



## U.S. Customs and Border Protection

December 13, 2016

### **PUBLIC VERSION**

**EAPA Case Number:** 15135

James Liang  
Eastern Trading NY Inc.  
eastertradingny@gmail.com

**Re:** Notice of initiation of an investigation and interim measures taken as to Eastern Trading NY Inc. concerning a reasonable suspicion as to evasion of the antidumping duty order on Steel Wire Garment Hangers from the People's Republic of China

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Dear Mr. Liang,

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA) for Eastern Trading NY Inc. (“Eastern Trading”). Specifically, CBP is investigating whether Eastern Trading has evaded the antidumping duty order on steel wire garment hangers from the People's Republic of China (“China”), A-570-918, with its entries of merchandise into the United States. Because evidence establishes a reasonable suspicion that Eastern Trading has entered merchandise into the United States through evasion, CBP has taken the interim measures described below.

#### Period of Investigation

Pursuant to 19 C.F.R. §165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation....” Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United

States.” M&B Metal Products Company, Inc. (“M&B Metal”) filed the allegation on September 15, 2016. On September 19, 2016, CBP acknowledged receipt of the properly filed allegation. Therefore, the entries covered by this investigation are those that entered for consumption, or withdrawals from warehouse for consumption, from September 19, 2015, through the pendency of this investigation.

### Initiation

On October 11, 2016, the Trade Remedy Law Enforcement Directorate (TRLED), Office of Trade, CBP initiated an investigation under EAPA as the result of an allegation, submitted by M&B Metal, as to evasion of antidumping duties. M&B Metal alleged that Eastern Trading is importing into the United States steel wire garment hangers of Chinese origin that are being transshipped through Thailand by Everbright Clothes Hanger (Thailand) Co., Ltd. (Everbright) in order to avoid the payment of antidumping duties.

The allegation outlines several factors supporting the initiation of an investigation. First, M&B Metal alleged that Everbright’s Thailand facility was incapable of manufacturing the volume of hangers imported by Eastern Trading. To support its allegation, M&B Metal provided a Foreign Market Researcher’s Report on Everbright. According to the Report, a researcher “made three visits to the site on three separate days, [but] did not see any warehouse facility, office or trucks.” Allegation, Exh. 3, at 3. The Report included a picture of the street where the Everbright facility was allegedly located, showing that it was not passable by car. The researcher also spoke with an accounting firm for Everbright and was informed that the Thailand factory was still under construction. *Id.* at 4. While Everbright’s financial statements noted that it sells, imports and exports hangers, it never mentioned manufacturing them. *Id.* at Att. 2. Thus, the researcher concluded that that “Everbright does not appear to be a manufacturer of clothes hangers.” *Id.* at Exh. 3, at 2.

Further, based on available import data, M&B Metal alleged that Eastern Trading imported into the United States, from Everbright, 88,625,500 steel wire hangers between August 2015 and July 2016. Allegation at 9; Exh. 14. In addition to the Report noted above, M&B Metal pointed to an Everbright financial statement in which Everbright allegedly reported machinery and equipment valued at just \$27,300. According to M&B Metal, a new hanger machine costs approximately \$24,000 each, and Everbright would require at least three such machines to meet Eastern Trading’s import volume. Allegation at 4.

Second, M&B Metal alleged that the hangers were actually manufactured in China and transshipped through Thailand. To support this part of its allegation, M&B Metal points to the fact that the owners of Everbright are based in China, no production is done in Thailand and orders must be placed in China. Allegation, at 5 and Exh. 3, at 4.

Additionally, M&B Metal alleges that Eastern Trading is also tied to companies within China that are linked to Everbright. The phone number for Eastern Trading on its bills of lading is the same as for R&X Industries. Allegation, at Exh. 5. R&X Industries' website describes it as "the industry leader of the wire hanger business in China and Thailand." *Id.* at Exh. 7. The General Manager for R&X Industries also held the sales director and vice president of operations positions for two other companies that were a Chinese producer and exporter of wire hangers. Allegation, at Exh. 8. These companies received their own rate of 40.99% in a new shipper review, dated June 2, 2014. *See Steel Wire Garment Hangers from China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 79 Fed. Reg. 31,298, 31,300 (Dept. Commerce June 2, 2014). Two months later R&X Industries was established on August 1, 2014, and then Everbright was registered on September 18, 2014. Allegation, at 6. Thus, M&B Metal argues that these companies were established to transship Chinese hangers through Thailand and evade the antidumping duties subsequent to receiving a high antidumping duty margin in the new shipper review.

CBP will initiate an investigation if it determines that "[t]he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion." *See* 19 C.F.R. § 165.15(b). 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." *See* 19 C.F.R. § 165.1. Thus, the allegation must reasonably suggest not only that merchandise subject to an AD/CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD/CVD cash deposits or other security.

In this case, the allegation reasonably suggests that Eastern Trading imported merchandise that is subject to an antidumping duty order on steel wire garment hangers from China. M&B Metal provided evidence to support its allegation of transshipment of hangers to reasonably suggest that merchandise was entered through evasion by a material false statement or act, or material omission that resulted in the reduction or avoidance of applicable AD/CVD cash deposits or other security. The market research report and financial statements reasonably suggest that there is either no or insufficient manufacturing in Thailand to support the exports to Eastern Trading. M&B Metal additionally provided evidence tying the companies to Chinese based manufacturers and exporters of hangers, further supporting its allegations of evasion. For all of the aforementioned reasons, TRLED determined on October 11, 2016, that the allegation reasonably suggested that covered merchandise entered the customs territory of the

United States through evasion, pursuant to 19 USC §1517(b)(1), and therefore, initiated an investigation.

### Interim Measures

Interim measures apply because CBP determined that there is a reasonable suspicion that the importer entered covered merchandise into the customs territory of the United States through evasion. *See* 19 C.F.R. §165.24(a). After initiation, CBP issued a CBP Form (CF) 28 to Eastern Trading on October 6, 2016. CBP requested information relating to the origin of the merchandise under investigation for one entry during the period of investigation, including the full production records, a factory profile, the number of employees, production capacity, and equipment used, and also asked Eastern Trading to provide photographs of the manufacturing equipment and export documentation. The CF28 also inquired as to how long Everbright had been in business, the name of its owner and officers and how it was related to Eastern Trading. In addition the CF28 requested the names of Eastern Trading's officers. It also requested documentation for the transaction, including proof of payment, purchase orders, bills of lading, names of forwarding agents, etc. Finally, the CF28 cautioned that “[f]ailure to provide all the information requested may result in positive finding of transshipment.”

Eastern Trading timely responded to the CF28 on October 31, 2016. It explained that Everbright is located in a [ ] and provided a list and pictures of equipment and reported that [ ] people were employed at the factory, along with a certificate of origin that was stamped with a Government of Thailand stamp. It attached a Credit Confirmation of Inward Remittance from the Bank [ ]. The shareholders are provided on a document stamped with a Government of Thailand stamp and only the names are translated, and include [ ]. We note, however, that the dates on this document are all [ ], yet Eastern Trading asserts that the Everbright factory in Thailand was opened many years earlier, in [ ]. Additionally, Eastern Trading provided two documents as evidence of Everbright's suppliers that are marked “Quotation” and written in English, but also included invoice numbers. One was from [ ], dated [ ] and the other from [ ], dated [ ].

On November 25, 2016, CBP conducted a site visit to Everbright in Samut Prakan Foreign Trade Zone, Thailand. The Everbright point of contact was named, [ ], the accountant for Everbright. Although the visit was scheduled for 10 a.m., CBP staff arrived at 9:30 a.m. and observed only [ ] individuals, one of which was the factory manager. The factory manager explained that Everbright was open daily from [ ] until [ ]. However, as of 9:30 a.m. there was still no production occurring. In addition, there was only a total of [ ] staff that work at the facility, significantly less

than the [ ] employees reported in Eastern Trading’s response to the CF28. In addition, there were substantial discrepancies between the machines reported to CBP and the number actually found at the facility in Thailand:

Everbright Machinery	Reported number of equipment in CF28 Response	Actual number of equipment from Site Visit
[ ] machine	[ ]	[ ]
[ ] machine	[ ]	[ ]
[ ] machine	[ ]	[ ]
[ ] machine	[ ]	[ ]
[ ] machine	[ ]	[ ]

As seen above, Everbright has less than half the number of [ ] machines than was reported to CBP on the CF28 and half the number of [ ] machines, [ ] machines, and [ ] machines as was reported to CBP by Eastern Trading.

Even with so few machines, the staffing available appeared insufficient to operate them. The factory manager explained that he assigns [ ] of the staff to operate the [ ] machines and [ ] of the staff to operate the [ ] machines. However, this does not take into account the remainder of the equipment on hand needed for manufacturing wire hangers. Upon further questioning, the factory manager was unable to answer basic questions about daily production. For example, neither he nor the accountant could answer how many hangers could be produced from one bale of wire.

There were similar inconsistencies with the alleged production numbers. The factory manager stated that Everbright can manufacture [ ] boxes a day with [ ] hangers. If extrapolated over a year, even making a generous assumption of production at 365 days, this would be a maximum of [ ] hangers per year. The accountant, however, alleged they can they can produce [ ] boxes a day with [ ] hangers a day. If extrapolated over a year, even making a generous assumption of production at 365 days, this would be a maximum of [ ] hangers per year. Therefore, even accepting the accountant’s alleged production capacity and assuming non-stop daily production, the Everbright production is still significantly

less, by about [ ] times, than the approximately [ ] million pieces of wire hangers imported by Eastern Trading from Everbright in 2016. But given the low level of staffing and machines on hand (e.g., [ ]), Everbright's production capacity is likely far lower than stated by its accountant. As such, the evidence suggests that Everbright is only capable of producing a fraction of the wire hangers that it has exported to Eastern Trading in the United States.

CBP also inquired into the supply of wire at Everbright. The factory manager explained that the wire was [ ]. While, the accountant explained that Everbright orders approximately [ ] bales of wire from [ ] producers weekly. The accountant also personally takes price comparisons from several vendors before buying wire weekly. However, when CBP asked for the vendor names, the accountant could not recall and there was only a small supply of [ ] on hand at the factory, which appeared to be [ ]. We note that the documents provided in the CF28 included two suppliers, yet both were marked "Quotation" and not "Invoice," which do not necessarily confirm a purchase was made. Of note also is that the accountant explained that funding would be arriving from [ ] next week to purchase more supplies and that the paint, cardboard tubes for the hangers, and shipping boxes were all [ ] from [ ].

Finally, CBP staff noted that the office had far less office equipment than normally associated with operating a business, with only [ ] desks and [ ] laptop computer[ ]. CBP staff took pictures of Everbright's machines and warehouse facility. Those pictures are of a different facility than that represented in the pictures submitted by Eastern Trading with its CF28 response. The machinery is different and the facility itself is different.

CBP also reviewed the financial statements provided in the allegation for Everbright and while we did not conduct independent testing to verify the reliability of the data provided, the financial statements indicate that Everbright was not open for business since [ ] as Eastern Trading claimed. The notes to the 2015 financial statements provided in M&B Metal's allegation states at paragraph 3.4 that depreciation is calculated using the straight line method with a five-year useful life for equipment. *See* Allegation at Exh. 4. If the machinery were employed for the full year then the total accumulated depreciation for the year should be 190,873.91 Baht (953,919.56 Baht ÷ 5 years). However, the accumulated depreciation cited in the notes to the financial statements was only 21,953.20 Baht, which would indicate the machines were only in use for about a month and a half in 2015. *Id.* Moreover, there was no equipment listed on the 2014 financial statements and \$967,925.31 Baht (approximately \$27,300) worth of equipment in 2015. *Id.* However, Eastern Trading entered merchandise from [ ] before Everbright first invested in machinery.

No later than 90 calendar days after initiating an investigation under EAPA, CBP will take interim measures if there is a reasonable suspicion that the importer entered covered merchandise into the customs territory of the United States through evasion. Therefore, CBP need only have evidence sufficient to support a reasonable suspicion that merchandise subject to an AD/CVD order was entered into the United States by the importer alleged to be evading by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD/CVD cash deposits or other security.

The record evidence presented above establishes a reasonable suspicion that the importer entered merchandise into the United States through evasion. Even accepting Everbright's production estimates at face value, it is unable to produce the quantities imported by Eastern Trading. There are significant discrepancies between the information Eastern Trading provided us in response to its CF28 and what we observed when at Everbright's facility. Everbright was not open during the reported hours of operation, only a fraction of its machines were operational, and it did not have staff to operate the machines on hand. The [ ] on hand was insufficient to keep the production running beyond a [ ], yet an order was not yet in place because [ ] needed to arrive from [ ]. When queried about their sources for the wire there were differing answers from the factory manager, who explained that the wire came from [ ], and the accountant, who explained that it came from [ ] but could not recall the name of even one supplier. Finally, the financial statements call into question whether Everbright was even manufacturing during the earlier [ ] of this investigation period. For these reasons, we have determined to take interim measures.

Entries under this investigation that entered the United States as not subject to antidumping duties, have been rate-adjusted to reflect that they are subject to the antidumping duty order on steel wire garment hangers from China and cash deposits are owed. Additionally, "live entry" is required for all future imports for Eastern Trading, meaning that all entry documents and duties are required to be provided before cargo is released by CBP into the U.S. commerce. CBP will further suspend the liquidation for any entry that has entered on or after October 11, 2016, the date of initiation of this investigation; and extend the period for liquidation for all unliquidated entries that entered before that date. *See* 19 C.F.R. §165.24(b)(1)(ii) and (ii). For any entries that have liquidated and for which CBP's reliquidation authority has not yet lapsed, CBP will reliquidate those entries accordingly.

For any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP, as well as to Mr. Waite, counsel for M&B Metal, at [fpwaite@vorys.com](mailto:fpwaite@vorys.com). *See* 19 C.F.R. §§165.4, 165.23(c), and 165.26. Should you have any questions regarding this investigation, please feel free to contact us at [eapallegations@cbp.dhs.gov](mailto:eapallegations@cbp.dhs.gov). Please include your EAPA case Number "15135" in the subject line of your email. Additional information on these investigations,

including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-epa>.

Sincerely,

Troy P. Riley  
Executive Director  
Trade Remedy & Law Enforcement Directorate  
Office of Trade