



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

PUBLIC VERSION

July 15, 2020

EAPA Cons. Case Number 7459

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RE: 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

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

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). Specifically, CBP is investigating whether Lionshead Specialty Tire and Wheel LLC (“Lionshead”); Tex Trail LLC (“Tex Trail”); and Trailstar LLC (“Trailstar”) (collectively, “the Importers”) have evaded antidumping (“AD”) and countervailing (“CVD”) duty orders A-570-090 and C-570-091 on steel trailer wheels 12 to 16.5 inches in diameter (“steel trailer wheels”) from the People’s Republic of China (“China”)¹ when importing steel trailer wheels into the United States. Because evidence on the record establishes a reasonable suspicion that the Importers have entered merchandise into the United States through evasion, CBP has imposed interim measures.

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 prior to 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.”² On March 11, 2020, Dexstar Wheel Division of Americana Development, Inc. (“allegor”), a domestic manufacturer of steel trailer wheels, filed a revised EAPA allegation through counsel.³ CBP acknowledged receipt of the properly filed allegations against Lionshead, Tex Trail, and Trailstar on March 19, 2020.⁴ These three investigations are now consolidated as discussed further below, and the entries covered by the consolidated investigation are those entered for consumption, or withdrawn from warehouse for consumption, from March 19, 2019, through the pendency of this investigation.⁵ In addition, and at its discretion, CBP may investigate other entries of such covered merchandise.⁶

Initiation

The allegor claimed specifically that the Importers evaded the Chinese *Steel Trailer Wheels Orders* with imports from Thailand. The Importers’ imports were reportedly from the Chinese wheel producer, Zhejiang Jingu Company Limited (“Jingu”) and transshipped through Asia

¹ *Certain Steel Trailer Wheels 12 to 16.5 Inches From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 45,952 (Dep’t Commerce Sept. 3, 2019) (“*Steel Trailer Wheels Orders*”).

² See 19 CFR 165.1.

³ See Letter from the allegor, “12 to 16.5 Inch Steel Trailer Wheels from China: Request for an Investigation under the Enforce and Protect Act”—Importer: Lionshead Specialty Tire and Wheel LLC, dated March 11, 2020 (Lionshead Allegation); Letter from the allegor, “12 to 16.5 Inch Steel Trailer Wheels from China: Request for an Investigation under the Enforce and Protect Act”—Importer: Tex Trail LLC, dated March 11, 2020 (Tex Trail Allegation); Letter from the allegor, “12 to 16.5 Inch Steel Trailer Wheels from China: Request for an Investigation under the Enforce and Protect Act”—Importer: Trailstar LLC, dated March 11, 2020 (Trailstar Allegation)(collectively, allegations).

⁴ See March 19, 2020, Receipt Notification Emails to Roger B. Schagrin and Nicholas J. Birch of Schagrin Associates for EAPA Allegations 7459 (Lionshead), 7461 (Tex Trail), and 7463 (Trailstar), respectively.

⁵ See 19 CFR 165.2.

⁶ *Id.*

Wheel Co Ltd. (“Asia Wheel”), Jingu’s affiliate in Thailand.⁷ Consequently, Chinese origin steel trailer wheels entered into the United States as a product of Thailand evade the Steel Trailer Wheels Orders.

In its allegation, the allegor claimed that the importers acted as the importers of record for shipments of in-scope steel trailer wheels from China transshipped through Thailand.⁸ In August 2018, as a result of the AD and CVD orders on imports of steel trailer wheels 12 to 16.5 inches in diameter from China, Jingu’s shipments of wheels to U.S. customers shifted from China to Asia Wheels in Thailand. The shift, however, did not result in increased production of steel wheels in Thailand.⁹

The Department of Commerce (“Commerce”) selected Jingu as a mandatory respondent in both the steel wheels and the steel trailer wheels AD and CVD investigations. As one of the largest Chinese manufacturers, Commerce issued Jingu a 388.31% CVD rate and 44.35% AD rate for steel trailer wheels.¹⁰ The allegor provided publicly available trade data that indicated Jingu changed its shipping patterns in response to the CVD and AD investigations. Consequently, U.S. shipments from Jingu declined [] between the fourth quarter of 2018 and the first quarter of 2019. Overall, there was a [] drop in U.S. imports of covered merchandise from Jingu between November 2018 and November 2019.¹¹

Jingu identified Asia Wheel as their newly built subsidiary in Thailand.¹² According to Jingu’s website, Asia Wheel’s annual volume of steel wheels reached 2 million.¹³ Asia Wheel began shipping to the United States in September 2018. According to the allegation, U.S. shipments from Jingu decreased from China for the following year, but there was a [] increase in shipments from September 2019 through November 2019, which corresponded to the decrease in U.S. shipments from Jingu in China.¹⁴

The Importers were former customers of Jingu in China. Jingu’s shipments to these U.S. importers dropped [] from 2018 to 2019, including an [] drop in shipments from Jingu to Lionshead,¹⁵ an [] drop in shipments from Jingu to Tex Trail,¹⁶ and an [] drop in shipments from Jingu to Trailstar.¹⁷ The fledgling shipping patterns from China to Thailand align with the time of the AD and CVD orders and preliminary determinations.¹⁸ Asia Wheel did not have confirmed production of steel trailers. [

], maintained that [

⁷ See Lionshead Allegation, Tex Trail Allegation, and Trailstar Allegation.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 8 and Exhibit 2.

¹³ *Id.*

¹⁴ *Id.* at 8.

¹⁵ See Lionshead Allegation.

¹⁶ See Tex Trail Allegation.

¹⁷ See Trailstar Allegation.

¹⁸ See Lionshead Allegation, Tex Trail Allegation, and Trailstar Allegation at 8.

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] said to support such major production] to support such major production

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Additionally,

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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.”²⁴ 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.”²⁵ Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or 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 and/or CVD cash deposits or other security.

The allegations pertaining to all three Importers contained identical types of evidence and reasonably suggested that steel trailer wheels entered into the customs territory of the United States by means of evasion, and that the Importers may have been importing such merchandise. The Importers received imported steel trailer wheels as products of Thailand when Asia Wheel, the claimed Thai producer, did not have the ability to produce these wheels. The increase in

¹⁹ *Id.* at 8-9 and Exhibit 6.

²⁰ *Id.* at 9 and Exhibits 2 and 6.

²¹ *Id.*

²² *Id.* at 9 and Exhibits 2.

²³ *Id.* at 9-10 and Exhibit 6.

²⁴ See 19 CFR 165.15(b); see also 19 USC 1517(b)(1).

²⁵ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

steel trailer wheel imports from Thailand to U.S. customers and the decreased steel trailer wheel shipments from Jingu, correlates to the timeframe ADCVD duties were imposed on Jingu's exports from China, reasonably suggesting evasion.²⁶

Interim Measures

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. 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 because there is reasonable suspicion that Lionshead, Tex Trail, and Trailstar entered covered merchandise into the customs territory of the United States through evasion by means of transshipment through Thailand.²⁷

CF-28 Responses and Analysis

On May 12, 2020, as part of the EAPA investigation process, CBP issued CBP Form 28, Request for Information ("CF-28") to Lionshead requesting information on entry []1799 with an entry date of [] and on entry number []5907 with an entry date of [].²⁸ Tex Trail provided information on entry number []0822 with the date of entry []²⁹ and Trailstar provided information on entry number []1112 with date of entry [] on June 10, 2020.³⁰ CBP's information requests included proof of the production process from raw material inputs to the finished product with supporting documentation; raw materials records, *i.e.*, invoices and purchase orders for all raw materials, including shipping records and proof of payments; factory production records including stamped time cards; description of all equipment used in the production of steel trailer wheels and purchase orders from the manufacturer to the importer of record.

First, the Importers failed to provide the unit prices and values of raw materials purchased to fulfill the entries citing that Asia Wheel redacted the figures.³¹ This information, in addition to purchase orders and proof of payments, the Importers stated that Asia Wheel would only provide the information, as well payment information directly to the CBP, upon CBP's request.³² In its responses, the Importers admitted that [] Thailand. Moreover, the Importers also failed to supply shipping records for raw materials, proof of payment for raw materials as well as customs clearance records for raw materials imported for Asia Wheels.

²⁶ See Lionshead Allegation, Tex Trail Allegation, and Trailstar Allegation.

²⁷ See 19 CFR 165.24(a).

²⁸ See Lionshead's CF-28 Response ("Lionshead CF-28 Response") dated June 10, 2020.

²⁹ See Tex Trail's CF-28 Response ("Tex Trail CF-28 Response") dated June 10, 2020.

³⁰ See Trailstar's CF-28 Response ("Trailstar CF-28 Response") dated June 10, 2020.

³¹ See Lionshead CF-28 Response, Tex Trail CF-28 Response, and Trailstar CF-28 Response.

³² *Id* at 2.

Second, CBP noted that Asia Wheel purchased raw material from [], a Chinese company as evidenced by the bill of lading.³³ Specifically, Asia Wheel purchased discs, and wheel boards (hot rolled steel plate) from [].³⁴ According to the ADCVD scope for the orders: “...the scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the painting of wheels from China and 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 orders if performed in China.”³⁵

Asia Wheel received its discs and wheel boards from a Chinese company. According to the scope, discs from China are subject to the steel trailer wheels orders. Furthermore, discs from China that have been further processed in a third country to form steel wheels would not remove the merchandise from the scope of the orders.³⁶ Likewise, each of the Importers submitted information to CBP that key raw materials (rims, etc.) were purchased in China.

Third, in the Importers’ response to CBP, there were portions of the employee attendance records in Chinese with Thai writing on the Thai employees’ records.³⁷ For all responses, Asia Wheel claimed that it manufactured steel trailer wheels, and as proof, Asia Wheel submitted its manufacturing production process flow charts.³⁸ The chart identified equipment for wheel painting available in 2013 and packing equipment available as of 2014. According to the allegation, Asia Wheel newly established after the AD/CVD cases activated in 2018,³⁹ and their production records were in Chinese.⁴⁰ Further, Asia Wheel claimed manufacturing capabilities without providing any evidence.

Lastly, Tex Trail provided in three of its purchase orders stating a Thai address with “Zhejiang Jingu Company Limited/DBA Asia Wheel.”⁴¹ Additionally, another purchase order had a Chinese address stating “Zhejiang Jingu Company Limited” on the purchase order.⁴² The purchase orders for Thai origin steel trailer wheels with Jingu’s address in China, fails to demonstrate that the merchandise was solely produced in Thailand. Further, all of the Importers

³³ *Id* at Ex. 4.

³⁴ *Id.*

³⁵ *Certain Steel Trailer Wheels 12 to 16.5 Inches From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 45,952 (Dep’t Commerce Sept. 3, 2019) (“*Steel Trailer Wheels Orders*”).

³⁶ *Certain Steel Trailer Wheels 12 to 16.5 Inches From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 45,952 (Dep’t Commerce Sept. 3, 2019) (“*Steel Trailer Wheels Orders*”).

³⁷ *Id* at Ex. 7.

³⁸ *Id* at Ex. 8.

³⁹ See *Lionshead Allegation*, *Tex Trail Allegation*, and *Trailstar Allegation*.

⁴⁰ *Id* at Ex. 6.

⁴¹ See *Tex Trail’s CF-28 Response* at Ex. 2.

⁴² *Id.*

also failed to provide requested importer of record's copies of the commercial invoice⁴³ as well as the factory inspection reports in response to question 13 of the CF28.⁴⁴

Other Record Evidence

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CBP provided analysis of additional trade data pertaining to Asian Wheels and Jingu. Consistent with the claims in the allegation, imports of steel trailer wheels appeared to shift from China to Thailand.⁴⁶ Contrary to [], Thai shipments to the U.S. were not classified under HTS 8708. The Importers used the classification to categorize imports from China. The Importers' CF 28 responses reflected steel wheels imports; however, its entries were correctly classified under HTS 8716 for steel trailer wheels.⁴⁷ The last steel wheel entry was made prior to 5/17/2019, the AD/CVD effective date.⁴⁸ For imports using HTS 8716, the switch from China to Thailand occurred after the AD/CVD orders became effective on 8/28/2019.⁴⁹

The information provided by the allegor and CBP data regarding the Importers' import trends, creates an objective basis for CBP to reasonably conclude that the steel trailer wheels imported by each importer into the United States were produced in China, and thus are subject to AD/CVD duties.

Enactment of Interim Measures

Based on the record evidence described above, CBP determines that reasonable suspicion exists that Lionshead, Tex Trail, and Trailstar imported steel trailer wheels into the United States from Thailand that was, in fact, from China and should have been subject to AD/CVD orders A-570-090 and C-570-091. Therefore, CBP is imposing interim measures pursuant to this investigation.⁵⁰ Specifically, in accordance with 19 USC 1517(e)(1-3), CBP shall:

⁴³ See Lionshead CF-28 Response, Tex Trail CF-28 Response, and Trailstar CF-28 Response at 2. There was a note that indicated the information was to be provided; to date it has not been received.

⁴⁴ See id at 6-7.

⁴⁵ [].

⁴⁶ [].

⁴⁷ []

⁴⁸ *Certain Steel Wheels From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 24,098 (Dep't Commerce May 24, 2019) ("*Steel Wheels Orders*").

⁴⁹ *Certain Steel Trailer Wheels 12 to 16.5 Inches From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 Fed. Reg. 45,952 (Dep't Commerce Sept. 3, 2019) ("*Steel Trailer Wheels Orders*").

⁵⁰ See 19 USC 1517(e); see also 19 CFR 165.24.

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after April 9, 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 the date of the initiation of the investigation April 9, 2020; 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.⁵¹

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

Consolidation of the Investigations

TRLED is consolidating the three investigations on Lionshead, Tex Trail, and Trailstar into a single investigation covering all three importers. The new consolidated case number will be EAPA Consolidated Case No. 7459, and CBP will maintain a single administrative record. At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation, pursuant to 19 CFR 165.13(b), which stipulates that the factors that CBP may consider in consolidating multiple allegations include, but are not limited to, whether the multiple allegations involve: 1) relationships between the importers; 2) similarity of covered merchandise; 3) similarity of AD/CVD orders; and 4) overlap in time periods of entries of covered merchandise.

In these investigations, all three importers are alleged to have entered suspected Chinese-origin steel trailer wheels from China, covered by the same AD/CVD order. The entries for the importers in question fall within a common period of investigation. Moreover, all three importers have a single common manufacturer/exporter. Because factors warranting consolidation are present in these investigations, CBP is consolidating them and providing this notice pursuant to 19 CFR 165.13(c). We note that the deadlines for the consolidated investigation will be set from the date of initiation of all of the allegations, which is April 9, 2020.⁵²

For any future submissions or factual information to CBP pursuant to this consolidated EAPA investigation, please provide a business confidential version and public version to CBP. In addition, please also provide a public version to the email addresses of the parties identified at the top of this notice.⁵³ Should you have any questions regarding this investigation, please feel free to contact us at eapallegations@cbp.dhs.gov. Please include "EAPA Cons. Case Number 7459" in the subject line of your email. Additional information on this investigation, including the applicable statute and

⁵¹ See also 19 CFR 165.24(b)(1)(i-iii).

⁵² See, e.g., 19 CFR 165.13(a).

⁵³ See 19 CFR 165.4, 165.23(c), and 165.26.

regulations, may be found on CBP's EAPA website, <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian M. Hoxie". The signature is fluid and cursive, with the first name being the most prominent.

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