



## U.S. Customs and Border Protection

July 21, 2023

### **PUBLIC VERSION**

EAPA Case Number: 7718

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RE: Notice of Determination as to Evasion

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To the Counsel and Representatives of the above-referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (“EAPA”) Investigation 7718, U.S. Customs and Border Protection (“CBP”) has determined there is substantial evidence that Zinus Inc. (USA) (“Zinus US”) entered merchandise covered by the antidumping (“AD”) duty order (A-570-890) on wooden bedroom furniture (“WBF”) from the People’s Republic of China (“China”)<sup>1</sup> into the customs territory of the United States through evasion. Substantial evidence demonstrates that Zinus US imported Chinese-origin WBF by using a general product description and also misclassified the WBF as non-covered merchandise not subject to the AD

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<sup>1</sup> 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 Fed. Reg. 329 (Dep’t of Commerce Jan. 4, 2005) (Case No. A-570-890) (“WBF Order” or “AD Order”).

duty order. Additional evidence also indicates that while Zinus US provided certain accurate identifying information on entry documents, the company failed to file the entries as type “03” for merchandise subject to the Order, and instead filed type “01” entries without listing the appropriate AD Order. As a result, no cash deposits were applied to the merchandise at the time of entry.

## Background

The Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, acknowledged receipt of the properly filed allegation by the CVB Inc., dba Malouf® (“CVB Inc. or the Allegor”), against Zinus US on March 23, 2022.<sup>2</sup> In its allegation, the Allegor stated that Zinus US imported certain platform beds composed of wooden headboards and footboards with metal frames but identified them as metal furniture using a general product description.<sup>3</sup> Further, it is alleged that these Chinese-origin beds were misclassified using the HTS for metal furniture.<sup>4</sup>

TRLED found that the information provided in the allegation reasonably suggested that covered merchandise had been entered for consumption by Zinus US into the customs territory of the United States through evasion. Consequently, CBP initiated an investigation with respect to Zinus US on July 19, 2022, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the “Enforce and Protect Act” or EAPA.<sup>5</sup>

On August 4, 2022, CBP issued several CBP Form 28 (“CF-28”) requests for information to Zinus US.<sup>6</sup> The CF-28 requested sales, production, and factory documentation. CBP also examined shipments imported by Zinus US and identified during the initial stages of the investigation to determine the composition of the platform beds imported by Zinus US and discovered a Zinus US model wood and metal headboard and footboard that would be within the scope of the AD Order.<sup>7</sup> After evaluating all of the information on the record at that time, TRLED determined that reasonable suspicion existed that wooden bedroom furniture imported into the United States by Zinus US was in fact incorrectly identified as non-covered bedroom furniture.<sup>8</sup> Specifically, TRLED based its finding on information provided in the allegation;<sup>9</sup> CBP’s review of documentation for Zinus US’ shipments examined prior to entering US

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<sup>2</sup> See the Allegor’s Letter, “Allegation of AD Evasion Under the Enforce and Protect Act of 2015,” dated March 23, 2022 (“Zinus US Allegation”) and the Allegor’s Supplemental Letter, “Evasion Allegation Against Zinus Inc. (USA), An Importer of Wooden Bedroom Furniture From the People’s Republic of China (Case No. A-570-890),” dated March 26, 2022 (“Zinus US Allegation Supplement”).

<sup>3</sup> See *id.* at page 2.

<sup>4</sup> *Id.* at page 2-3.

<sup>5</sup> See 19 USC 1517(b)(1); see also 19 CFR 165.15; see also CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7718 – Zinus US,” dated July 19, 2022.

<sup>6</sup> See CF-28 Request to Zinus US (August 4, 2022), Zinus US CF-28 Request Re\_ Entry number [Number]0346; Zinus US CF-28 Request Re\_ Entry number [Number]2613; and Zinus US CF-28 Request Re\_ Entry number [Number]5771.

<sup>7</sup> See cargo examination photos in Cargo Examination Documents including “CEE-CPMM- Cargo Exam [Number]-1; “CEE-CPMM- Cargo Exam [Number]-2; “CEE-CPMM- Cargo Exam [Number]-3; “CEE- CPMM- Cargo Exam [Number]-4; “CEE- CPMM- Cargo Exam [Number]-5; and “CEE- CPMM- Cargo Exam [Number]-6 (“Cargo Exam Photos”).

<sup>8</sup> See Memorandum “Notice of Initiation of Investigation and Interim Measures for EAPA Case Number 7718 – Zinus US” (“NOI”).

<sup>9</sup> See Zinus US Allegation and Zinus US Allegation Supplement

commerce;<sup>10</sup> the submission of product descriptions and SKU numbers from Zinus US;<sup>11</sup> and the analysis of the CF-28 information.<sup>12</sup> Consequently, CBP imposed interim measures on October 17, 2022.<sup>13</sup>

On December 02, 2022, CBP sent requests for information (“RFI”s) to Zinus US by email.<sup>14</sup> Zinus US responded on January 30, 2023.<sup>15</sup> On December 12, 2022, CBP also emailed RFIs to the foreign manufacturers, Zinus (Fujian) Inc. (“Zinus Fujian”) and Zinus Xiamen Inc (“Zinus Xiamen”), and to the Korean parent company<sup>16</sup>, Zinus Inc. (“Zinus KR”).<sup>17</sup> Another RFI was sent via FedEx to manufacturer [Company’s Name] on December 16, 2022 because an email address was not available.<sup>18</sup> Zinus US, Zinus KR, Zinus Fujian, and Zinus Xiamen responses were emailed to CBP on January 30, 2023 by Zinus US’ counsel.<sup>19</sup> No response was received from [Company’s Name]. A supplemental request for information (“SRFI”) was sent to Zinus US; and to manufacturers, Zinus Fujian and Zinus Xiamen, and the parent company, Zinus KR, as a combined SRFI on April 04, 2023.<sup>20</sup> After TRLED granted several extensions, the response

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<sup>10</sup> See CF-28 Partial Response for Entry [Number]5771, dated September 1, 2022 (“CF-28 Response [Number]5771”). See CF-28 Response for Entries [Number]2613, [Number]0346 and [Number]5771, dated September 28, 2022 (“CF-28 Response [Number]2613”, “[Number]0346” and “[Number]5771”). See also Cargo Examination Documents.

<sup>11</sup> See Product and SKU information. See “Zinus Request for Reconsideration of Initiation and Imposition of Interim Measures” (November 7, 2022) (“Zinus Request for Reconsideration”) at Exhibit 1 and Exhibit 2 Excels.

<sup>12</sup> See CF-28 Response [Number]2613, [Number]0346 and [Number]5771.

<sup>13</sup> See Memorandum “Notice of Initiation of Investigation and Interim Measures for EAPA Case Number 7718 – Zinus US” (October 17, 2022) (“NOI”).

<sup>14</sup> See Zinus US RFI, “TRLED Request RFI Response For Zinus US Inc (December 2, 2022) (“Zinus US RFI”).

<sup>15</sup> See Zinus US RFI Response, “TRLED Request RFI Response For Zinus US Inc Response (January 30, 2023) (“Zinus US RFI Response”).

<sup>16</sup> Zinus US is an importer of furniture based in the United States and is wholly owned by its Korean based parent company, Zinus Inc. (“Zinus KR”). Zinus KR also wholly own Zinus Fujian Inc. (“Zinus Fujian”) and Zinus Xiamen (“Zinus Xiamen”). Zinus Fujian, located in Jiulong Gongyeyuan Huaan Jingji Kai Fujian China (Mainland), is a producer of covered merchandise (i.e., wooden bedroom furniture). Zinus Xiamen is a furniture production facility located at Zinus Building, Huan Zhu, Road#461-471, Jimei, District, Xiamen, Fujian, China. Zinus US did not make any purchases directly from Zinus Fujian or Zinus Xiamen. The manufacturers first sell merchandise to Zinus KR; then Zinus KR sells the merchandise to Zinus US.

<sup>17</sup> See Zinus Fujian, Zinus KR and Zinus Xiamen RFIs, “TRLED Request RFI For Zinus Fujian Inc (“Zinus Fujian RFI”),” “TRLED Request RFI For Zinus Inc. (“Zinus KR”)” and “TRLED Request RFI For Zinus Xiamen Inc (“Zinus Xiamen”)” (December 12, 2022) (“Zinus Fujian RFI, Zinus KR RFI and Zinus Xiamen RFI”).

<sup>18</sup> See [Company’s Name], “TRLED Request RFI For [Company’s Name] (December 15, 2022) [Company’s Name]. Zinus KR received covered merchandise from manufacturer, [Company’s Name] located at [Company’s Address], from sales sourced by Golden Well (HK), Ltd. (“Golden Well”) located at Room 2, 2/F, Tower 1, Harbour Centre, 1 Hok Cheung Street, Hungghom, Kowloon, Hong Kong. [Company’s Name] was the manufacturer listed on commercial invoices and packing lists for entries of covered merchandise.

<sup>19</sup> See Zinus Fujian, Zinus KR and Zinus Xiamen RFI Responses, “TRLED RFI Response Zinus Fujian Inc (“Zinus Fujian RFI”),” “TRLED RFI Response For Zinus Inc. (“Zinus KR”)” and “TRLED RFI Response For Zinus Xiamen Inc (“Zinus Xiamen”)” (January 30, 2023) (“Zinus Fujian RFI, Response, Zinus KR RFI Response and Zinus Xiamen RFI Response”).

<sup>20</sup> See Supplemental RFI for Zinus US and for Zinus Fujian, Zinus KR and Zinus Xiamen (Combined), (“TRLED Supplemental Importer RFI Zinus” and “TRLED Supplemental Manufacturer RFI Zinus Inc -” (“Zinus SRFI” and “Combined SRFI”).

from Zinus US was received on May 5, 2023,<sup>21</sup> and the combined SFRI response from Zinus Fujian, Zinus Xiamen, and Zinus KR was received on May 3, 2023.<sup>22</sup>

Zinus US submitted voluntary factual information on February 6, 2023,<sup>23</sup> and the Alleger submitted its response to the factual information on February 9, 2023.<sup>24</sup> Zinus US forwarded its written arguments on May 30, 2023.<sup>25</sup> On June 14, 2023, the Alleger submitted a rebuttal response to Zinus US' written arguments.<sup>26</sup>

## Analysis

Under 19 USC 1517(c)(1)(A), to reach a determination as to evasion, CBP must “make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.”<sup>27</sup> The term “covered merchandise” is defined as “merchandise that is subject to a CVD order... and/or an AD order...”<sup>28</sup> “Evasion” is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.”<sup>29</sup> As discussed below, substantial evidence on the record of this investigation indicates that Zinus US entered covered merchandise through evasion.

### *Description of Covered Merchandise*

The *AD Order* (A-570-890)<sup>30</sup> for the covered merchandise describes WBF as:

“made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.”<sup>31</sup>

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<sup>21</sup> See Zinus US SFRI, “Zinus U.S. Supplemental Importer Request for Information Response” (May 3, 2023) (“Zinus US SRFI Response”).

<sup>22</sup> See Zinus Fujian, Zinus KR and Zinus Xiamen (Combined) SFRI Response, “Zinus U.S. Supplemental Manufacturer Request for Information Response” (May 5, 2023) (“Combined SRFI Response”). Supplemental RFI response manufacturer

<sup>23</sup> See Zinus US Voluntary Factual Information, “Zinus US Submission of Voluntary Information (February 6, 2023) (“Zinus US Factual Information”).

<sup>24</sup> See CVB Response to Zinus US Submission of Voluntary Information, “CVB Comments in Response to Zinus Response to RFI and Factual Information”, (February 9, 2023) (“Alleger Comments”).

<sup>25</sup> See Zinus US Written Arguments, “Zinus US Submission of Written Arguments, (May 30, 2023)” (Zinus US’ Written Arguments).

<sup>26</sup> See Alleger’s Rebuttal Response to Zinus US’ Written Arguments, “CBV Inc., dba Malouf Response to Written Arguments (June 14, 2023)” (Alleger’s Rebuttal).

<sup>27</sup> See also 19 CFR 165.27(a).

<sup>28</sup> See 19 CFR 165.1.

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

<sup>30</sup> See *WBF Order*, 70 Fed. Reg. 329, 332, “Zinus US Allegation” at Exhibit 5.

<sup>31</sup> *Id.*

The *Order* further states that included in the scope are “(1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds...”<sup>32</sup>

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the HTSUS as “wooden . . . beds” and under subheading 9403.50.9080 of the HTSUS as “other . . . wooden furniture of a kind used in the bedroom.” In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may be entered under subheadings 9403.90.7005 or 9403.90.7080 of the HTSUS. Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as “glass mirrors . . . framed.” The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.<sup>33</sup>

Zinus US sells bedroom furniture that contain wood and metal components described as wood and metal platform beds.<sup>34</sup> For certain models of its WBF, Zinus US admitted<sup>35</sup> that they are covered merchandise according to the scope of the *Order*<sup>36</sup> and during the reporting period, imported these models into the United States. Zinus US has continued to import certain wood and metal platform beds without applicable AD duties.

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<sup>32</sup> *Id.*<sup>33</sup> *Id.*<sup>34</sup> See Zinus US Request for Reconsideration. at Exhibit 1.

<sup>33</sup> *Id.*<sup>34</sup> See Zinus US Request for Reconsideration. at Exhibit 1.

<sup>34</sup> See Zinus US Request for Reconsideration. at Exhibit 1.

<sup>35</sup> See *id.* at 4.

<sup>36</sup> See *WBF Order*, 70 Fed. Reg. 329, 332, “Zinus US Allegation” at Exhibit 5.

*Admission of Importing Covered Merchandise*

Zinus US provided a chart that listed the product identification (SKU), category, commercial name also known as model name, product description on internal invoices, website description, the type of wood, *i.e.*, [Name].<sup>37</sup> These beds were identified by the following SKU designations and had wood headboards or footboards consisting of either [Name and Name], subject to the *WBF Order*.<sup>38</sup>

| SKU <sup>39</sup> | Model Name |
|-------------------|------------|
| FBOWNM            | Wesley     |
| HBPBA             | Paul       |
| HBPBB             | Olivia     |
| OLB-RPPBC         | Therese    |

Zinus US admitted that it imported covered merchandise of WBF during the period of investigation (POI) as evidenced by its documentation in the administrative record.<sup>40</sup> Specifically, Zinus US reported that the company imported metal and wood platform beds.<sup>41</sup>

*CF-28s*

In the Zinus US Allegation, the Allegor specified that Zinus US’ “Suzanne” model was subject to the AD duty order.<sup>42</sup> While in its CF-28 responses Zinus US claimed that its merchandise was not subject to the *AD Order*,<sup>43</sup> documentation found in entry [Number]2613 indicated that Zinus US misclassified the model.<sup>44</sup> The waybill for entry [Number]2613, listed several lines of the “Suzanne” model platform bed classified as 9403.20.0040, which is an HTS code not associated with covered merchandise.<sup>45</sup> However, the invoice and purchase orders describe this SKU OLB-IRPBH as “Ironline” metal and wood platform beds, description which would place the product within the scope of the AD order.<sup>46</sup> An internet search identified this model number for sale as

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<sup>37</sup> See Zinus US Request for Reconsideration at Exhibit 1 and Exhibit 2 Excel charts.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Zinus US Request for Reconsideration. at 4.

<sup>41</sup> *Id.* at 9

<sup>42</sup> See Zinus US Allegation at 9.

<sup>43</sup> See CF-28 Response [Number]2613 at 6, [Number]0346 at 13, and [Number]5771 at 9.

<sup>44</sup> See CF-28 Response [Number]2613, [Number]0346 and [Number]5771.

<sup>45</sup> See CF-28 Response for Entries [Number]2613. This HTS provides for “Mattress bases with legs, not foldable, having the characteristics of a stationary (not mechanically adjustable) bed frame, of a width exceeding 91.44 cm of a length exceeding 184.x15 cm and of a depth exceeding 8.89 cm.”

<sup>46</sup> *Id.*

the “Suzanne” model, which was previously misclassified as 9403.20.0050 for metal furniture.<sup>47</sup> An additional internet search found that “Suzanne” model continued to be sold as having a “cherry finished pine wood headboard.”<sup>48</sup> According to Zinus US, this model was made of non-subject bamboo after July 2021. These listings gathered during the POI, provide evidence of the misdescription of the WBF that lends to evasion of duties.

### *Cargo Exams*

As a result of a cargo examination on October 4, 2022, for shipment [Number], CBP determined that merchandise with the above SKUs/model names was misclassified in entry number [Number]5482 as metal bed frames. Metal furniture classified under HTS 9403.20.0050 is not subject to the scope of the *WBF Order*.<sup>49</sup> However, photographs from the examination revealed that the style OLB-RPPBC (Therese/Horizon) should have been declared as covered merchandise and antidumping duties should have been rendered applicable.<sup>50</sup> The cargo examination photos provided more details about the cargo by capturing the images of the “Horizon” and “Therese” models which were actually metal and wood platform beds and not simply metal furniture as Zinus US claimed.

Additionally, Zinus US also admitted that the following models which it imported, were made of [Name and Name], and thus subject to the *WBF Orders*.<sup>51</sup> “Styles” formerly identified as “Olivia” were now named “Tuscan” on the invoice both with identical SKU designations, HBPBB.<sup>52</sup> The same was true for the SKU with the “Paul” model name which was now given the model’s name “Sonoma.”<sup>53</sup> Zinus US identified different products under the same SKUs that were actually made of [Name and Name]. Here, Zinus US clearly misidentified the products it imported into the United States. Merchandise covered by the *WBF Order* includes beds made of wood that may have metal parts. Moreover, the *AD Order* includes provisions for wooden headboards and footboards for beds. Zinus US describes its platform beds as being comprised of metal and wood, some models are characterized by specific types of wood such as [ Name and Name ].<sup>54</sup> The *AD Order* states that bedroom furniture made with bamboo are not subject to the *WBF Order*.<sup>55</sup>

In the same October 4, 2022, cargo examination, CBP captured Zinus US’ “Horizon” model metal and wood platform bed, which was correctly classified as wooden bedroom furniture under

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<sup>47</sup> See the eBay website advertisement for the “Suzanne” model. HTS Code: 9403.20.0050 provides for “Metal Household Furniture, Others.”

<sup>48</sup> See eBay listing for the Therese model.

<sup>49</sup> See Entry documents for entry number [Number]5482.

<sup>50</sup> See Cargo Examination Photos.

<sup>51</sup> See Zinus US Request for Reconsideration at Exhibit 1.

<sup>52</sup> *Id.* See Entry documents for entry number [Number]5482.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate. See the *WBF Order*.

9403.50.9045.<sup>56</sup> Despite using the appropriate HTS number, Zinus US incorrectly entered the merchandise as entry type Type “01” failing to pay the required AD duty deposit.<sup>57</sup> Further, Zinus US continued to use a confusing naming convention; using both the “Horizon” and the “Therese” model name with the wood and metal platform beds with the same SKUs.<sup>58</sup> The SKU numbers have remained the constant for the metal and wood platform beds that are covered merchandise, but the model names for the same products have changed on entry documentation.

*Request for Information*

The chart below identifies the wood and metal platform bed models that Zinus US confirmed to be subject to the *WBF Order*.<sup>59</sup>

| SKU       | Covered Merchandise Admitted by Zinus US | Covered Merchandise Revealed through Cargo Examination |
|-----------|--|--|
|           | Model Name                               | Model Name   |
| FBOWNM    | Wesley                                   |  |
| HBPBA     | Paul                                     | Sonoma   |
| HBPBB     | Olivia                                   | Tuscan   |
| OLB-RPPBC | Therese                                  | Horizon  |

As indicated above, and also by Zinus US RFI response further confirms that the contents of this shipment as evidenced by the commercial invoice, packing list and container manifest listing line items for SKUs HBPBA (Zinus “Sonoma” metal and wood platform bed previously known as the “Paul”) and HBPBB (Zinus “Tuscan” metal and wood platform bed previously known as the “Olivia”).<sup>60</sup> SKUOLB-RPPBC was designated for line items, on the same documents, for the Zinus “Horizon” (previously known as “Therese”) metal and wood platform bed.<sup>61</sup>

Zinus US claimed to transition the majority of its platform bed composition to incorporate decorative panels (or headboards and footboards) to pressed bamboo, which is not included in *WBF Order*, [ Time Frame ].<sup>62</sup> However, as described below, Zinus US sales documents provide evidence of sales and entries of covered merchandise continuing throughout the period of investigation.

Zinus US maintained throughout its various responses that all of the SKUs subject to the *WBF Order* were actually produced by an unaffiliated Chinese manufacturer, [ Company’s Name

<sup>56</sup> *Id.*

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

<sup>58</sup> *See* NOI at 6.

<sup>59</sup> *See* Zinus US Request for Reconsideration at 9.

<sup>60</sup> *See* Zinus US RFI Response at EXHIBIT S-3 at 4-6.

<sup>61</sup> *Id.*

<sup>62</sup> *See* Zinus US CF28 Response [Number]2613 at Exhibit GEN-1. *See* the *WBF Order*.



] and its successor entity [ Company's Name ] in China.<sup>63</sup> They further claimed that the covered platform beds were sold to Zinus US through [Company's Name] affiliated exporter, Golden Well International (HK), Ltd ("Golden Well").<sup>64</sup> The supplemental RFI response from Zinus US provided requested information such as invoices, purchase orders and proof of payment for sales of metal and wood platform bed to establish the sales relationship between Zinus and Golden Well during the POI.<sup>65</sup> Throughout the documentation that Zinus US provided to CBP, multiple transactions for sales between [Company's Name] and Golden Well of imported "Sonoma" ("Paul"/ "Olivia") (HBPBA/HBPBB) and "Wesley" FBOWNM were mentioned.<sup>66</sup> Previously, Zinus US stated that these models were metal and wood platform beds covered by the *WBF Order* made with of either [Name and Name ],<sup>67</sup> and the manufacturer of the covered platform beds were identified to be [Company's Name] in China.<sup>68</sup> .

Zinus US also provided all relevant purchase orders between Zinus US and Zinus KR<sup>69</sup> related to the covered merchandise contained in the entries listed in the SRFI.<sup>70</sup> As described by Zinus US, Golden Well acts on behalf of manufacturers in China that invoice Zinus KR for sales of Chinese-origin covered merchandise. Zinus KR, in turn, then provides an invoice to Zinus US for the merchandise to be sold to its customers. The reported information on the entries contained in the SRFI for certain transactions for the "Wesley" metal and wood platform bed; the "Tuscan"/ "Olivia" bed listed under SKU HBPBB; model "Sonoma" or "Paul" HBPBA or HBPBA; and the "Therese" model OLB-RPPBC are indications that AD duties should have been applied upon entering the US. Zinus US admits to importing covered merchandise and misclassifying under 9403.20.0050, as metal furniture, which is not included in the scope of the *WBF Order* and therefore failing to declare subject merchandise roughly valued at \$[Number] resulting in a loss of \$[Number] in AD duties during the POI.<sup>71</sup>

Zinus US claimed that it had discontinued imports of all metal and wood SKUs pending the outcome of the EAPA investigation;<sup>72</sup> however, the SFRI shows evidence that SKUs OLB-RPPBC, FBOWNM, HBPBA, and HBPBB were sold to [Company's Name] and destined to specific customers after the issuance of the NOI in October 2022 and into 2023.<sup>73</sup> Despite the documentation indicating sales of various subject SKUs being sold to [Company's Name] during the months of October and December for the fourth quarter of the fiscal year,<sup>74</sup> these models were not all reported in Zinus US' profit margin calculations for the same time period.<sup>75</sup> The detailed transactions used to calculate the profit margin record reflects fourth quarter 2022 totals for

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<sup>63</sup> See Zinus US Request for Reconsideration at 9. See Zinus US RFI Response at Exhibit 1A and Zinus US SRFI Response at 15.

<sup>64</sup> See Zinus US Request for Reconsideration at 9 and Zinus US Response to Request for Information at Exhibit 1A.

<sup>65</sup> See Zinus US SRFI Response at 15, Exhibit S-2A-C.

<sup>66</sup> See *id.* at Exhibit S-2A at 626 – 627 and 2B at 1072-73.

<sup>67</sup> See Zinus US Request for Reconsideration at 9 and Exhibit 1A.

<sup>68</sup> *Id.*

<sup>69</sup> See Zinus US SRFI at Exhibit S-1(B).

<sup>70</sup> See *id.* at Exhibit S-1(A).

<sup>71</sup> See *id.* at Exhibits S-II (i) and (ii)

<sup>72</sup> See *id.* at 6.

<sup>73</sup> See *id.* at Exhibit S-1F at 19.

<sup>74</sup> *Id.*

<sup>75</sup> See *id.* at Exhibit S-1G.

[Company's Name] sales of OLB-IRPBH and FBOWNM, is covered merchandise.<sup>76</sup> This and trade data on the record are evidence that Zinus US continued to import covered merchandise into the U.S. without properly declaring the merchandise as subject to the AD order and paying AD duties during the period of investigation.<sup>77</sup>

Furthermore, as stated above, Zinus US claimed to transition the majority of its platform bed composition to incorporate decorative panels or headboards and footboards to pressed bamboo [Time Frame].<sup>78</sup> According the *WBF Order*, bedroom furniture made from bamboo is excluded.<sup>79</sup> However, Zinus US and Zinus Fujian provides contradictory information in its RFI and SRFI responses. In its various responses, Zinus US used a variety of different descriptions for its products first describing as “platform beds with wood and metal headboards and footboards,” then as “mixed media beds that incorporated wood” and later describing as “decorative panels of pressed bamboo.”<sup>80</sup> Zinus US claims the “Suzanne” and “Ironline” models were later shifted to being made by bamboo; however, in communications in May 2019 between Zinus KR and Golden Well, the unaffiliated exporter of the covered merchandise, state the “Ironline” bed’s headboards and footboards are made with wood, specifically [Name].<sup>81</sup> This date is important to establish the history of Zinus KR and Golden Well relationship with manufactured covered merchandise. During the POI, Zinus US continues to mention “Suzanne” (also known as “Ironline”) beds with the following description, *i.e.*, metal and wood platform bed frame, solid wood and steel construction.<sup>82</sup>

[Name  
Name  
ZINUS SUZANNE 37 INCH METAL AND WOOD  
PLATFORM BED FRAME / SOLID WOOD & STEEL  
CONSTRUCTION / NO BOX  
[Name                      Name                      ]      OLB-IRPBH-14Q                      Ironline Metal & Wood Platform Bed Queen  
83

Moreover, in its profit margin record, Zinus US reported fourth quarter 2022 totals for [Name] sales of “Suzanne” or “Ironline” OLB-IRPBHB.<sup>84</sup> Zinus US claims that during this reporting period, its beds were made of bamboo.<sup>85</sup> However, details within SRFI Exhibit S-1F shows that

<sup>76</sup> See *id* at Exhibits S-1F and S-1G.

<sup>77</sup> See “NTAC - Post Receipt Report Zinus Inc” and “Summary Report Zinus Inc,” (July 19, 2022) (“NTAC Reports”).

<sup>78</sup> See Zinus US CF28 Response [Number]2613 at Exhibit GEN-1.

<sup>79</sup> The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate..

<sup>80</sup> See Zinus US Request for Reconsideration at 7.

<sup>81</sup> See Zinus US SRFI at Exhibit S-1D at 188.

<sup>82</sup> See *Id* at APP-6 at 2, 13, 15, 16.

<sup>83</sup> See Zinus US CF28 Response [Number]2613 at Exhibit GEN-1.

<sup>84</sup> See Zinus US SRFI at Exhibit S-1G.

<sup>85</sup> See Zinus US RFI Response at 28 and 29.

Zinus US continued to have sales of the SKUs OLB-RPPBC, HBPBA, and HBPBB in 2023.<sup>86</sup> Not only did Zinus Fujian fail to provide documentary evidence that this product line is actually made of bamboo, but entry documents contained references to the “Suzanne” (also known as “Ironline”) beds with the following description, *i.e.*, metal and wood platform bed frame, solid wood and steel construction.<sup>87</sup> This again demonstrates that Zinus US was importing covered merchandise.

Likewise, in response to CBP’s request, Zinus Fujian failed to provide the information regarding bill of lading (“BoL”) [ Number ], which corresponds to [Number]2613.<sup>88</sup> Further, CBP requested documentation to trace raw materials used in the production of covered merchandise imported into the U.S.<sup>89</sup> Zinus Fujian did not provide any documentation for raw material purchases. CBP also requested complete documentation to include raw material purchase orders and invoices, proof of payment for raw materials, any sales documentation and accounting practices for entries: [Number]0046, [Number]4937, and [Number]1021.<sup>90</sup> Zinus Fujian listed the names of their bamboo board suppliers but failed to provide supporting documentary evidence such as contracts, purchase order, invoice, and proof of payment to these bamboo suppliers. Because there is no evidence on the record that the “Suzanne” and “Ironline” product line was actually produced with bamboo, CBP must rely on the various product descriptions mentioned above to find that the imports included covered merchandise.

### *Written Arguments*

On May 30, 2023, Zinus US submitted written arguments stating that it did in fact enter a limited number of metal-framed platform beds during the period of the EAPA investigation. The bed components included “nonstructural decorative wood elements” in the metal-framed headboards and/or footboards.<sup>91</sup> Zinus US, however, maintains that these platform beds are not “wooden beds” subject to the *WBF Order*.<sup>92</sup> Zinus US, in its arguments defined these platform beds as “metal-framed” beds that are not wooden beds as described in the *Order*.<sup>93</sup> Further Zinus US cites a Department of Commerce’s scope ruling that states mixed media beds must be “a finished bed and must contain an extensive use of wood in all of the essential structural components of the bed.”<sup>94</sup>

Zinus also argues that the headboard (and/or footboards) are not stand alone, consequently they are not subject to the *WBF Orders* referring to its interpretation of the Commerce ruling pertaining to headboards.<sup>95</sup> Also, the written arguments claimed that CBP could not find Zinus US liable for any misclassifications of merchandise covered by the scope of the *WBF Order*<sup>96</sup> because Zinus’ choice to use the HTS for metal beds under subheading 9403.20 was deemed

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<sup>86</sup> See Zinus US SRFI at Exhibit S-1F.

<sup>87</sup> See Zinus US SRFI at APP-6 at 2, 13, 15, 16.

<sup>88</sup> *Id.* at 34.

<sup>89</sup> See Zinus US Response at 22.

<sup>90</sup> See Zinus US SRFI at Exhibits APP-1(F) and APP-2(F).

<sup>91</sup> See Zinus US Written Arguments at 1

<sup>92</sup> See *id.* at 2.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> See reference to Commerce’s University Loft ruling, *Id.* at 3.

<sup>96</sup> See Zinus US Written Arguments at 4.

“legally irrelevant” for CBP’s analysis.<sup>97</sup> Zinus YUS further maintains that the metal furniture HTS previously used is listed specifically in the scope of the *WBF Order* although it used a duty-free designation.<sup>98</sup>

On June 14, 2023, CVB submitted rebuttal comments stating that the arguments should be rejected and that CBP should make the determination that Zinus US did evade the *AD Order* on WBF.<sup>99</sup> The Allegor noted that Zinus US admitted to importing models of platform beds that comprised of wooden headboards and footboards.<sup>100</sup> The Allegor’s comments further refer to the language of the scope of the *WBF Order*, that includes accommodations for “wooden headboards for beds” and “wooden footboards for beds.” Another descriptor of covered merchandise in the scope includes that wooden beds also can include articles with non-wood components such as metal.<sup>101</sup> CVB maintains that as previously alleged,<sup>102</sup> wood remains the key element in the marketing and sales of Zinus US’ metal and wood platform beds.<sup>103</sup> The beds have metal components: however, without the wooden headboards and/or footboards within the metal framing, the Zinus US’ platform beds would become simply a platform bed with a metal headboard and/or footboard.<sup>104</sup>

### *Conclusion*

Based on the aforementioned analysis of relevant evidence, CBP determines that substantial evidence exists demonstrating that, by means of material false statements or omissions, Zinus US entered Chinese-origin WBF through the use of a general product description and misclassification as non-covered merchandise not subject to the AD duty order. Because Zinus US admitted that certain platform beds with wood and metal headboards and footboards subject to the *AD Order*<sup>105</sup> were imported into the US and were entered as “Type 01” to avoid AD duty cash deposits, all imports of bedroom furniture that Zinus US entered during the POI is subject to the AD duty rates for wooden bedroom furniture from China. Because Zinus US did not declare that the merchandise was subject to the AD duty order for wooden bedroom furniture upon entry, the requisite cash deposits were not collected on the merchandise.

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<sup>97</sup> *Id.*

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

<sup>99</sup> See “CVB Inc. Response to Zinus Written Argument,” (June 14, 2023) (“Allegers Response to Arguments”).

<sup>100</sup> See *id.* at 1.

<sup>101</sup> See *WBF Order* and *id.* at 2.

<sup>102</sup> See *Allegation* and *id.* at 5.

<sup>103</sup> *Id.* at 5.

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

<sup>105</sup> See *Zinus US Written Argument* at 1.

## **Actions Taken Pursuant to the Affirmative Determination of Evasion**

In light of CBP's determination that Zinus US entered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the liquidation for all entries imported by Zinus US that are subject to EAPA investigation 7718 and continue suspension until instructed to liquidate these entries. For those entries previously extended in accordance with the interim measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries. CBP will evaluate Zinus US' continuous bond in accordance with CBP's policies and may require single transaction bonds as appropriate. None of the above actions precludes CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,

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

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