comments at 7-8.

DH Exporters also request that {Commerce} not impose the draconian measure of barring the exporter/importer from participating in the certification process unless there is a pattern of failure or special circumstances such as a showing of fraud, and {Commerce} should specifically state that such companies can participate in a fast-track recertification process in a {c}hanged {c}ircumstances {r}eview.

*Petitioner's Post-Certification Proposal Comments:*

The petitioner did not provide the requested public executive summary regarding this argument. The petitioner's argument may be found at pages 3-4 of its case brief.

*DH Exporters' Post-Certification Proposal Rebuttal Comments:*

The following is a verbatim summary of argument submitted by DH Exporters. For further details, *see* DH Exporters' Post-Certification Proposal Rebuttal Comments at 3-7.

{Commerce} should not accept {the p}etitioner's proposal to allow for any interested parties to request {Commerce} revoke certification eligibility of an exporter and to investigate the accuracy of the certification in the context of an administrative review. Such requests are necessarily followed by an investigation by {Commerce}.

However, with or without a certification regime, CBP is already tasked to administer the entry process, which necessarily includes examining whether entries are properly filed as AD CVD subject or non-subject merchandise.

It is burdensome and unnecessary for {Commerce} to create a duplicative procedure. Moreover, if {Commerce} tentatively allows for interested parties to review requests of a Vietnamese {wooden cabinets} exporter in the normal AD and CVD administrative review solely for purposes of verifying certification accuracy, {Commerce} should clarify and set up additional procedures to prevent the requestor from abusing such procedure.

*Petitioner's Post-Certification Proposal Rebuttal Comments:*

The petitioner did not provide the requested public executive summary regarding this argument. The petitioner's argument may be found at pages 13-14 of its case brief.

**Commerce's Position:** As discussed above, Commerce may implement certification regimes under 19 CFR 351.228. In this scope inquiry, the subject merchandise is not facially discernible from non-subject merchandise, and typical sales documentation may not provide sufficient documentation to support a claim that merchandise is non-subject. Therefore, certification is an important enforcement tool which enables Commerce to enforce the *Orders* and collect duties, where appropriate.

In the Certification Proposal, we explained that because Commerce made no findings in these inquiries that interested parties failed to participate in this proceeding, all interested parties are eligible to participate in the certification regime.<sup>155</sup> For this final determination, we continue to find that all parties may participate in the certification regime.

Interested parties proposed several alterations to the certification language regarding importers and exporters' loss and recovery of eligibility to certify:

First, DH Exporters proposes that Commerce modify paragraph L of the importer certification, and paragraph I of the exporter certification, which state that failure to maintain the required certification and supporting documents or failure to substantiate claims may result in the importer or seller/exporter losing its ability to participate in the certification process.<sup>156</sup> DH Exporters calls for changes to subparagraph (iii) of paragraph L of the importer certification and of paragraph I of the exporter certification, amending by addition "may also result in the importer no longer being allowed to participate in the certification process;" with "upon special circumstances such as a pattern of failure or showing of fraud."<sup>157</sup>

DH Exporters argues that in other related processes companies are not excluded from participating by making minor errors which can occur for even the most conscientious

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<sup>155</sup> See Certification Proposal at 8-9.

<sup>156</sup> See DH Exporters' Post-Certification Proposal Comments at 8.

<sup>157</sup> *Id.*



participants including: (1) section 782(d) of the Tariff Act of 1930, as amended (the Act) recognizes that a company can make mistakes when responding to AD/CVD questionnaires and requires that Commerce issue a supplemental questionnaire that would allow respondents an opportunity to correct or clarify the information provided;<sup>158</sup> (2) the *Nippon Steel* court recognized that the statutory mandate that a respondent act to “the best of its ability” requires the respondent to do the maximum it is able to do;<sup>159</sup> and (3) CBP’s import process similarly allows companies to correct entry documents within 300 days from the date of entry and up to 15 days of the scheduled liquidation date.<sup>160</sup>

The petitioner avers that Commerce should reject DH Exporters proposal because it would unnecessarily constrain Commerce’s discretion to revoke an importer or exporter’s eligibility to participate in the certification process.<sup>161</sup> The petitioner argues that a refusal to allow verification is grounds for revocation of the company’s eligibility to participate in the certification process in and of itself and does not require “a pattern of failure or showing of fraud.”<sup>162</sup> Alternatively, even where no fraud has been shown, there may be circumstances where an exporter’s eligibility may be revoked for an act of negligence.<sup>163</sup>

We decline to adopt the proposed modifications to the certifications. The paragraphs at issue demand maintenance of the required certifications, allowance of verification by CBP and/or Commerce, and the substantiation of claims made in the certifications (*i.e.*, passing verification). This language is consistent with certifications we have established in other proceedings, and as such, is consistent with Commerce’s certification practice. Moreover, we find that questions of certification eligibility are best evaluated on a case-by-case basis, as these determinations are heavily fact-specific. To the extent that certain parties are deemed ineligible to participate in a certification regime, Commerce may evaluate individual certification eligibility in an administrative review of the underlying order or during a changed circumstances review.<sup>164</sup> For this reason, we find it is not appropriate to amend by addition subparagraph (iii) of paragraph L of the importer certification and paragraph I of the exporter certification with a requirement to find “a pattern of failure” or “fraud.”

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<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at 5 (citing *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (*Nippon Steel*)).

<sup>160</sup> *Id.* at 8 (citing *Post-Entry Amendment (PEA) Processing Test: Modification, Clarification, and Extension*, 76 FR 37136 (June 24, 2011)).

<sup>161</sup> See Petitioner’s Post-Certification Proposal Rebuttal Comments at 14.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> See 2021 Final Rule 86 FR at 52353 (“Additionally, as discussed below under {19 CFR} 351.228, parties can seek a changed circumstances review or raise issues regarding ongoing certification requirements in the context of an administrative review, as appropriate); *Id.*, 86 FR at 52364-65; see also *Glycine from the People’s Republic of China: Initiation of Antidumping Duty Changed Circumstances Review*, 81 FR 81064 (November 17, 2016) (“However, we also stated that Salvi could request an administrative review or a changed circumstances review to show that it is no longer processing PRC-glycine and exporting such glycine from India”); *Glycine from the People’s Republic of China: Final Results of the Changed Circumstances Review*, 83 FR 5611 (February 8, 2018); *Certain Quartz Surface Products from the People’s Republic of China: Rescission of Antidumping and Countervailing Duty Changed Circumstances Reviews; Global Stone*, 88 FR 72993 (October 24, 2023) (“Commerce explained that an administrative review is the proper segment of a proceeding for a party deemed ineligible from participating in a certification process to request reconsideration of its eligibility to certify, absent evidence of a changed circumstance.”)

Second, DH Exporters argues that it is necessary to ensure the speedy resolution of a company's certification eligibility question, and there should therefore be an established mechanism for quickly clearing certification deficiencies.<sup>165</sup> DH Exporters proposes that Commerce add a subheading (iv) to paragraph L of the importer certification and paragraph I of the exporter certification, which states any importers or exporters barred from participating in the certification program pursuant to paragraph (iii) can apply for a fast-track re-certification process under a changed circumstances review.<sup>166</sup> As explained above, Commerce may evaluate individual certification eligibility in an administrative review or a changed circumstances review.

Third, the petitioner argue that Commerce should clarify how the petitioner or other interested parties can request that Commerce revoke the eligibility of a foreign exporter based on evidence that it has made false claims in its certifications or otherwise failed to abide by the certification procedures (e.g., by failing to maintain and/or submit required supporting documentation).<sup>167</sup>

Here, DH Exporters argues that it is unclear what procedure the petitioner is seeking. DH Exporters provides three examples of certification language in the *Solar Cells from China Circumvention*, *Aluminum Foil from China Circumvention*, and *Hardwood Plywood from China Circumvention Final* where the exporter and importer are required to provide the certifications and supporting documents upon requests made by Commerce and CBP.<sup>168</sup> DH Exporter argues that it overlaps with CBP's routine enforcement of the certification regime. CBP issues Customs Form 28 (CF-28) to the importers to request for certification and/or supporting documents to verify the accuracy of the entry documents.<sup>169</sup> DH Exporters argues that there are already adequate procedures to police exporters and importers.<sup>170</sup> DH Exporters assert that allowing interested parties such as the petitioner to request review and to impose additional procedures to verify the certifications will only create unnecessary burdens and may place the importer and exporter under double-investigations by different agencies at the same time.<sup>171</sup>

Interested parties will be afforded an opportunity to comment on any actions we take with respect to determining whether respondent parties have maintained certifications, allowed verification, and were able to support statements made in their certifications.

Fourth, the petitioner argues that Commerce should provide additional guidance regarding how interested parties can request that Commerce investigate the accuracy of the certifications made by foreign exporters in the context of an administrative review. This is because if false

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<sup>165</sup> See DH Exporters' Post-Certification Proposal Comments at 9.

<sup>166</sup> *Id.* at 9.

<sup>167</sup> See Petitioner's Post-Certification Proposal Comments at 4.

<sup>168</sup> See DH Exporters' Post-Certification Proposal Rebuttal Comments at 4 (citing *Antidumping and Countervailing Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Affirmative Determinations of Circumvention With Respect to Cambodia, Malaysia, Thailand, and Vietnam*, 87 FR 75221, 75227-75228 (December 8, 2022) (*Solar Cells from China Circumvention*); *Antidumping and Countervailing Duty Orders on Certain Aluminum Foil From the People's Republic of China: Preliminary Affirmative Determinations of Circumvention With Respect to the Republic of Korea and the Kingdom of Thailand*, 88 FR 17177, 17181-17182 (March 22, 2023) (*Aluminum Foil from China Circumvention*); *Hardwood Plywood from China Circumvention Final*..

<sup>169</sup> See DH Exporters' Post-Certification Proposal Rebuttal Comments at 4.

<sup>170</sup> *Id.* at 5.

<sup>171</sup> *Id.* at 5.

certifications are made, it is unlikely that there will be a suspended entry of subject merchandise that can serve as the basis for an administrative review and the assessment of duties.<sup>172</sup>

DH Exporters also object to this proposal because (1) CBP already routinely issues CF-28s to verify the certifications and supporting documents in past certification regimes;<sup>173</sup> and (2) Commerce must not allow the petitioner to subject an exporter of wooden cabinets from Vietnam into the wooden cabinets from China administrative review segments by filing a simple administrative review request.<sup>174</sup>

For orders which require certifications, Commerce and CBP may verify certifications and supporting documentation. Commerce's circumvention practice continues to evolve as we gain greater experience with the use of certifications for monitoring and enforcement of AD/CVD orders. As a result, Commerce declines at this time to delineate specific processes for parties to alert Commerce of false certification claims or failure to abide by certification procedures. Because any such situations are likely to be fact-specific, they will be addressed on a case-by-case basis, if they arise.

Fifth, Cabinetworks argues that a process must be created to allow importers the ability to regain the right to certify after losing it.<sup>175</sup>

Because all parties can certify at this time, Commerce does not need to make a ruling on how it might allow parties to regain eligibility to certify. If such an issue arises in the future, Commerce can consider it on a case-by-case basis. As noted above, however, this question is often answered in an administrative review or a changed circumstance review.

#### **Comment 11: Whether Other Revisions to the Certification Language Are Appropriate**

##### *DH Exporters' Post-Certification Proposal Comments:*

The following is a verbatim summary of argument submitted by DH Exporters. For further details, *see* DH Exporters' Post-Certification Proposal Comments at 5-7.

In the event that {Commerce} continues to determine that the imposition of a certification regime is warranted, {Commerce} should include detailed descriptions of the inquiry production scenarios in the certification templates, revise certain paragraphs on the {e}xporter {c}ertification and {i}mporter {c}ertification to require for reporting of the three-piece components (*i.e.*, doors, drawer faces, and frames) only.

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<sup>172</sup> See Petitioner's Post-Certification Proposal Comments at 4.

<sup>173</sup> See DH Exporters' Post-Certification Proposal Rebuttal Comments at 6.

<sup>174</sup> *Id.* at 6.

<sup>175</sup> See Cabinetworks' Post-Certification Proposal Comments at 7.

*MasterBrand Post-Certification Proposal Comments:*

The following is verbatim summary of argument submitted by MasterBrand. For further details, see MasterBrand's Post-Certification Proposal Comments at 3-5.

{Commerce} should more clearly define the phrases “wooden cabinet components,” “constituent wooden parts,” and “inputs” used in the importer and exporter certifications. The Department should confirm that these references are to the components and parts specified in the definitions of Scenarios 1-3, and not any raw materials or anything that could be called a component. {Commerce} should amend the language in the certifications to specifically reference the components and parts specified in Scenarios 1-3. These clarifications will be important to ensure that the certification requirements are not ambiguous and so that the information requested in the certifications matches the specific components and parts that are at issue in these scope inquiries.

**Commerce's Position:** Interested parties proposes six changes to the importer and exporter certifications.

First, DH Exporters argues that the Scenario 2 and 3 descriptions that we used in the importer and exporter certifications and in the AD and CVD in-scope customs are not clear enough and we should use updated language based on the Petitioner's NFI instead.<sup>176</sup> DH Exporters also argues that we should make this change because CBP will not be aware of the intricacies of our final scope ruling.<sup>177</sup> We disagree with DH Exporters that the language needs to be more specific.<sup>178</sup>

Commerce's Proposed Text:

Scenario 2: semifinished wooden doors, drawer faces, and frames produced in China are further processed in Vietnam and then combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam.

Scenario 3: semifinished parts of wooden cabinet and vanity doors, drawer faces, and frames (including the rails, stiles, and panels) are produced in China and are further processed in Vietnam and then combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam.

Revised Text:

Scenario 2: semifinished wooden doors, drawer faces, and frames that are individually assembled in China, where the further processing on these semifinished components in Vietnam consists of painting, staining, coating, or

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<sup>176</sup> See DH Exporters' Post-Certification Proposal Comments at 5-6.

<sup>177</sup> *Id.* at 5-6.

<sup>178</sup> See Petitioner's SQR at 5-6; see also Petitioner's NFI at 3-4.

overlaying with other components or covering, and then combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam.

Scenario 3: semifinished parts of wooden cabinets and vanity doors, drawer faces, and frames (consisting of the rails, stiles, and panels that are fully formed in China, where the further processing in Vietnam on these parts of components starts with assembling them into individual doors, drawer faces, and frames, and then further processed into finished doors, drawer faces, and frames, and combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam.

As explained above, Scenarios 2 and 3 are illustrative and cover a range of products and third country processing included in the scope of the *Orders*. As part of our substantial transformation analysis, we have detailed the processes completed in each country and the components and components parts that are required. The scenario descriptions are consistent with the language of the scope of the *Orders*. As such, we do not recommend making any changes to alter this language or narrow the meaning of illustrative scenario descriptions.

Second, DH Exporters proposes that Commerce revise exporter certification paragraph (E) where it requires the exporters to provide the “Name of Producers of Wooden Cabinet Components.”<sup>179</sup> DH Exporters requests that Commerce modify this field to be titled “Name of Producers of Wooden Cabinet Components - Doors, Drawer Faces, and Frames” in effect changing the requirement to not include those who produced other subassemblies in the RTA kit exported to the United States.<sup>180</sup>

MasterBrand proposes that the exporter certification in paragraph (E) be amended to explain that the phrase “wooden cabinet components” is in reference to finished and semifinished wooden doors, drawer faces, and frames and wooden cabinet boxes and drawer boxes (*i.e.*, the components specified in Scenarios 1, 2, and 3).<sup>181</sup>

DH Exporters argues in support of the change that (1) Scenarios 1, 2, and 3 must contain these three-subassemblies (*i.e.*, doors, drawer faces, and frames) which are started in China; (2) the producer identity and location of the cabinet box and drawer boxes has no impact on the issue whether a certain RTA kit is subject to the instant scope inquiry or not; and that (3) requiring the exporter to list producer names of all wooden components is unnecessary and unduly burdensome, and only complicates the certification form.<sup>182</sup>

We disagree with DH Exporters. As part of certification, we intend for parties to report and maintain verifiable information regarding imports of wooden cabinets, wooden components and wooden component parts to ensure entries are properly identified as subject or non-subject. If we tailored the certification process solely to require reporting of doors, drawer faces, and frames, it would likely be more difficult for Commerce or CBP to fully analyze whether merchandise is correctly entered because parties would not be required to maintain supporting

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<sup>179</sup> See MasterBrand’s Post-Certification Proposal Comments at 4-5.

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> See DH Exporters’ Post-Certification Proposal Comments at 6.

documentation regarding the other components and may, with the passage of time, have difficulty producing such documentation in response to a request by Commerce or CBP. Further, as explained above, the certification requirements adopted in this inquiry are similar to those instituted in *Quartz Surface Products from China Scope Final* and the *Hardwood Plywood from China Circumvention Final*. However, we disagree with MasterBrand, and do not find it necessary to further define the meaning of wooden cabinet components because the scope covers complete wooden cabinets, wooden cabinet components, and wooden cabinet component parts. We made certain modifications to the certification language to clarify that all three items are subject to the *Orders*. In paragraph (E) in the exporter certification, we also clarified the text of the sixth line of the reporting block from “Name of Producer of Wooden Cabinet Components” to “Name of Producer(s) of Wooden Cabinets, Wooden Cabinet Components, and Wooden Cabinet Component Parts” in order that the text describe what should be reported in every potential use of the reporting block.

Third, DH Exporters, and MasterBrand propose redefining, also in paragraph (E) in the exporter certification, the requirement that importers provide the “Location (Country) of Producer of INPUT” because the term “INPUT” is not defined. Commerce should revise this field to “Location (Country) of Producers of Wooden Cabinet and Components - Doors, Drawer Faces, and Frames.”<sup>183</sup> DH Exporters also points out that it is appropriate for Commerce to also solicit the producer’s address on the exporter certification to be consistent with the importer certification.<sup>184</sup>

As explained above, we find it inappropriate to limit the certification reporting requirements solely to doors, drawer faces, and frames. However, we recommend changing the text of this line of the reporting block from “Location (Country) of Producer of INPUT Producers” to “Producer’s Addresses Including Country” in paragraph (E) of the exporter certification. This revision provides greater clarity regarding this certification reporting requirement.

Fourth, DH Exporters proposes redefining, in paragraph (F), of the importer certification, the requirement to report “Country of Origin of Wooden Cabinet Components or Constituent Wooden Parts” to “Country of Origin of Wooden Cabinet Components - Doors, Drawer Faces, and Frames, or Constituent Wooden Parts.”<sup>185</sup>

DH Exporters argues that Commerce should narrow the reporting of the country of origin of components (*i.e.*, doors, drawer faces, and frames) that determine whether the RTA kits exported to the U.S. are subject to the *Orders*.<sup>186</sup>

MasterBrand proposes that Commerce explain in the importer certification at paragraph (F) that (1) the phrase “wooden cabinet components” is in reference to finished and semifinished wooden doors, drawer faces, and frames and wooden cabinet boxes and drawer boxes (*i.e.*, the components specified in Scenarios 1, 2, and 3); and, (2) the phrase “constituent wooden parts” is in reference to semifinished parts of wooden cabinet and vanity doors, drawer faces, and frames

<sup>183</sup> *Id.* at 7; *see also* MasterBrand’s Post-Certification Proposal Comments at 5.

<sup>184</sup> *See* DH Exporters’ Post-Certification Proposal Comments at 7.

<sup>185</sup> *Id.* at 8.

<sup>186</sup> *Id.* at 7.



(including the rails, stiles, and panels) (*i.e.*, the component parts specified in Scenario 3). MasterBrand argues that Commerce should confirm that the above-referenced components and parts, as identified in Scenarios 1, 2, and 3, respectively, are the only components and parts for which this information must be provided.<sup>187</sup>

We disagree with DH Exporters' fourth proposal; however, to determine country of origin, we must analyze where the phases of production occur for each component part. Therefore, we have modified the field name to "Country of Origin of Wooden Cabinet Components or Wooden Cabinet Component Parts" Certified cabinets should not contain Scenario 1, 2, or 3 merchandise. Therefore, the reporting of the country of origin of components is a critical part of the certification process.

Fifth, DH Exporters proposes redefining, in paragraph (F) of the importer certification, the "Producer" field to "Producer of Wooden Cabinets."<sup>188</sup>

DH Exporter explains that it understands paragraph (F) requires the name of the producer of the RTA kit (*i.e.*, complete wooden cabinet); however, paragraph (F) begins with the instruction "to repeat this block as many times as necessary."<sup>189</sup> Therefore, DH Exporter understands this to mean that a reporting block is required for every set of subassemblies or wooden component parts provided by each producer. Additionally, it understands that the field blocks reported for an RTA kit should identify the set of producers which made all the wooden component parts which constitute the complete wooden cabinet exported to the United States.

We modified the field "Producer" to "Producer's Name" to match the Importer Certification at paragraph (F) with the Exporter Certification at paragraph (E) with respect to identifying the names of producers. We also changed producer from singular to plural in both paragraphs to indicate that each block identifies a single producer.

On this matter we agree with DH Exporters' fifth proposal that, if Commerce intends for importers to report producer identity and address of the component producers, we should expressly state this requirement. Therefore, we have changed the parenthetical instruction at the beginning of paragraph (F) to state "repeat this block as many times as necessary for each entry, to identify all the producers of wooden cabinet components and wooden component parts used to produce each wooden cabinet."

## **Comment 12: Whether to Rescind the Circumvention Inquiries**

### *Petitioner's Post-Certification Proposal Comments:*

The petitioner did not provide the requested public executive summary regarding this argument. The petitioner's arguments may be found at page 5 of its case brief.

<sup>187</sup> See MasterBrand's Post Certification Proposal Comments at 4.

<sup>188</sup> See DH Exporters' Post Certification Proposal Comments at 7.

<sup>189</sup> *Id.* at 7.

**Commerce's Position:** On June 10, 2022, Commerce initiated circumvention inquiries on wooden cabinets produced under Scenarios 1 through 4, based on a request from the petitioner.<sup>190</sup> Pursuant to 19 CFR 351.226(f)(6)(ii), Commerce may rescind a circumvention inquiry where it has been determined that the merchandise at issue in the circumvention inquiry is covered by the scope of the AD or CVD order. For this final determination, Commerce determines that Scenario 1 through 3 merchandise is subject to the *Orders*. As such, we are rescinding the circumvention for Scenarios 1 through 3, *see* companion *Federal Register* notice.

Further, on April 24, 2024, the petitioner withdrew its request for a circumvention inquiry on wooden cabinets exported from Vietnam under Scenario 4 (*i.e.*, using a wooden component part toe kick produced in China).<sup>191</sup> Therefore, we are also rescinding the circumvention inquiry for Scenario 4. The circumvention inquiry is thus rescinded in its entirety for all four scenarios on which we based our initiation, *see* the companion *Federal Register* notice.

## VII. APPENDIX A – MOOT COMMENTS

### Comment 13: Whether Incorporations by Reference Are Necessary or Valid

Several interested parties submitted comments incorporating comments from other interested parties, by reference.<sup>192</sup> The petitioner argues that this is invalid.<sup>193</sup>

**Commerce's Position:** We addressed all comments from interested parties regarding the Preliminary Scope Determination, the Post Preliminary Analysis and the Certification Proposal in this final scope determination.

### Comment 14: Whether the Product Scenarios Are Ill-Defined

#### *Cabinetworks Post-Certification Proposal Comments:*

The following is verbatim summary of argument submitted by Cabinetworks. For further details, *see* Cabinetworks' Post-Certification Proposal Comments at 3.

{T}he Certification Proposal is once again basing such a certification regime on ill-defined scenarios without providing clarity to interested parties concerning the definition of scenarios subject to this inquiry.

#### *DH Exporters Post-Certification Proposal Comments:*

The following is a verbatim summary of the argument submitted by DH Exporters. For further details, *see* DH Exporters' Post-Certification Proposal Comments at 3-4.

<sup>190</sup> *See Circumvention Initiation Notice* Initiation Memorandum; *see also* Petitioner's Scope Ruling Application.

<sup>191</sup> *See* Petitioner's Post-Certification Proposal Comments at 5.

<sup>192</sup> *See* American Woodmark's Certification Rebuttal Comments at 2; *see also* *See* Cabinetworks' Post-Preliminary Comments at 7.

<sup>193</sup> *See* Petitioner's Post-Preliminary Rebuttal Comments at 8-9.

DH Exporters urges that {Commerce} reconsider imposing a certification regime at all. Throughout this two-year long scope inquiry, the petitioner made no showing that any {wooden cabinets} produced in Vietnam were produced in a manner described in Scenarios 1 through 3 and that such {wooden cabinets} were exported to the U.S. imposing a burdensome certification regime over hypothetical production scenarios is both unreasonable and arbitrary.

*Petitioner's Post-Certification Proposal Rebuttal Comments:*

The petitioner did not provide the requested public executive summary regarding this argument. The petitioner argument may be found at pages 8-10 of its case brief.

**Commerce's Position:** The issues raised here are addressed as part of Comment 1 above.

## VIII. RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(k)(1) and 19 CFR 351.225(j), we recommend finding that Scenarios 1, 2, and 3 are within the scope of the *Orders* and that Scenario 4 is not within the scope of the *Orders*.

If the recommendation in this memorandum is accepted, we will notify CBP of this determination and send a copy of the final scope ruling to all parties to the proceeding, as directed by section 516A(a)(2)(A)(ii) of the Act and 19 CFR 351.225(h).

☒

\_\_\_\_\_  
Agree

☐

\_\_\_\_\_  
Disagree

7/10/2024

X



Signed by: SCOT FULLERTON

Scot Fullerton  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

## APPENDIX B

### Description of Wellborn Data

The data in this appendix was used to conduct the COP analysis for prong four of the substantial transformation test for Scenarios 1, 2, and 3.

As NFI the petitioner submitted production data from Wellborn, a U.S. producer of wooden cabinets.<sup>194</sup>

#### Description of the Wooden Cabinet

Overall Dimensions: 60 in x 34.5 in x 24 inn (1524 mm x 876 mm x 610 mm)<sup>195</sup>

Layout: four 15 in. wide bays, each bay contains either a drawer and door stack, or a drawer blank (drawer face without drawer box) and door stack.

#### Solid Wood Type and Number of Solid Wood Parts as a Percentage of All Parts:

Wellborn produced its wooden cabinet with [ ] solid wood, including [ ] parts of the frame, [ ] parts of door rails, stiles and panels, [ ] parts of the drawer-face rails, stiles, and panels, and [ ] parts of the drawer box backs, bottoms, front and sides.<sup>196</sup> In total 89 of 100 parts totaling 89 percent of the total parts, containing 80 percent of the total wood volume of the wooden cabinet are solid maple.<sup>197</sup>

#### Input Volumes of Wood by Type:

0.1555m<sup>3</sup> maple solid wood  
0.0088 m<sup>3</sup> MDF  
0.0009 m<sup>3</sup> oak solid wood  
0.0284 m<sup>3</sup> particle board  
0.0010 m<sup>3</sup> poplar solid wood  
0.1945 m<sup>3</sup> total wood volume<sup>198</sup>

Yield Loss: Not reported for Wellborn. The petitioner provided [ ] yield loss to produce 52,000 unspecified cabinets in a month by subassembly.<sup>199</sup>

Specificity of Dataset: Costs were reported based on the petitioner's defined phases: Phase 1(a), Phase 1(b), Phase 2, Phase 3.<sup>200</sup>

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<sup>194</sup> See Petitioner's Comments at Exhibit 2(g); *see also* Petitioner's NFI at Exhibit 5.

<sup>195</sup> See Petitioner's NFI at Exhibit 6.

<sup>196</sup> See Petitioner's Comments at Exhibit 2(a).

<sup>197</sup>  $0.1555/0.1945 = 0.7995$

<sup>198</sup> See Petitioner's Comments at Exhibit 5.

<sup>199</sup> See Petitioner's NIF at Exhibit 4.

<sup>200</sup> *Id.* at Exhibit 5.

## APPENDIX C

### Description of Qufu Data

The data in this appendix was used to conduct the COP analysis for prong four of the substantial transformation test for Scenario 4.

In the first administrative review Qufu's reported cost of production and a bill of materials which contained the dimensions of every wooden part as well as information about yield loss.<sup>201</sup>

#### Description of the Wooden Cabinet

Overall Dimensions: 1,524 mm x 876 mm x 533 mm (60 in x 34.5 in x 21 in)<sup>202</sup>

Layout: One drawer blank (a drawer face with no drawer box) which runs the length of the cabinet over a pair of center doors and two outer stacks containing two drawers each.

#### Solid Wood Type and Number of Solid Wood Parts as a Percentage of All Parts:

Qufu's produced its wooden cabinet with [ ] solid wood, including [ ] parts of the frame, [ ] parts of door rails and stiles (but not panels), [ ] parts of drawer-face rails and stiles and panels, and [ ] parts of drawer box backs, fronts, and sides (but not bottoms). In total [ ] of [ ] parts totaling [ ] percent of parts of the wooden cabinet are solid [ ].

#### Volumes of Wood by Type:

[ ] m<sup>3</sup> [ ] solid wood  
 [ ] m<sup>3</sup> [ ]  
 [ ] m<sup>3</sup> [ ]  
 [ ] m<sup>3</sup> total wood volume<sup>203</sup>

Yield Loss: Final volume of wooden parts reported, input volume determined by allocating total yearly consumption by units produced.

Specificity of Dataset: Costs were reported by unit according to our nonmarket economy methodology.

<sup>201</sup> See Memorandum, "Information from the First Administrative Review," dated March 16, 2023, at Attachment 2 (containing Qufu's Letter, "Qufu Xinyu First Supplemental Questionnaire Response," dated December 30, 2021, at Exhibit SQ1-5).

<sup>202</sup> *Id.*

<sup>203</sup> See Memorandum, "Preliminary Scope Determination – Analysis Memorandum," dated March 16, 2023, at Attachment 1, 'Standard Volume' tab.