



**U.S. Customs and
Border Protection**

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Re: Notification of Final Determination as to Evasion

Dear Mr. Waite, Ms. Young, and Mr. Shotkin,

In Enforce and Protect Act (EAPA) Investigation No. 15135/7175,¹ U.S. Customs and Border Protection (CBP) has determined that based upon the record in this case, there is substantial evidence that Eastern Trading entered steel wire garment hangers covered by antidumping (“AD”) duty order A-570-918 into the customs territory of the United States through evasion. Specifically, substantial evidence demonstrates that Eastern Trading imported wire hangers from the People’s Republic of China (“PRC or China”) that were transshipped through Thailand to the United States. Our decision follows.

Background

On October 11, 2016, CBP initiated an investigation pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as (“EAPA”). The allegation submitted by M&B Metal Products Company, Inc. (“M&B Metal”), reasonably suggested that importer, Eastern Trading NY, Inc. (“Eastern Trading”), imported steel wire hangers from China that were transshipped through Thailand, resulting in the failure to make the requisite AD cash deposits for its entries (“the Allegation”). Subsequently, on December 13, 2016, CBP issued a notice of initiation of investigation to all interested parties, and notified the parties of CBP’s decision to take interim measures based upon reasonable suspicion that Eastern Trading

¹ Case number 15135 was originally assigned to this case prior to the finalizing of the EAPA web portal, which assigned the case number 7175 to this investigation. Thus, for tracking purposes, 7175 is the preferred number to reference for this case.

entered covered merchandise into the customs territory of the United States through evasion. *See Letter from CBP regarding 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* (Dec. 13, 2016) (available at <http://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-epa/notices-action>) (hereinafter "Notice or Notice of Interim Measures"). The Notice summarized the basis for CBP's finding of reasonable suspicion of evasion, and listed the interim measures CBP applied against Eastern Trading. *Id.* at 7.

Following the issuance of the notice to the parties, on December 22, 2016, CBP issued a "Request for Information" ("RFI") to Eastern Trading seeking information about its imports as well as additional information concerning its reported hanger supplier, Everbright Clothes Hanger (Thailand) Co., Ltd. ("Everbright"). *See* Email Re: RFI-Related Information on the Record, at RFI Eastern Trading EAPA 15135-Public.pdf, RA-5 (Jan. 17, 2017). The RFI was in addition to the CF28 request sent to Eastern Trading during the initial stage of this investigation, and to which it responded on October 31, 2016. On December 22, 2016, CBP also sent a similar 'Claimed Manufacturer Request for Information' to Everbright in Thailand. *Id.* at RFI Everbright Clothes Hanger EAPA 15135-Public.pdf, RA-2 (Jan. 17, 2017). CBP requested that Eastern Trading provide the following: information about the company's import policies and procedures; complete purchase and sales records; information about its corporate structure, including affiliation with R&X Industries; among other items. CBP requested the following from Everbright: a full description of its manufacturing process; clarification as to the source of its raw materials, and supporting documentation establishing proof of source; and information about the company's corporate structure and affiliations, including affiliation with R&X Industries; and the source of any finished hangers, along with other information about those hangers and supporting sales documentation; among other items.

Neither Eastern Trading nor Everbright responded to the respective RFIs, despite communication from Eastern Trading indicating it would be cooperating with the investigation. *See* Email from Eastern Trading NY Inc. to CBP Re: EAPA Investigation 15135: Notice of Initiation and Interim Measures, TRLED 17 (Dec. 14, 2016). Eastern Trading did not submit any additional factual information to CBP by the regulatory deadline of April 29, 2017. It did make a factual submission on June 7, 2017, but that submission was rejected by CBP as untimely. *See* Email Re: Rejection of Eastern Trading Submission, TRLED-56 (June 14, 2017). Finally, on June 28, 2017, M&B Metal submitted its written argument in this case. *See* Written Argument from M&B Metal, TRLED-58 (June 28, 2017). Eastern Trading did not submit a final written argument, but on July 24, 2017 filed an amended response to M&B Metal's final written argument. *See* Amended Opposition by Eastern Trading to Written Argument from M&B Metal Products Inc., TRLED-60 (July 24, 2017).

Final Determination as to Evasion

To reach a final determination of evasion in this case, CBP must:

make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.

19 U.S.C. §1517(c)(1)(A). 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, CBP must reach a determination as to whether merchandise subject to an antidumping duty or countervailing duty (AD/CVD) order was entered into the United States by the importer and 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.

Substantial evidence on the record of this investigation supports a determination that Eastern Trading imported steel wire hangers that originated in China but were transshipped through Thailand, a form of evasion. First, after visiting Everbright’s factory in Thailand, CBP determined Everbright was incapable of producing the quantity of wire hangers that it exported to Eastern Trading in the United States. As documented in CBP’s Notice of Interim Measures, CBP conducted a site visit to Everbright’s factory in Thailand on November 25, 2016, to verify if it was the manufacturer as reported for Eastern Trading’s entries. *See* Notice of Interim Measures at 4-6 (Dec. 13, 2016); and CBP Attaché’s Report (Nov. 25, 2016). During the visit, an Everbright factory manager and an alleged company accountant interviewed by CBP provided conflicting annual production estimates for steel wire hangers. The accountant provided the higher of the production estimates, but in subsequent email correspondence with CBP she retracted her claim that she was an accountant working for Everbright. Rather, she asserted she was only a translator for Everbright since she could speak Chinese, Thai, and English, and otherwise had no affiliation with the company. *See* Email Re: Information on the Administrative Record: EAPA Case No. 15135, TRLED 11 (Dec. 23, 2016). Even accepting the higher of the estimates from Everbright’s “accountant” and at optimal production conditions, Everbright’s own production capacity could only account for a maximum of 18.25 million hangers per year. Yet, as explained further below, between [], it exported over [] hangers to the United States, of which over [] were imported by Eastern Trading. *See* Export Data to the United States, TRLED 27 and 28 (Mar. 1, 2017).

There were also significant discrepancies between the information Eastern Trading provided in its CF28 response concerning Everbright’s “factory” and what CBP observed while at the site visit. *See* Eastern Trading’s CF28 Response, at Factory Info.jpg (Oct. 31, 2016). Specifically, Everbright was not open during all hours of reported operation on the day of the visit, only a fraction of its machines were operational, and it did not have staff to operate the machines on hand. The rusty wire observed at the production site was insufficient to keep production running beyond a few days, yet an order for more wire was not yet in place because financing needed to arrive from China. CBP also received conflicting answers regarding the source of the wire. The factory manager, explained that the wire was imported from China, while the accountant, stated that wire was purchased weekly in Thailand but could not recall the name of a single supplier. CBP Attaché’s Report (Nov. 25, 2016). In short, based on the site visit, CBP observed first-hand that there was insufficient machinery, personnel, and supply to manufacture the quantity of hangers that Everbright actually exported to Eastern Trading.

Everbright's financial statements submitted with the Allegation had already called into question whether it was manufacturing during the earlier months of this investigation period due to the lack of equipment and equipment depreciation reported by the company. Official registration and financial documents show the company was registered in Thailand on September 18, 2014, with an address in the Samut Prakan Foreign Trade Zone, Thailand. *See* Allegation at 3, and Exh. 3. Further, in its 2014 audited financial report covering the period September 18, 2014 through December 31, 2014, Everbright reported no property, plant, or equipment on its balance sheet. *Id.* In its 2015 audited financial statement, Everbright reported minimal equipment assets. *See* Allegation at 4, and Exh. 4. As discussed in CBP's Notice, the accumulated depreciation cited in the notes to the 2015 financial statements was only 21,953.20 Baht, indicating the equipment was only in use for about a month and a half in 2015. Notice of Interim Measures, at 6 (Dec.13, 2016). Yet, Eastern Trading [redacted], before Everbright first invested in machinery. *See* Eastern Trading Import Line Data, NTAG 8 and 9 (Sep. 20, 2016). Hence, by Everbright's own financial reporting covering the earlier part of this investigation, it did not have the requisite property, plant, or equipment to manufacture the quantity of hangers it actually exported to the United States and to Eastern Trading.

Despite the fact that neither Eastern Trading's nor Everbright responded to CBP's RFIs after being informed of the EAPA investigation, CBP continued its investigation. CBP obtained data that allowed CBP to trace Eastern Trading imports back through Thailand to their Chinese sources. Between [redacted], Everbright imported from China a total of [redacted] hangers from [redacted] companies: [redacted] hangers from [redacted], [redacted] hangers from [redacted], and [redacted] hangers from [redacted]. *See* Import Data Into Thailand from China with Consignor Name, TRLED 33 and 34 (May 2, 2017). The export data shows that from [redacted], Everbright exported to the United States at least [redacted] of the [redacted] hangers it imported from China from the [redacted]. Export Data to the United States, TRLED 27 and 28 (Mar. 1, 2017). Using invoice numbers, or by matching volumes and dates, CBP was able to link over 80 percent of Eastern Trading's imports of hangers into the United States to shipments of hangers from China into Thailand, equating to over [redacted] hangers. As further evidence that the hangers were not manufactured in Thailand, [redacted]

[redacted]. *See* March 2017 Letter to CBP, TRLED-23; and May 2017 Letter to CBP, TRLED-31. In light of Everbright's insufficient production capability, the data along with [redacted] supports the conclusion that the true country of origin for the hangers was China, not Thailand.

CBP also collaborated with the Department of Commerce ("Commerce") to obtain the administrative record from the New Shipper Review ("NSR"), which was conducted by Commerce at the request of Yingqing and Qingqing. *See Steel Wire Garment Hangers from China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 79 Fed. Reg. 31,298 (June 2, 2014). As a result, CBP determined that [redacted] shareholders of Everbright were

also [redacted].² Qingqing is a producer of steel wire garment hangers, and its Dun and Bradstreet (“D&B”) profile noted the company’s [redacted]. See Dun and Bradstreet, RA 22, and RA 23 at 22 (Feb. 24, 2017). Yingqing is an exporter of steel wire garment hangers from China, and its D&B profile noted that its [redacted]. Dun and Bradstreet, RA 22, and RA 23 at 15 (Feb. 20, 2017).

CBP compared the ownership information that Yingqing and Qingqing submitted to Commerce to the shareholder information that Eastern Trading provided to CBP in its CF 28 response. In its submissions to Commerce, Qingqing/Yingqing identified [redacted] as the owner of [redacted] of Qingqing’s shares, with [redacted] identified as the owner of [redacted] of shares. See NME Sect. A Questionnaire Resp., DOC-2B and DOC-2C at 7 and 17-18 (Jan.13, 2013). D&B’s profile for Qingqing in 2017 [redacted] this ownership structure [redacted]. Dun and Bradstreet, RA 22, and RA 23 at 21 (Feb. 24, 2017). Yingqing’s submission to Commerce identified [redacted] as the owners of [redacted]. CBP’s review of Yingqing’s Dun and Bradstreet profile in 2017 also [redacted] that this ownership structure [redacted]. Dun and Bradstreet, RA 22, and RA 23 at 14 (Feb. 20, 2017). In addition, Liu Jianrong signed the submissions to Commerce as the General Manager for both Qingqing and Yingqing. See NSR Questionnaire Responses through NME 3rd Supplemental 3rd Set Questionnaire Responses Section A, DOC-1B through DOC-5E at 5 (Nov. 15, 2012 – Aug. 1, 2013). Publicly available information confirmed that Liu Jianrong remained the primary contact for both companies. See China Website Searches, RA-21 at 2 and 11 (Apr. 24, 2017). In its October 31, 2016 CF28 response, Eastern Trading identified Liu Jianrong; Liu Jiaqing; and Fu Xiujuan as Everbright’s shareholders. See Eastern Trading’s CF28 Response, at Shareholder List.jpg (Oct. 31, 2016). Thus, Everbright shares ownership with [redacted], providing additional support for the conclusion that Everbright was used to transship hangers from China through Thailand and to Eastern Trading in the United States.

Moreover, at the same time Eastern Trading was purchasing wire hangers transshipped through Thailand it was also purchasing wire hangers directly from [redacted] in China. For example, one bill of lading for Entry number [redacted]820-7 states that the hangers are marked, “Everbright Clothes Hanger.” Entry Document, TRLED-44 at 5 (Oct. 30, 2015). The bill of lading showed Rongqing as the shipper of the hangers, which shared the same physical address, phone, and fax number in China with Qingqing and Yingqing. See Allegation at 8, Exh. 13 and NME Sect. A Quest. Resp., DOC-2B at 5 (Jan.13, 2013). Thus, a Chinese manufacturer shipped hangers marked with a Thai “manufacturer’s” name direct from China to Eastern Trading. This further demonstrates the connection between Eastern Trading and the transshipment scheme.

Consequently, based on the full record in this investigation, CBP determines that there is substantial evidence Eastern Trading entered merchandise into the United States through evasion. As a result of the Everbright on-site visit, CBP determined that there was insufficient machinery, personnel, and supply to manufacture the quantity of hangers that Everbright actually exported to Eastern

² We were not able to obtain the ownership information for [redacted] and therefore, could not determine if cross-ownership also existed between it and Everbright.

Trading. This conclusion was supported by Everbright's financial statements for 2014 and 2015, which showed that the company had either no reported assets or equipment as in the case of the 2014 statements, or wholly inadequate assets and equipment on hand to produce hangers at the levels it actually exported them to the United States, as was the case with the 2015 statements. Utilizing import and export data and matching it to Eastern Trading's available entry information, CBP affirmatively linked over 80 percent of Eastern Trading's U.S. imports of hangers during the period of investigation to shipments coming from China through Thailand. Additional evidence that the hangers were not manufactured in Thailand resulted when

. Official NSR and NME filings submitted by Qingqing and Yingqing demonstrate that [] for Everbright were []. Finally, CBP verified that a Chinese manufacturer shipped hangers marked with a Thai "manufacturer's" name from China directly to Eastern Trading during the period of this investigation, lending additional support to the determination that Eastern Trading entered hangers into the customs territory of the United States that were transshipped through Thailand. Taken together, the facts demonstrate the hangers did not originate in Thailand. Rather, they originated in China and were transshipped through Thailand resulting in the failure of Eastern Trading to make the requisite AD cash deposits for its entries.

The parties to the investigation raised a few issues in their submissions not already addressed above. In its July 24, 2017 written opposition to M&B Metal's written argument in this case, Eastern Trading argues that it would be inequitable to assess antidumping duties and penalties on the company because it was an innocent victim in this evasion scheme, had no knowledge of it, and did not profit from it. Amended Opposition by Eastern Trading to Written Argument from M&B Metal Products Inc., TRLED-60 at 4 (July 24, 2017). Eastern Trading further stated that it believed the country of origin for the hangers was Thailand, and it urged CBP to go after those entities that "structured" the scheme and "enjoyed the profits of selling" the hangers in the United States, namely R&X Industries, Hang Ren, and Everbright. *Id.* However, Eastern Trading's argument ignores the statute's definition of evasion, which only focuses only on whether insufficient cash deposits or bonds were made, not the culpability of the parties. *See* 19 U.S.C. §1517(a)(5). As such, Eastern Trading's level of knowledge of the evasion scheme is not determinative as to whether it evaded the applicable order upon importation of the covered merchandise for this investigation.

In light of CBP's final determination of evasion, the parties to the investigation dispute the duty assessment rate that should be applied for all covered entries made by Eastern Trading. M&B Metal argues that the PRC-wide rate of 187.25 percent should be applied, whereas Eastern Trading argues the separate 40.99 rate applicable to Yingqing and Qingqing should apply. *See* M&B Metal's Written Argument, at 10-11 (June 28, 2017); and Amended Opposition by Eastern Trading to Written Argument from M&B Metal Products Inc., TRLED-60 at 3 (July 24, 2017).

CBP determines that Eastern Trading's entries are subject to the PRC-wide rate. To receive the separate rate of 40.99 percent applicable to Yingqing and Qingqing, Commerce's cash deposit instructions stipulate that entries of steel wire garment hangers from China must have been both *produced* by Qingqing and *exported* by Yingqing. For subject merchandise: 1) produced by Qingqing and exported by Yingqing, the cash deposit rate is the rate established in the final results

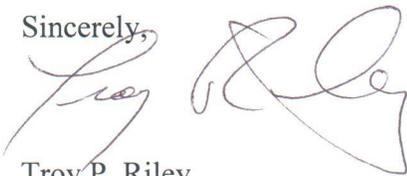
of the Commerce NSR (i.e. 40.99 percent); 2) for steel wire garment hangers exported by Yingqing, but not produced by Qingqing, the cash deposit rate is the rate for the PRC-wide entity; and 3) for steel wire garment hangers produced by Qingqing but not exported by Yingqing, the cash deposit rate will be the rate applicable to the exporter. *See Cash deposit instructions for the new shipper review of steel wire garment hangers from the PRC exported by Hangzhou Yingqing Material Co. Ltd. (A-570-918)*, Message No. 4155302 (June 4, 2014) (available at: <http://adcvd.cbp.dhs.gov/adcvdweb/>). As discussed above, there are other companies besides Yingqing and Qingqing that exported steel wire hangers to Thailand. Attempting to determine exactly which entry was produced by Qingqing and exported by Yingqing after they were transshipped through Thailand, when there are multiple Chinese companies in this scheme would be speculation and unsupported by the record evidence. Eastern Trading cannot secure a separate rate because it failed to provide amended entry documents to CBP and responses to the RFI that would establish the source of its imports.

Finally, M&B Metal requests that CBP take additional enforcement measures under EAPA, namely: 1) initiate Section 1592 penalty proceedings against Eastern Trading with respect to imports of Chinese steel wire garment hangers through Thailand; and 2) refer the entire record of the EAPA investigation to U.S. Immigration and Customs Enforcement for civil and/or criminal investigation. *See Written Argument from M&B Metal, TRLED-58 at 12 (June 28, 2017) citing 19 U.S.C. §1517(d)(1)(E)*. CBP will pursue any additional enforcement action, as appropriate, pursuant to 19 U.S.C. §1517(h).

Actions Taken Pursuant to the Affirmative Determination of Evasion

In light of CBP's determination that Eastern Trading engaged in evasion, and pursuant to 19 U.S.C. §1517(d) and 19 C.F.R. §165.28, CBP will continue to suspend the liquidation for any entry that has entered on or after October 11, 2016, the date of initiation of this investigation; and will continue to extend the period for liquidation for all unliquidated entries that entered before that date. CBP will continue to request that Eastern Trading post cash deposits in the amount of 187.25 percent on its entries of steel wire hangers, and for any future imports of covered hangers, CBP will require live entry, which requires Eastern Trading to post cash deposits in the amount of 187.25 percent prior to their release. Finally, Eastern Trading's continuous bond will remain at the increased level and will be reviewed in accordance with CBP's policies.

Sincerely,



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