



U.S. Customs and  
Border Protection

**September 23, 2020**

EAPA CONS. CASE NO. 7379

**PUBLIC VERSION**

AB MA Distribution Corp.  
1448 Holts Grove Circle  
Winter Park, Florida 32789

J&S Trading Inc.  
1121 13th Street, #187  
Boulder, Colorado 80302

Kimberly Rae Young  
On behalf of M&B Metal Products Company Inc.  
Vorys Sater Seymour and Pease LLP  
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**RE: Notice of Determination as to Evasion**

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Pursuant to an examination of the record in Enforce and Protect Act (EAPA) Consolidated Investigation 7379, U.S. Customs and Border Protection (CBP) has determined there is substantial evidence that AB MA Distribution Corp. (AB MA) and J&S Trading Inc. (J&S) (collectively, the Importers) entered merchandise covered by antidumping duty (AD) order A-570-918 on steel wire garment hangers (hangers) from the People's Republic of China (China)<sup>1</sup> into the customs territory of the United States through evasion. Substantial evidence demonstrates the Importers imported Chinese-origin hangers that were transshipped and the country of origin claimed as India. As a result, no cash deposits were applied to the merchandise at the time of entry.

**Background**

On October 30, 2019, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP's Office of Trade, acknowledged receipt of the properly filed allegation by M&B Metal Products

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<sup>1</sup> See *Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China*, 73 FR 58111 (Dept. Commerce, March 11, 1986) (the *Order*).

Company, Inc. (the Alleger), a domestic manufacturer of hangers.<sup>2</sup> TRLED found the information provided in the allegations reasonably suggested that the importers entered covered merchandise into the customs territory of the United States through evasion. Consequently, CBP initiated investigations with respect to the Importers on November 21, 2019, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the “Enforcement and Protect Act” or EAPA.<sup>3</sup>

After evaluating all of the information on the record, TRLED next determined that reasonable suspicion existed that the hangers imported into the United States from India by the Importers were manufactured in China. Specifically, TRLED based its determination on the information provided in the allegation, U.S. government officials confirming the lack of production capacity, and company officials from the claimed manufacturer admitting to transshipment of Chinese hangers.<sup>4</sup> Consequently, based upon the information stated above, CBP imposed interim measures on February 21, 2020.<sup>5</sup>

On March 5, 2020, pursuant to 19 CFR 165.5, CBP sent a Request for Information (RFI) to the claimed manufacturer Kaylee International Private Limited (Kaylee), and on March 6, 2020, CBP sent RFIs to the Importers, requesting information on the manufacturer’s shipments to the Importers, as well as the manufacturer’s production capabilities and capacities.<sup>6</sup> On March 13, 2020, CBP received a limited response from Kaylee.<sup>7</sup> The Importers failed to respond to their RFIs. As a result, on March 31, 2020, CBP reissued the RFIs to the Importers, giving them an

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<sup>2</sup> See email “Receipt of EAPA Allegation 7379: Transshipment / Steel Wire Garment Hangers,” dated October 30, 2019; see also email “Receipt of EAPA Allegation 7380: Transshipment / Steel Wire Garment Hangers,” dated October 30, 2019.

<sup>3</sup> See CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7379 – AB MA Distribution Corp.,” dated November 21, 2019 (AB MA Initiation); see also CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7380 – J&S Trading Inc.,” dated November 21, 2019 (J&S Initiation).

<sup>4</sup> See CBP letter, “Notice of Initiation of Investigation and Interim Measures – EAPA Cons. Case No. 7379,” dated February 26, 2020 (NOI).

<sup>5</sup> *Id.* at 6.

<sup>6</sup> See Memorandum to Kaylee, “Request for Information to Claimed Manufacturer with regard to Enforce and Protect Act Investigation of whether AB MA Distribution Corp. and J&S Trading Inc. have evaded the antidumping duty order on certain steel wire garment hangers from the People’s Republic of China, A-570-918, with entries of merchandise into the United States,” dated March 5, 2020 (Kaylee RFI); Memorandum to AB MA, “Request for Information to Importer with regard to Enforce and Protect Act investigation of whether AB MA Distribution Corp. has evaded the antidumping duty order on steel wire garment hangers from the People’s Republic of China, A-570-918, with entries of merchandise into the United States,” dated March 6, 2020 (AB MA RFI); Memorandum to J&S Trading “Request for Information to Importer with regard to Enforce and Protect Act investigation of whether J&S Trading Inc. has evaded the antidumping duty order on steel wire garment hangers from the People’s Republic of China, A-570-918, with entries of merchandise into the United States” dated March 6, 2020 (J&S Trading RFI).

<sup>7</sup> See email from Kaylee “Re: Cons Case EAPA 7379 - Request for Information - Kaylee,” dated March 13, 2020.

additional opportunity to respond to the RFIs.<sup>8</sup> The Importers again failed to respond to this second request.

On May 18, 2020, CBP emailed Kaylee to serve the public version of the RFI documents sent to CBP to the Alleger's counsel.<sup>9</sup> We received no response from Kaylee, and it did not serve the requested information to any of the parties to the investigation. On June 8, 2020, the Alleger submitted voluntary factual information to the record pertaining to Kaylee and the Importers.<sup>10</sup> On August 27, 2020, CBP rejected Kaylee's RFI submission from the administrative record pursuant to 19 CFR 165.4(b) for failure to serve the Alleger as required by 19 CFR 165.23(c)(1).<sup>11</sup>

The Alleger submitted written arguments on July 8, 2020.<sup>12</sup> No other party submitted any arguments.

### **Analysis as to Evasion**

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.” 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.”

Substantial evidence on the record of this investigation supports a determination that the Importers' imports were covered merchandise entered through evasion, resulting in the avoidance of applicable AD deposits or other security. As noted in the NOI, the Alleger submitted the following evidence that reasonably suggested that the Importers attempted to evade the *Order* through the transshipment of Chinese-origin hangers through India: 1) trade data provided by M&B showing Kaylee [ ] and exporting [ ] to the Importers; 2) Kaylee's website plagiarized photos from M&B's website; 3) M&B's foreign market research reports and photographs of Kaylee's Indian facilities showed a clear lack of manufacturing facilities; and 4) Kaylee's financial reports specifically state that Kaylee's Indian facility is incapable of manufacturing steel wire garment hangers in its facilities.<sup>13</sup>

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<sup>8</sup> See email, “Importer 1: EAPA 7379: RFI - FINAL,” dated March 31, 2020; see also email, “Importer 2: EAPA 7379: RFI - FINAL,” dated March 31, 2020.

<sup>9</sup> See Memorandum “Rejecting Information from the Administrative Record of EAPA Consolidated Case 7379” (Memorandum Rejecting Information), dated August 27, 2020, at Attachment.

<sup>10</sup> See Letter from Alleger, “EAPA Investigation of Steel Wire Garment Hangers Imported from India: Voluntary Submission of Factual Information,” dated June 8, 2020.

<sup>11</sup> See Memorandum Rejecting Information.

<sup>12</sup> See Letter from Alleger, “EAPA Investigation of Steel Wire Garment Hangers Imported from India (EAPA Cons. Case No. 7379—U.S. Importers AB MA Distribution Corporation and J&S Trading Inc.): Written Argument of M&B Metal Products Company, Inc.,” dated July 8, 2020 (Written Argument).

<sup>13</sup> See NOI at 4 - 5.

The NOI also provided a summary of a report from U.S. government (USG) officials, who visited Kaylee on July 18, 2019.<sup>14</sup> In the report, USG personnel observed the following:

- Kaylee had no manufacturing, warehousing, or repacking facilities near its reported office.<sup>15</sup>
- Company officials explained that they procured hangers from China for export to United States.<sup>16</sup>
- Company officials stated that they stopped doing Chinese hanger exports when they realized it was not acceptable.<sup>17</sup>
- Company officials stated they exported about [ ]<sup>18</sup>
- Kaylee would procure Chinese hangers and do [ ]<sup>19</sup>
- Importers instructed Kaylee to not affix any manufacturer labels as importer wanted to put their own labels.<sup>20</sup>
- Kaylee officials stated that they were doing business with [ ]<sup>21</sup>

In sum, USG officials did not see any production during their visit, and Kaylee company officials explicitly told the USG officials that the company was transshipping hangers from China.<sup>22</sup>

As noted above, AB MA and J&S Trading did not provide responses to the RFIs issued by CBP. Furthermore, while Kaylee submitted a response to the initial RFI, the response was significantly deficient and did not meet CBP filing requirements. As a result, TRLED rejected the response from the administrative record of this investigation. Therefore, neither Kaylee nor the Importers provided any evidence that the hangers being imported to the United States were actually manufactured in India rather than China.

Consequently, based on the full record of this investigation, CBP determines that there is substantial evidence the Importers entered merchandise into the United States through evasion. Based on the aforementioned analysis, CBP determines that substantial evidence exists demonstrating that the hangers entered by AB MA and J&S Trading during the period of investigation were of Chinese-origin and transshipped through India. As a result, AB MA and

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<sup>14</sup> See NOI, at 5; see also Memorandum “Attaché Report,” dated February 14, 2020.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See NOI, at 6; see also Memorandum “Attaché Report,” dated February 14, 2020.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

J&S Trading avoided the payment of AD duties on these hanger imports, as the merchandise is subject to the China-wide entity rate for the AD order on hangers from China.

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

In light of CBP's determination that the Importers 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 AB MA or J&S Trading during the period of investigation for EAPA Consolidated Case 7379.<sup>23</sup> For those entries previously extended in accordance with Interim Measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries. CBP will also evaluate the Importers' continuous bonds 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 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  
Office of Trade

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<sup>23</sup> The period of investigation for this case is October 30, 2018, through September 23, 2020.