

Period of Investigation:

Pursuant to 19 CFR 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 ... {i}n addition, at its discretion, CBP may investigate other entries of such covered merchandise.” Entry is defined as an “entry, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”³ In this EAPA investigation, CBP is investigating entries of covered merchandise made within 18 months before receipt of the allegation. CBP acknowledged receipt of the properly filed allegation against Vanguard on July 28, 2020.⁴ Thus, the entries covered by this EAPA investigation are those entered for consumption, or withdrawn from warehouse for consumption, from January 28, 2019 through the pendency of this investigation.

Initiation

On August 18, 2020, the Trade Remedy Law Enforcement Directorate (TRLED) within CBP’s Office of Trade initiated an investigation under EAPA⁵ as a result of the allegation submitted by Accuride Corporation and Maxion Wheels Akron LLC (collectively, the Allegers) regarding the evasion of AD/CVD duties by Vanguard.⁶ In their allegation, the Allegers claimed that Vanguard imported steel wheels produced by Chinese manufacturer Zhejiang Jingu Company Limited (Jingu) that were transshipped through Jingu’s affiliate in Thailand, Asia Wheel Co., Ltd. (Asia Wheel), and entered into the United States as a product of Thailand to evade the *Steel Wheels Orders*. The basis for the allegation follows.

On its website, Jingu reports that it is the largest steel wheel manufacturer in China.⁷ The Department of Commerce (Commerce) selected Jingu as a mandatory respondent in both the AD and CVD investigations on steel wheels from China, and in its final determinations, Commerce assigned AD and CVD rates to Jingu of 231.70 percent and 457.10 percent, respectively.⁸ According to the Allegers, publicly available trade data indicate that Jingu changed its shipping pattern in response to the AD and CVD investigations by shifting its shipments of steel wheels to U.S. customers from China to Thailand.

Data [] show that Jingu’s U.S. shipments fell [] percent from the fourth quarter of 2018 to the first quarter of 2019, following the preliminary CVD rate imposed in August 2018 and preliminary AD rate imposed in October 2018 on Jingu’s steel wheels from China.⁹ The

³ See 19 USC 1517(a)(4); see also 19 CFR 165.1.

⁴ See Email, “Receipt of EAPA Allegation 7509: Steel Wheels from China through Thailand” (July 28, 2020).

⁵ See CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7509 – Vanguard National Trailer Corp.” (Aug. 18, 2020).

⁶ See Letter from the Allegers, “22.5 and 24.5 Inch Steel Wheels from China: Request for an Investigation under the Enforce and Protect Act” (July 17, 2020) (Allegation); see also Letter from the Allegers, “22.5 and 24.5 Inch Steel Wheels from China: Supplement to Request for an Investigation under the Enforce and Protect Act” (July 27, 2020) (Supplement to Allegation).

⁷ See Allegation at 6 and Exhibit 2.

⁸ *Id.* at 7.

⁹ *Id.* at 7-8 and Exhibit 3.

Allegers maintain that Jingu's U.S. shipments from China continued to fall, as shipments in November 2019 were [] percent less than in November 2018.¹⁰

Jingu's website identifies Asia Wheel as a newly-built subsidiary in Thailand.¹¹ Although the website only states that production and inspection equipment have been purchased for Asia Wheel, the website also claims that Asia Wheel's annual volume has reached 2 million.¹² Trade data on Asia Wheel indicate that the company only began shipping to the United States in September 2018, and its shipments for the period September through November 2019 increased by more than [] percent over the same time period in 2018.¹³ The Allegers contend that the increase in shipments from Asia Wheel corresponds with the drop in U.S. shipments from Jingu in China.¹⁴

According to the Allegers, most of Asia Wheel's customers, including Vanguard, are former customers of Jingu in China.¹⁵ Jingu's shipments to these U.S. customers dropped by [] percent from 2018 to 2019, and specifically with respect to Vanguard, dropped by [] percent, with a [] shipments from Asia Wheel.¹⁶ Thus, the Allegers argue, the available data indicates the shift in Jingu's shipping pattern from China to Thailand aligns with the time of the AD and CVD preliminary determinations and orders.

In addition, the Allegers argue that the available evidence shows that the volume of steel wheels shipped by Jingu from Asia Wheel were not produced in Thailand, since Asia Wheel's facility had no production capabilities for at least most of the period it has been shipping steel wheels to the United States. The Allegers provided [

] stated that [

].¹⁷ [

] ¹⁸ Further, [

] said [] had [

]; rather [

].¹⁹

[

].²⁰

¹⁰ *Id.*

¹¹ *Id.* at 8 and Exhibit 2.

¹² *Id.*

¹³ *Id.* at 8-9 and Exhibit 4.

¹⁴ *Id.* at 9.

¹⁵ *Id.* at 9 and Exhibit 5.

¹⁶ *Id.*

¹⁷ *Id.* at 9-10 and Exhibit 6.

¹⁸ *Id.* at 10 and Exhibit 6.

¹⁹ *Id.*

²⁰ *Id.*

Additionally, [

].²¹ [

] ²²

According to the Allegers, these [] establish that no production of steel wheels could have occurred at Asia Wheel at the time when Asia Wheel’s shipments to Jingu’s U.S. customers was increasing. The Allegers assert that Asia Wheel [].²³

Finally, the Allegers claim that available information shows that Vanguard imported steel wheels transshipped through Thailand within one year of the allegation. Trade data show significant imports of steel wheels reportedly originating in Thailand from Asia Wheel by Vanguard (and its parent, CIMC) from December 2018 through early 2020²⁴ that fell under the scope of the *Steel Wheels Orders*, which includes 22.5 and 24.5-inch steel wheels under HTS subcategories 8708.70 and 8716.90.²⁵ The Allegers note that Vanguard is listed among the responding U.S. importers in the U.S. International Trade Commission’s investigation on steel wheels from China.²⁶

Initiation Assessment

TRLED 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.”²⁷ 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 covered merchandise.”²⁸ Thus, the allegation must reasonably suggest not only that the importer alleged to be evading entered merchandise subject to an AD and/or CVD order into the United States, 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 and/or CVD cash deposits or other security.

In assessing the evidence provided in the allegation, TRLED found that the allegation reasonably suggested that Vanguard entered merchandise covered by AD order A-570-082 and CVD order C-570-083 into the customs territory of the United States through evasion. Specifically, the trade data and the [

²¹ *Id.* at 10-11 and Exhibit 6.

²² *Id.* at 11 and Exhibit 6.

²³ *Id.* at 11-12.

²⁴ *Id.* at 12 and Supplement to Allegation at Exhibit S-7.

²⁵ *Id.*

²⁶ *Id.* at 12-13 and Exhibit 9.

²⁷ See 19 CFR 165.15(b); see also 19 USC 1517(b)(1).

²⁸ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

] submitted by the Allegers indicates that Vanguard imported Chinese-origin steel wheels that were transshipped through Thailand by Asia Wheel and did not report the merchandise as subject to the *Steel Wheel Orders*, thus evading the requisite AD and CVD duties.

For the reasons previously set forth, TRLED initiated an investigation under the authority of 19 USC 1517(b)(1) on Vanguard's imports of covered merchandise that are alleged to be entered for consumption into the customs territory of the United States through evasion.²⁹

Interim Measures and Initiation of Investigation

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the AD/CVD orders was entered into the United States through evasion. CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be evading entered merchandise covered by an AD or CVD order into the United States by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures on Vanguard because there is reasonable suspicion that Vanguard entered covered merchandise into the United States through evasion by means of transshipment.³⁰

CF-28 Responses

On September 2, 2020, CBP issued a CBP Form 28 (CF-28) request for information to Vanguard for entry number []8200 dated, [] and entry number []3802 dated [].³¹ For both entries, CBP requested that Vanguard provide records from the foreign manufacturer, including documentation related to the raw material purchases, factory production records, employee time cards, a description of the production process, and information regarding the equipment used in the production of steel wheels. CBP also requested support documentation for Vanguard's purchase of the steel wheels from the foreign manufacturer, including purchase orders, commercial invoices, bills of lading, transportation documents, and proof of payments. For both entries, Vanguard submitted a portion of its response to the CF-28 on September 15, 2020, and the remaining portion on October 26, 2020.³²

CBP reviewed Vanguard's CF-28 response and observed that Vanguard's purchase orders for both entries [] all other documentation

²⁹ See also 19 CFR 165.15.

³⁰ See 19 CFR 165.24(a).

³¹ See CBP Form 28 (CF-28) issued to Vanguard for entry numbers []8200 and []3802 (Sep. 2, 2020).

³² See Vanguard CF-28 Response for entry numbers []8200 and []3802 (Sep. 15, 2020) (Vanguard September 15, 2020 CF-28 Response) and Vanguard CF-28 Response for entry numbers []8200 and []3802 (Oct. 26, 2020) (Vanguard October 26, 2020 CF-28 Response).

pertaining to Vanguard's purchase of the imported steel wheels (*e.g.*, bill of lading, commercial invoice, packing list, *etc.*) [] from Asia Wheel.³³ In its CF-28 response, Vanguard instructed CBP to contact [] for information on the raw materials purchased by the factory in Thailand.³⁴

Also, for both entries, the documentation in Vanguard's CF-28 response showed that Asia Wheel purchased raw materials from an affiliated Chinese [].³⁵ This documentation indicated that Asia Wheel's raw material purchases from [] consisted of discs and wheel boards (*i.e.*, rectangular steel plates) classified under Thai HS codes [] and [], respectively.³⁶ Vanguard explained that Asia Wheel produced rims from the wheel boards and then welded the rims and discs together to form steel wheels.³⁷ The scope of the *Steel Wheels Orders* cover "certain on-the-road steel wheels, discs, and rims for tubeless tires, with a nominal rim diameter of 22.5 inches and 24.5 inches ... {t}he scope includes rims and discs that have been further processed in a third country, including, but not limited to, the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the proceeding if performed in China."³⁸ Asia Wheel purchased discs and wheel boards from a Chinese company. Based on the scope of the *Steel Wheels Orders*, discs from China are subject to the AD/CVD orders on steel wheels. Moreover, the further processing in a third country of discs from China to form steel wheels would not remove the merchandise from the scope of the AD/CVD orders, because the product was within the scope of the AD/CVD orders when it left China.

In addition, for entry []3802, we noted inconsistencies in the documentation related to the shipment of the steel wheels to Vanguard. As noted above, Vanguard submitted a portion of its response to the CF 28 pertaining to this entry on September 15, 2020 and the remaining portion on October 26, 2020. On both dates, Vanguard submitted Asia Wheel invoice and packing list number [] dated, [] referencing Vanguard purchase order number []. The Asia Wheel invoices and packing lists submitted on both dates list the same container numbers, but the invoice and packing list submitted on September 15, 2020 list [] as the vessel while the invoice and packing list submitted on October 26, 2020 list the vessel as []. Further, although other documents submitted for this entry (*e.g.*, the Thai export declaration form and bill of lading) reference the vessel [], the container numbers listed on those documents differ from the container numbers listed on the Asia Wheel invoices and packing lists.³⁹

³³ See Vanguard September 15, 2020 CF-28 Response; *see also* Vanguard October 26, 2020 CF-28 Response at Exhibit 2.

³⁴ See Vanguard September 15, 2020 CF-28 Response at response to question 14.4.

³⁵ See Vanguard October 26, 2020 CF-28 Response at Narrative, page 2 and Exhibit 4.

³⁶ *Id.*

³⁷ See Vanguard October 26, 2020 CF-28 Response at Narrative, page 3-4.

³⁸ See *Steel Wheels Orders*, 84 Fed. Reg. at 24,100.

³⁹ See Vanguard September 15, 2020 CF-28 Response; *see also* Vanguard October 26, 2020 CF-28 Response at Exhibit 3.

Other Record Evidence

On September 24, 2020, CBP conducted an on-site visit at Asia Wheel's facility in Thailand.⁴⁰ During the visit, officials from Asia Wheel stated that mass production of steel wheels [redacted].⁴¹ Asia Wheel officials indicated that all sales are managed by [redacted], and that Asia Wheel produces [redacted].⁴² Company officials stated that the facility had [redacted] production lines, [redacted] for steel wheel production and [redacted] for steel trailer wheel production.⁴³

During the on-site visit, the [redacted] steel wheel production line was not operating. Asia Wheel officials stated that the line had been used recently, until CBP imposed interim measures in the EAPA investigation on steel trailer wheels.⁴⁴ Asia Wheel officials provided conflicting accounts regarding the last use of the steel wheel production line, as one official indicated that it had been used the [redacted].⁴⁵ However, it appeared that the steel wheel production line had not been used for several months, [redacted]. CBP observed that the machines were placed too close together and positioned in such a way that they did not appear to have sufficient space for proper operation. Also, pallets of steel plates were stored in front of the machines, which blocked access to the steel wheel production line, and CBP observed rust and spider webs on the machines.⁴⁶ In sum, CBP found no evidence of recent steel wheel production at Asia Wheel.⁴⁷

Furthermore, CBP reviewed data which show that Vanguard's first entry of steel wheels from Asia Wheel occurred [redacted] and that Vanguard's last entry of steel wheels from Jingu occurred on [redacted].⁴⁸ These data are consistent with the Allegers' claim that publicly available trade data show that Jingu shifted its shipments of steel wheels to U.S. customers from China to Thailand following the preliminary determinations in the AD and CVD investigations on steel wheels from China.

Enactment of Interim Measures

Based on the record evidence described above, CBP determines that reasonable suspicion exists that Vanguard imported steel wheels into the United States that were transshipped from China through Asia Wheel in Thailand, and should have been subject to AD/CVD orders A-570-082

⁴⁰ See CBP Interoffice Memorandum from the Regional CBP Attaché to the Executive Director of the Trade Remedy Law Enforcement Division (Oct. 9, 2020) (On-Site Visit Report).

⁴¹ *Id.* at 2.

⁴² *Id.* at 3

⁴³ *Id.*

⁴⁴ *Id.* See also CBP Memorandum, "Notice of initiation of investigation and interim measures taken as to Lionshead Specialty Tire and Wheel LLC; Tex Trail LLC; and Trailstar LLC concerning evasion of the antidumping and countervailing duty orders on steel trailer wheels from China" (Jul. 15, 2020).

⁴⁵ See On-Site Visit Report at 3.

⁴⁶ *Id.* at 3-4.

⁴⁷ *Id.* at 5.

⁴⁸ See DC NTAC Report for Vanguard (Aug. 13, 2020); see also CBP Data for Vanguard (Nov. 18, 2020).

and C-570-083. Therefore, CBP is imposing interim measures pursuant to this investigation.⁴⁹ Specifically, in accordance with 19 USC 1517(e)(1-3), CBP shall:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after August 18, 2020, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under section 504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before August 18, 2020, the date of the initiation of the investigation; and
- (3) pursuant to the Commissioner's authority under section 623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.⁵⁰

In addition, CBP will require live entry and reject any entry summaries that do not comply with live entry and require refile of entries that are within the entry summary rejection period. CBP will also evaluate Vanguard's continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

For future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP and to the parties identified at the top of this notice.⁵¹ Should you have any questions regarding this investigation, you may contact us at eapallegations@cbp.dhs.gov with "EAPA Case 7509" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

Sincerely,



Brian M. Hoxie
Director, Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
CBP Office of Trade

⁴⁹ See 19 USC 1517(e); *see also* 19 CFR 165.24.

⁵⁰ *See also* 19 CFR 165.24(b)(1)(i-iii).

⁵¹ *See* 19 CFR 165.4; *see also* 19 CFR 165.23(c); *see also* 19 CFR 165.26.