



U.S. Customs and
Border Protection

PUBLIC VERSION

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RE: Notice of Initiation of Investigation and Interim Measures: Consolidated EAPA Case 7501

Dear Counsel and/or Representatives for 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 (TFTEA) of 2015, commonly referred to as the Enforce and Protect Act (EAPA). Specifically, CBP is investigating whether CEK Group LLC (CEK), D&J Trading Inc. (D&J), Power Poly & Hanger Supply Inc. (Power Poly), and KSA Supply Corporation (KSA)¹

¹ TRLED notes that KSA also does business as []. See Memo to the File, dated September 14, 2020. As noted below in the “Consolidation of the Investigations” section, TRLED has consolidated these four EAPA investigations, and therefore, refer to them generally hereafter as the “investigation.” For the purposes of this consolidated investigation, TRLED refers to KSA and [] as “KSA.”

(collectively referred to as the “Importers”) evaded antidumping duty (AD) order A-570-918² by entering into the United States Chinese-origin steel wire garment hangers (also referred to herein as “hangers”) that were transshipped through Thailand and misclassified as merchandise not subject to the *Order*. Based on a review of available information, CBP has determined that there is reasonable suspicion of evasion of AD duties by the Importers, and therefore, CBP has imposed the interim measures outlined below.

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”³ Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”⁴ M&B Metal Products Company, Inc. (referred to hereafter as “M&B”) filed EAPA allegations against each of the Importers on July 6, 2020.⁵ CBP acknowledged receipt of the properly filed Allegations on August 26, 2020.⁶ Therefore, the entries covered by the period of investigation (POI) are those entered for consumption, or withdrawn from warehouse for consumption, from August 26, 2019, through the pendency of this investigation.

Initiation

On September 14, 2020, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP’s Office of Trade, initiated investigations under EAPA⁷ as a result of the Allegations submitted by M&B regarding the evasion of AD duties by the Importers.⁸ M&B alleged that the Importers entered Chinese-origin steel hangers into the United States that were transshipped through Thailand and falsely entered as Thai-origin merchandise to evade the *Order*.⁹

² See *Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People’s Republic of China*, 73 Fed. Reg. 58,111 (Department of Commerce, October 6, 2008) (the *Order*). TRLED notes that the *Order* does not cover wooden, plastic, and other garment hangers that are not made of steel wire.

³ See 19 CFR 165.2.

⁴ See 19 CFR 165.1.

⁵ See M&B’s Letter, “EAPA Duty Evasion Allegation concerning Steel Wire Garment Hangers Imported from Thailand—Importer: CEK Group LLC,” dated July 6, 2020; M&B’s Letter, “EAPA Duty Evasion Allegation concerning Steel Wire Garment Hangers Imported from Thailand—Importer: D&J Trading Inc.,” dated July 6, 2020; M&B’s Letter, “EAPA Duty Evasion Allegation concerning Steel Wire Garment Hangers Imported from Thailand—Importer: Power Poly & Hanger Supply Inc.,” dated July 6, 2020; and M&B’s Letter, “EAPA Duty Evasion Allegation concerning Steel Wire Garment Hangers Imported from Thailand—Importer: KSA Supply Corporation,” dated July 6, 2020 (collectively referred to as “the Allegations”). TRLED notes that each of the Allegations are identical in content.

⁶ See Email, “Receipt of EAPA Allegations 7501-04: Steel Wire Garment Hangers from China,” dated August 26, 2020.

⁷ See Memorandum, “Initiation of Investigation for EAPA Case Number 7501,” dated September 14, 2020; Memorandum, “Initiation of Investigation for EAPA Case Number 7502,” dated September 14, 2020; Memorandum, “Initiation of Investigation for EAPA Case Number 7503,” dated September 14, 2020; and Memorandum, “Initiation of Investigation for EAPA Case Number 7504,” dated September 14, 2020 (collectively referred to as the “Initiation Memoranda”).

⁸ See generally the Allegations.

⁹ *Id.*

Description of the Alleged Transshipment Scheme

The evasion scheme described by M&B in the Allegations involves a single exporter in Thailand, NWH Manufacture Company Limited (NWH), and the Importers. Shortly after the notice of initiation of the 2017 EAPA investigation concerning Chinese-origin steel garment hangers being transshipped from Thailand,¹⁰ according to M&B, hanger imports from Thailand stopped altogether in February 2017, and there were no reported shipments of hangers from Thailand for a full 12 months.¹¹ M&B provided information from [], which indicates that hanger shipments from Thailand resumed in March 2018, and shipments from NWH began in January 2019.¹² Also, M&B [

].¹³ M&B argues that [

].¹⁴

M&B alleges that the [

].¹⁵ Indeed, using the [], M&B calculates that between January 2019 and June 2020, NWH shipped approximately 111 million hangers from Thailand.¹⁶ Based on these general import trends, the high dumping rates imposed on Chinese hangers,¹⁷ the final affirmative duty evasion findings in two previous EAPA investigations involving Chinese hangers being transshipped from Thailand and Malaysia,¹⁸ and the two current EAPA investigations regarding transshipped hangers from Laos and India,¹⁹ M&B contends that the significant increase in imports of hangers from Thailand was likely due to the transshipping of Chinese hangers to avoid applicable AD duties. To support this assertion, M&B collected evidence that the hangers exported by NWH from Thailand were likely produced in China and transshipped to the United States, as elucidated below.

¹⁰ See EAPA Case Number 7175/15135, “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,” dated December 13, 2016.

¹¹ See the Allegations at 3 and Exhibits 4, 12 & 14.

¹² M&B notes that 2018 shipments of hangers from Thailand were from Cloud Hanger (Thailand) Company Limited, according to information from []. *Id.*

¹³ *Id.* at Exhibit 4.

¹⁴ *Id.* at 4 and Exhibit 4.

¹⁵ *Id.*

¹⁶ *Id.* at 1 and Exhibit 6.

¹⁷ The China-wide rate listed in the order is 187.25%. See the Order.

¹⁸ See EAPA Case Number 7175/15135, “Notification of Final Determination as to Evasion,” dated August 14, 2017; EAPA Cons Case Number 7191, “Notice of Final Determination as to Evasion,” dated March 15, 2018.

¹⁹ See EAPA Cons Case Number 7357, “Notice of Determination as to Evasion,” dated October 26, 2020; EAPA Cons Case Number 7379, “Notice of Determination as to Evasion,” dated September 23, 2020.

M&B provided a [] – the month before NWH began shipping hangers to the United States – which shows NWH imported hangers from [].²⁰ M&B notes that the shipper [

].²¹ M&B also notes that the documentation indicates [].²²

M&B asserts that NWH is owned and operated, in part, by Chinese nationals. M&B supplied evidence that NWH was registered in Thailand on June 5, 2018, and of the three shareholders, two are Chinese nationals: Mr. Zhongming Tu (Mr. Tu) and Ms. Liying Ding (Ms. Ding).²³ The third shareholder, Mr. Kitthithat Netibutr (Mr. Netibutr), is a Thai national.²⁴ NWH has two directors, Mr. Tu and Mr. Netibutr.²⁵

M&B employed a foreign market researcher to collect corporate information and conduct a physical inspection of the reported business location of NWH. M&B, as well as its foreign market researcher, obtained information on NWH through the Thai Ministry of Commerce, Department of Business Development (DBD) website.²⁶ According to M&B, the DBD website lists financial information for Thai companies, and M&B found that 2018 data is the latest financial data available. M&B states that while NWH was founded in June 2018, and 2018 financial data is available for other Thai companies on the DBD website, there is no financial data available for NWH. In addition, upon visiting NWH, the foreign market researcher noted [].²⁷
The foreign market researcher [

].²⁸

M&B argues that the business type NWH reported to the Thai government, as noted on the DBD website, indicates it is not the type of business that would produce hangers. M&B notes that Standard Industrial Classification (SIC) codes were developed in the United States to classify economic activity data, but they are also used by other countries such as Thailand.²⁹ Importantly, M&B states that SIC codes are self-selected by companies, and NWH classified itself to the Thai government as a company that sells wholesale goods on a fee or contract basis.³⁰ More specifically, according to M&B, NWH's SIC code listed on the DBD website

²⁰ *Id.* at 5 and Exhibit 5.

²¹ *Id.*

²² *Id.*

²³ *See* the Allegations at 6 and Exhibits 6 & 7. M&B notes that [].

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at Exhibits 6 & 7.

²⁷ *Id.* at 6 and Exhibit 6.

²⁸ *Id.*

²⁹ *Id.* at 7 and Exhibit 8.

³⁰ *Id.*

indicates it is the kind of company that acts as a commission agent and trades on behalf of others, rather than a company that is involved in manufacturing.³¹

M&B asserts that the owner of CEK, John Liu, has a history of transshipping hangers to avoid AD duties. M&B provided information from an import subscription service, *ImportKey*, which suggests that NWH may have “trading relationships” with the Indian company Kaylee International Pvt. Ltd. (Kaylee) and the Chinese hanger producer Shaoxing Maosheng Metal (Shaoxing Maosheng).³² M&B notes that Kaylee is the shipper in India being investigated in EAPA Cons. Case 7379 and that Kaylee has already acknowledged that it was transshipping Chinese hangers through India to the United States to avoid AD duties.³³ M&B states that the same U.S. importer responsible for most of the hangers shipped from Kaylee to the United States is the importer responsible for the first U.S. imports from NWH in Thailand, AB MA Distribution Corporation (AB MA).³⁴ M&B provided information, which indicates that AB MA and CEK share an address, and the same individual, John Liu, owns both companies.³⁵ Moreover, John Liu has been involved in transshipping Chinese hangers from other countries as well. In EAPA Cons. Case No. 7191, Garment Cover Supply LLC, a company managed by John Liu, imported transshipped Chinese hangers from Malaysia.³⁶

M&B provided information from *ImportKey* that links NWH to Shaoxing Maosheng, which advertises its hanger products on the Made-in-China website and states that its products are exported to the United States.³⁷ M&B notes that, given that Shaoxing Maosheng does not have its own AD rate under the *Order*, any shipments of hangers from Shaoxing Maosheng to the United States would be subject to the China-wide rate of 187.25 percent.³⁸ The Made-in-China website also indicates that the general manager of Shaoxing Maosheng is a “Mr. Tu.”³⁹ M&B argues that with the likely connection between NWH and Shaoxing Maosheng, it is possible that the “Mr. Tu” at Shaoxing Maosheng and the owner and director of NWH, Mr. Tu, are the same person.⁴⁰ In fact, M&B notes that Shaoxing Maosheng’s and NWH’s Mr. Tu are likely the same individual, as each have addresses in Yuecheng District, Shaoxing City, Zhejiang Province in China.⁴¹

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

³¹ *Id.* In contrast to NWH’s self-selected code, M&B provided examples of SIC codes that represent businesses that actually manufacture metal products, including articles made of wire. *Id.* at Exhibit 8.

³² *Id.* at 7 and Exhibit 9.

³³ *Id.* at 7 & 10. *See also* EAPA Cons. Case 7379, “Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7379,” dated February 26, 2020, at 5 (where Kaylee company officials explained to CBP officials that the company purchases hangers from China for shipment to the United States).

³⁴ *Id.*

³⁵ *Id.* at Exhibits 11, 13 & 15.

³⁶ *See* EAPA Cons. Case 7191, “Notice of Final Determination as to Evasion,” dated March 15, 2018.

³⁷ *See* the Allegations at 8 and Exhibit 10.

³⁸ *Id.* at 8.

³⁹ *Id.* at 7 - 8 and Exhibits 9 & 10.

⁴⁰ *Id.*

⁴¹ *Id.* at 8 and Exhibits 9 & 10.

into the customs territory of the United States through evasion....”⁴² 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.”⁴³ Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or countervailing duty (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.

In the Allegations, M&B provided trade data which indicates that EAPA investigations regarding transshipped hangers from other countries and the sudden number of hanger shipments coming from Thailand, are likely due to the transshipping of Chinese hangers to avoid applicable AD duties. Reinforcing the shifting trade patterns is evidence that M&B provided which indicates the Importers are attempting to [].⁴⁴ According to information provided by M&B, NWH imported hangers from []⁴⁵ before it began making shipments to the United States, and M&B’s foreign market researcher noted [].⁴⁶ In addition, M&B noted that NWH reported to the Thai government that it is not the type of business that engages in manufacturing, but instead is a trading company.⁴⁷ M&B provided evidence that NWH has links to Chinese hanger producer Shaoxing Maosheng,⁴⁸ as well as foreign companies and importers that were investigated in prior EAPA investigations concerning hangers and were found to be engaged in evasion.⁴⁹

In assessing the evidence provided in the Allegations, TRLED found that the Allegations reasonably suggest that the Importers entered covered merchandise into the customs territory of the United States by means of evasion. Specifically, the evidence indicates the Importers evaded the *Order* by importing Chinese-origin steel hangers into the United States that were transshipped through Thailand and failing to declare such merchandise as subject to the *Order*. Consequently, TRLED initiated investigations pursuant to 19 USC 1517(b)(1) and 19 CFR 165.15 of the Importers’ entries of covered merchandise that are alleged to have been entered for consumption into the customs territory of the United States through evasion.⁵⁰

⁴² See 19 CFR 165.15(b).

⁴³ See 19 CFR 165.1 (setting forth the definition of “evasion” used here); see also 19 USC 1517(a)(5).

⁴⁴ See the Allegations at 4 and Exhibit 4.

⁴⁵ *Id.* at 5 and Exhibit 5.

⁴⁶ *Id.* at 6 and Exhibit 6.

⁴⁷ *Id.* at 7 and Exhibit 8.

⁴⁸ *Id.* at 8 and Exhibit 10.

⁴⁹ *Id.* at 7 & 10. See EAPA Cons. Case 7191, “Notice of Final Determination as to Evasion,” dated March 15, 2018. In EAPA consolidated investigation 7191, John Liu owned or manager two companies CBP found to be transshipping Chinese hangers through Malaysia, Garment Cover Supply, LLC and GL Paper Distribution, LLC. See also EAPA Cons. Case 7379, “Notice of Determination as to Evasion,” dated September 23, 2020. In EAPA consolidated investigation 7379, John Liu owned a company CBP found to be transshipping Chinese hangers through India, AB MA Distribution Corp.

⁵⁰ See Initiation Memoranda.

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, CBP will decide based on the record of the investigation if there is reasonable suspicion that such covered merchandise 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 based on the evidence of record, there is reasonable suspicion that the Importers entered covered merchandise into the customs territory of the United States through evasion by means of transshipment through Thailand and not classifying the shipments as covered merchandise.

CF-28 Responses and Analysis

CBP issued CBP Form 28 (CF28) requests for information to the Importers, requesting various information including invoices, packing slips, bills of lading, sources of raw materials, and mill test certificates for entries from Thailand made during the POI. As outlined below, the Importers' responses contain multiple discrepancies and are not complete. Therefore, TREL D is unable to rely on the information contained in the CF28 responses to determine the country of origin of the imported hangers.

CEK

On October 7, 2020, CBP requested from CEK information concerning entry number []2105, date of entry [].⁵¹ CEK submitted a timely response on November 3, 2020.⁵² As outlined below, CEK's response to the CF28 contains multiple discrepancies and is not complete. Therefore, TRLED is unable to rely on the information contained in the CF28 response to determine where the imported hangers were manufactured.

CEK provided some photographs of NWH's facility in Thailand and a factory profile,⁵³ but did not provide production capacity, inventory records, sales records, turn-around times for orders, the names of the owners and corporate officers, or employee time cards, as requested by CBP.⁵⁴

Of the requested entry summary documents, CEK submitted the invoice and packing list, both dated [].⁵⁵ CEK failed to provide the CF7501, bill of lading, contract, and purchase order, as requested in the CF28.⁵⁶ CEK provided the Certificate of Origin issued by the Thai Chamber of Commerce,⁵⁷ however, CEK provided no other export documentation filed with the Thai authorities in order to export goods, as requested in the CF28.⁵⁸

⁵¹ See CF28 issued to CEK, dated October 7, 2020 (CEK's CF28 Request).

⁵² See CEK's CF-28 Response, dated November 3, 2020 (CEK's Response).

⁵³ *Id.*

⁵⁴ See CEK CF28 Request.

⁵⁵ See CEK's Response.

⁵⁶ See CEK CF28 Request.

⁵⁷ See CEK's Response.

⁵⁸ See CEK CF28 Request.

TRLED notes that the invoice from NWH to CEK lists an amount of \$[].⁵⁹ CEK provided two proofs of payment from CEK to NWH, dated shortly after the invoice, though neither tie to the invoice amount.⁶⁰ The two proof of payment documents are both much larger than the invoiced amount, and are for \$[] and \$[].⁶¹ In anticipation of a situation where an importer may make payments to the exporter for multiple shipments, the CF28 specifically requested that if payments are made in bulk, *i.e.*, payments covering multiple invoices, CEK should provide a schedule tying the invoices to the payment.⁶² CEK provided no such schedule, and thus, TRLED cannot ascertain whether the invoice ties to these payments.⁶³

The CF28 requested a manufacturing process flow chart, a narrative describing the manufacturing process, and a demonstration of how raw materials tie to production records.⁶⁴ CEK provided a list of steps NWH uses to produce hangers but provided no narrative description of the production process.⁶⁵ CEK did not demonstrate how NWH tied the raw materials to the finished product in its books and records. CEK provided one document titled “Production Records” for the month of June 2020, the month before the sale in question.⁶⁶ This document is a single page and appears to be an excel spreadsheet created in response to the CF28 request, rather than actual production records kept in the normal course of business.⁶⁷ Furthermore, it in no way ties to entry number []2105. Specifically, according to the invoice, the sale in question was for [] hangers, with a net weight of [] kg.⁶⁸ NWH’s June production totaled [], however, it is unclear if this number is measured in number of hangers or kilograms because NWH’s “Production Records” document contains no units of measure.⁶⁹ Regardless of the unit of measure, hangers or kilograms, neither comes close to equaling the quantity of hangers for the entry in question.

The CF28 also requested invoices, mill certificates, certificates of origin, or a manufacturer’s affidavit (indicating where the raw materials were produced), which would tie to NWH’s production of hangers and indicate the country of manufacture of the steel wire.⁷⁰ No mill certificates, certificates of origin or manufacturer’s affidavit were provided.⁷¹ Instead CEK provided a purchase order which indicates that NWH purchased [] kg of wire rope for [] Thai Baht/kg from [], although there is no indication whether the wire rope was produced by [] or its country of origin.⁷² CEK also provided a receipt for this wire rope purchase.⁷³ The receipt is dated June 25, 2020, and when matched with NWH’s June “Production Records,” indicates the consumption of this wire rope could have only occurred in

⁵⁹ See CEK’s Response.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² See CEK CF28 Request.

⁶³ See CEK’s Response.

⁶⁴ See CEK CF28 Request.

⁶⁵ See CEK’s Response.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ See CEK CF28 Request.

⁷¹ See CEK’s Response.

⁷² *Id.*

⁷³ *Id.*

the last four days of production in June 2020.⁷⁴ Importantly, there is no evidence in any documents submitted by CEK that the raw material purchased is tied to any production records.

It is not clear that the receipt and purchase order are documents kept in the normal course of business. For example, the receipt indicates NWH's wire rope purchase was for [] Thai Baht, and this number is written out as well, however, the purchase order indicates NWH's purchase was for [] million Thai Baht.⁷⁵ The fact that the receipt writes out the number of Baht, as well as listing it numerically, is indicative of the absence of a typo, and as such, the receipt and purchase order do not tie to one another. Moreover, the receipt specifically states that it is not valid unless it bears an authorized signature, yet there are no signatures on this document.⁷⁶ CEK provided a receipt for NWH's purchase of hanger boxes. TRLED notes that the receipt for the purchase of wire rope contrasts sharply with the receipt for the hanger boxes, because the box receipt is signed, dated, and importantly is in Thai.⁷⁷ It is clear upon examination that the box receipt is an original document kept in the normal course of business that has been scanned,⁷⁸ unlike the wire rope purchase order.⁷⁹

Based on the discrepancies and deficiencies noted above, and the record evidence found in the Allegations that indicates NWH sells CEK products that it does not manufacture, based on CEK's Response to the CF28 CBP cannot confirm whether hangers CEK imported were actually produced at NWH's facilities in Thailand.

KSA

On October 7, 2020, CBP requested from KSA information concerning entry number []1570.⁸⁰ KSA submitted a timely response on November 10, 2020.⁸¹ As outlined below, KSA's response to the CF28 contains multiple discrepancies and is not complete. Therefore, TRLED is unable to rely on the information contained in the CF28 response to determine where the imported hangers were manufactured.

KSA provided some photographs of NWH's facility, and provided a factory profile,⁸² but did not provide production capacity, inventory records, sales records, turn-around times for orders, the names of the owners and corporate officers, or employee time cards, as requested by the CF28.⁸³

⁷⁴ *Id.*

⁷⁵ *Id.* TRLED notes that [] kg of wire rope valued at [] Thai Baht/per kg equals [] million Baht.

⁷⁶ *Id.*

⁷⁷ *Id.* The Certificate of Origin is another example of a signed, dated document in Thai, which is kept in the normal course of business.

⁷⁸ *Id.* TRLED notes the box receipt indicates NWH purchased [] boxes, but the sale in question was for [] boxes.

⁷⁹ *Id.* NWH's "Production Records" are also recorded only in English.

⁸⁰ *See* CF28 issued to KSA, dated October 7, 2020 (KSA CF28 Request). The initial CF28 was returned by the United States Postal Service due to an incorrect address. Therefore, CBP issued an identical KSA CF28 Request to another address on the record of this investigation on October 28, 2020.

⁸¹ *See* KSA's CF-28 Response, dated November 10, 2020 (KSA's Response).

⁸² *Id.*

⁸³ *See* KSA CF28 Request.

Of the requested entry summary documents, KSA only submitted the invoice, which is dated [].⁸⁴ TRLED notes that the invoice from NWH to KSA lists an amount of \$[].⁸⁵ KSA did not provide the proof of payment, as requested in the CF28.⁸⁶ KSA failed to provide the CBP Form 7501 Entry Summary, bill of lading, contract, packing list, and purchase order, as requested in the CF28.⁸⁷ In addition, KSA provided no other export documentation filed with the Thai authorities, such as a certificate of origin, in order to export goods, as requested in the CF28.⁸⁸

The CF28 further requested a manufacturing process flow chart, a narrative describing the manufacturing process, and a demonstration of how raw materials tie to production records.⁸⁹ KSA provided a list of steps NWH uses to produce hangers, but provided no narrative description of the production process.⁹⁰ KSA did not demonstrate how NWH tied the raw materials to the finished product in its books and records. Similar to CEK's response, KSA provided one document titled "Production Records" for the month of March 2020, the month of the sale in question.⁹¹ This document is a single page and appears to be an excel spreadsheet created in response to the CF28 request, rather than actual production records kept in the normal course of business.⁹² Furthermore, the document does not tie to entry number []1570. Specifically, according to the invoice for that entry, the sale in question was for [] hangers, with a net weight of [] kg.⁹³ According to the one-page document, NWH's June production totaled [], however, it is unclear if this number is measured in hangers or kilograms because NWH's "Production Records" document contains no units of measure.⁹⁴ Regardless of the unit of measure, hangers or kilograms, neither comes close to equaling the quantity of hangers for the entry in question.

The CF28 also requested invoices, mill certificates, certificates of origin, or a manufacturer's affidavit (indicating where the raw materials were produced), which would tie to NWH's production of hangers and indicate the country of manufacture of the steel wire.⁹⁵ No mill certificates, certificates of origin or manufacturer's affidavit were provided.⁹⁶ Instead KSA provided two purchase orders which when added together indicate that NWH purchased [] kg of wire rope at [] Thai Baht/kg from [], although there is no indication whether the wire rope was produced by [] or where it was produced.⁹⁷ KSA also provided a receipt for this wire rope purchase.⁹⁸ The receipt matches one of the purchase orders

⁸⁴ See KSA's Response.

⁸⁵ *Id.*

⁸⁶ See KSA CF28 Request.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ See KSA's Response.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See KSA CF28 Request.

⁹⁶ See KSA's Response.

⁹⁷ *Id.*

⁹⁸ *Id.*

in quantity, but not in value.⁹⁹ Importantly, there is no evidence in any documents submitted by KSA that shows how the raw material purchased ties to any production records.

It is not clear that the receipt and purchase orders are documents kept in the normal course of business. For example, the receipt indicates one of NWH's wire rope purchases was for [] Thai Baht, and this number is written out as well, however, the purchase order indicates NWH's purchase was for [] million Thai Baht.¹⁰⁰ The fact that the receipt writes out the number of Baht, as well as listing it numerically, is indicative of the absence of a typo. As such, the receipt and purchase order do not tie to one another. Moreover, the receipt specifically states that it is not valid unless it bears an authorized signature, yet there are no signatures on this document.¹⁰¹ KSA provided a receipt for NWH's purchase of hanger boxes. TRLED notes that the receipt for the purchase of wire rope contrasts sharply with the receipt for the hanger boxes, because the box receipt is signed, dated, and is almost all in Thai.¹⁰² It is clear upon examination that the box receipt is an original document kept in the normal course of business that has been scanned,¹⁰³ unlike the wire rope purchase order.¹⁰⁴

Based on the discrepancies and deficiencies noted above, and the record evidence found in the Allegations which indicates NWH sells KSA products that it does not manufacture, CBP based on KSA's Response to the CF28 CBP cannot confirm whether hangers it imported were actually produced in Thailand at NWH's facilities.

D&J

On October 9, 2020, CBP requested from D&J information concerning entry number []9728, date of entry [], and provided D&J 30 days to respond.¹⁰⁵ D&J made no extension requests to submit this information and submitted an untimely response on December 4, 2020.¹⁰⁶ As outlined below, D&J's response to the CF28 contains multiple discrepancies and is not complete. Therefore, TRLED is unable to rely on the information contained in the CF28 response to determine where the imported hangers were manufactured.

D&J provided some photographs of NWH's facility, and provided a factory profile,¹⁰⁷ but did not provide production capacity, inventory records, sales records, turn-around times for orders, the names of the owners and corporate officers, or employee time cards, as requested by the CF28.¹⁰⁸

⁹⁹ *Id.*

¹⁰⁰ *Id.* TRLED notes that [] kg of wire rope valued at [] Thai Baht/per kg equals [] million Baht.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.* TRLED notes the box receipt indicates NWH purchased [] boxes, but the sale in question was for [] boxes.

¹⁰⁴ *Id.* NWH's "Production Records" are also recorded only in English.

¹⁰⁵ See CF28 issued to D&J, dated October 9, 2020 (D&J CF28 Request).

¹⁰⁶ See D&J's CF-28 Response, dated December 4, 2020 (D&J's Response).

¹⁰⁷ *Id.*

¹⁰⁸ See D&J CF28 Request.

Of the requested entry summary documents, D&J only submitted the invoice, which is dated [].¹⁰⁹ TRLED notes that the invoice from NWH to D&J lists an amount of \$[].¹¹⁰ D&J failed to provide the CF7501, bill of lading, contract, packing list, and purchase order, as requested in the CF28.¹¹¹ In addition, D&J provided no other export documentation filed with the Thai authorities, such as a certificate of origin, in order to export goods, as requested in the CF28.¹¹² Moreover, D&J did not provide the proof of payment, as requested in the CF28.¹¹³

The CF28 requested a manufacturing process flow chart, a narrative describing the manufacturing process, and a demonstration of how raw materials tie to production records.¹¹⁴ D&J provided a list of steps NWH uses to produce hangers, but provided no narrative description of the production process.¹¹⁵ D&J did not demonstrate how NWH tied the raw materials to the finished product in its books and records. D&J provided one document titled “Production Records” for the month of November 2019, the month of the sale in question.¹¹⁶ Like documents submitted by CEK and KSA, this document is a single page and appears to be an excel spreadsheet created in response to the CF28 request, rather than actual production records kept in the normal course of business.¹¹⁷ Furthermore, it in no way ties to entry number []9728. Specifically, according to the invoice, the sale in question was for [] hangers, with a net weight of [] kg.¹¹⁸ NWH’s November production totaled [], however, it is unclear if this number is measured in hangers or kilograms because NWH’s “Production Records” document contains no units of measure.¹¹⁹ A careful review of this document indicates it is identical to the “Production Records” submitted by KSA. Both D&J’s and KSA’s “Production Records” indicate the same numbers and types of hangers are produced on the same days, with only the month labeled differently.¹²⁰ Regardless of the unit of measure, hangers or kilograms, neither comes close to equaling the quantity of hangers for the entry in question.

The CF28 also requested invoices, mill certificates, certificates of origin, or a manufacturer’s affidavit (indicating where the raw materials were produced), which would tie to NWH’s production of hangers and indicate the country of manufacture of the steel wire.¹²¹ No mill certificates, certificates of origin or manufacturer’s affidavit were provided.¹²² Instead D&J provided a purchase order which indicates that NWH purchased [] kg of wire rope at [] Thai Baht/kg from [], although there is no indication whether the

¹⁰⁹ See D&J’s Response.

¹¹⁰ *Id.*

¹¹¹ See D&J CF28 Request.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ See D&J’s Response.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*; see also KSA’s Response. For example, KSA reported producing [] on March 31, 2020. D&J reported these identical amounts being produced on November 31, 2019, however, TRLED notes November has only 30 days.

¹²¹ See D&J CF28 Request.

¹²² See D&J’s Response.

wire rope was produced by [] or where it was produced.¹²³ D&J also provided a receipt for this wire rope purchase.¹²⁴ The receipt matches the purchase order in quantity, but not in value.¹²⁵ Importantly, there is no evidence in any of the documents submitted by D&J that the raw material purchased is tied to any production records.

It is not clear that the receipt and purchase order are documents kept in the normal course of business. For example, the receipt indicates NWH's wire rope purchase was for [] Thai Baht, and this number is written out as well, however, the purchase order indicates NWH's purchase was for [] million Thai Baht.¹²⁶ The fact that the receipt writes out the number of Baht, as well as listing it numerically, is indicative of the absence of a typo, and as such, the receipt and purchase order do not tie to one another. In addition, the receipt contains an additional typo, and is dated November 11, 2029.¹²⁷ Moreover, the receipt specifically states that it is not valid unless it bears an authorized signature, yet there are no signatures on the document.¹²⁸ In fact, the receipt for the purchase of wire rope contrasts sharply with NWH's receipts for hanger boxes provided by CEK and KSA, which are signed, dated, and are almost all in Thai.¹²⁹ It is clear upon examination that the NWH's box receipts submitted by CEK and KSA are original documents kept in the normal course of business that have been scanned,¹³⁰ unlike the wire rope purchase order submitted by D&J, which appears to have been created on a computer.¹³¹

Based on the discrepancies and deficiencies noted above, and the record evidence found in the Allegations, which indicates NWH sells D&J products that it does not manufacture, CBP cannot determine where D&J's hangers were actually produced.

Power Poly

On October 8, 2020, CBP requested from Power Poly information concerning entry number []4198, date of entry [].¹³² On October 22, 2020, the CF28 was issued to two additional address for Power Poly found on the record of this investigation, after the initial CF28 was returned to CBP. Power Poly did not respond to this request for information.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.* TRLED notes that [] kg of wire rope valued at [] Thai Baht/per kg equals [] million Baht. TRLED also notes that NWH provided the same documents, with the same quantities and values for the purchase of wire rope for CEK, KSA and D&J. This calls into question whether these records are kept by NWH in the normal course of business.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *See* CEK's Response; KSA's Response. D&J did not submit any information with respect to NWH's purchases of boxes.

¹³⁰ *Id.*

¹³¹ *See* D&J's Response. NWH's "Production Records" are also recorded only in English.

¹³² *See* CF28 issued to Power Poly, dated October 8, 2020.

Other Record Evidence

On July 30, 2019, HSI Bangkok, along with officials from the Thai Department of Foreign Trade and Thai customs officials from the Thai Chamber of Commerce, conducted a site visit at NWH.¹³³ HSI interviewed NWH's owners/directors, Mr. Tu and Mr. Netibutr, as well as three NWH employees.¹³⁴ HSI also toured the factory, received an explanation of the hanger making process, and were allowed to take photos and at every station of the factory.¹³⁵ HSI also gathered certain information from Thai customs.¹³⁶ On the day of HSI's site visit, NWH was producing hangers, had some raw materials on hand, and appeared to have a large number of hangers currently in inventory. TRLED notes that the following inconsistencies in the answers provided to HSI investigators from the owners and employees of NWH:

- When questioned about NWH's hanger producing machines and the machines' operating status, the answers ranged from all [] machines are in working order to only [] are in working order.¹³⁷
- When questioned about the hours of NWH's operations, one owner indicated NWH operates 12 hours per day, with only Sundays and holidays off, whereas the employees indicated they work [] to [] hours per day, with lunch breaks, and leave early when their work is finished.¹³⁸
- When asked how long NWH had been producing hangers, the owners indicated since October 2018, although one employee noted production only recently began after the Chinese manager arrived at NWH.¹³⁹
- When asked to provide production data, the owners indicated they do not keep production or inventory data but another company keeps this kind of information for NWH.¹⁴⁰ The employees indicated that the production/inventory records are manually recorded.¹⁴¹
- The owners and employees provided wildly varying answers on the number of hangers NWH produces.¹⁴² At times, the same individual would provide different answers on the numbers of hangers NWH produces,¹⁴³ which is discussed further below.

When HSI interviewed NWH's owners/directors, Mr. Tu and Mr. Netibutr, as well as three NWH employees, agents asked these individuals, sometimes more than once, how many hangers NWH produces. The owners/employees provided information based on different time frames and units of measure, *e.g.*, boxes per month, hangers per minute, *etc.* In order to make a

¹³³ See Memo to the File, "Adding Information to the Administrative Record of Consolidated EAPA Case 7501," dated December 18, 2020 (NWH Site Visit Memo).

¹³⁴ See NWH Site Visit Memo at Attachment 1; Exhibit 1, Interview with Mr. Tu Zhongming; Exhibit 2, Interview with Mr. Kitthithat Netibutr; and Exhibit 3, Interview with NWH Employees.

¹³⁵ *Id.* at Attachment 2.

¹³⁶ *Id.* at Attachment 4.

¹³⁷ *Id.* at Attachment 1, Exhibits 1 - 3.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.* at Attachment 1, Exhibits 1 & 2.

¹⁴¹ *Id.* at Attachment 1, Exhibit 3. TRLED notes that this contrasts with the "Production Records" provided in response to the CF28s, as noted above.

¹⁴² *Id.* at Attachment 1, Exhibits 1 - 3.

¹⁴³ *Id.*

meaningful comparison between these individuals' statements, TRLED calculated NWH's production of hangers on a per-month basis in the chart below.

NWH's Production of Hangers on a Monthly Basis

Mr. Tu's Statement ¹⁴⁴	Employee [] First Statement ¹⁴⁵	Mr. Netibutr's First Statement ¹⁴⁶	Employee [] First Statement ¹⁴⁷	Mr. Netibutr's Second Statement ¹⁴⁸	Employee [] Second Statement ¹⁴⁹	Employee [] Second Statement ¹⁵⁰
[]	[]	[]	[]	[]	[]	[]

*The above figures represent estimations of hangers produced per month based on interviews with NWH's owners/employees. Note that this does not represent the number of boxes of hangers produced per month.

The record does not contain any information to allow us to speculate as to why these individuals provided such wildly varying answers. One would assume the owners, while they may not know exact numbers, would have a general idea of the monthly production amount, yet Mr. Tu's estimate is 20 times the size of Mr. Netibutr's. TRLED also notes that only two of the estimates exceed any of the single entries for which CBP issued CF28s, however, NWH had more []¹⁵¹. As such, the production estimates provided by NWH's owners and employees appear to indicate that NWH may []

].

At the time of the HSI site visit, Mr. Tu stated NWH had [] boxes of hangers in inventory.¹⁵² TRLED notes that the HSI report indicates Thai Customs officials stated that NWH imported finished hangers.¹⁵³ In fact, although Mr. Tu told HSI investigators NWH had never imported finished hangers,¹⁵⁴ in the month before the HSI site visit, Thai customs data indicates NWH made []¹⁵⁵. Thai customs data indicates NWH made []

¹⁴⁴ Mr. Tu stated NWH's production averages [] boxes per day, with [] hangers per box, which TRLED multiplied by 26 workdays per month. *Id.* at Attachment 1, Exhibit 1.

¹⁴⁵ Employee [] stated NWH produces [] hanger per minute, which TRLED multiplied by 60 minutes per hour, [] hours per day, and 26 workdays per month. *Id.* at Attachment 1, Exhibit 3. Employee [] stated he works [] to [] hours per day, so TRLED used the average of [] hours in our calculation. *Id.*

¹⁴⁶ Mr. Netibutr stated NWH produces [] boxes per month, containing [] hangers per box. *Id.* at Attachment 1, Exhibit 2.

¹⁴⁷ Employee [] stated NWH produces [] boxes per day, [] hangers per box, which TRLED multiplied by 26 workdays per month. *Id.*

¹⁴⁸ Mr. Netibutr also said that NWH averages producing [] hangers per day, which TRLED multiplied by 26 workdays per month. *Id.* at Attachment 1, Exhibit 2.

¹⁴⁹ Employee [] also stated that NWH produces about [] hangers per minute, which TRLED multiplied by 60 minutes per hour, [] hours per day, and 26 workdays per month. *Id.* at Attachment 1, Exhibit 3. Employee [] stated she works about [] hours per day. *Id.*

¹⁵⁰ Employee [] stated NWH produces [] hanger per day, which TRLED multiplied by 26 workdays per month. *Id.*

¹⁵¹ See the NTAC Report, dated September 14, 2020.

¹⁵² See NWH Site Visit Memo at Attachment 1, Exhibit 1.

¹⁵³ *Id.* at Attachment 4, Exhibits 1 & 2.

¹⁵⁴ *Id.* at Attachment 1, Exhibit 1.

¹⁵⁵ *Id.* at Attachment 4, Exhibit 2.

Evidence placed on the record by M&B indicates the country of origin of NWH's imported finished hangers is China.¹⁵⁷ In addition, CBP placed on the record of this investigation evidence that NWH purchased [] in July 2019.¹⁵⁶ Although the site visit by HSI agents (on July 30, 2019) occurred just before the start of our POI (August 26, 2019), given the production quantities stated by NWH's owners/employees and Thai customs data, it is probable that the inventory at the time of the HSI site visit, which may have been sourced from China, was sold in the United States during the POI.¹⁵⁸

Lastly, with respect to the CF28s (as discussed above), the Importers provided a document called "Production Records" which did not have any unit of measure associated with them. TRLED examined the HSI reports to determine whether they contained any information that could tie to the "Production Records." Mr. Tu stated that NWH's average production was [] boxes per day, or [] boxes per month. Mr. Netibutr stated NWH produced [] boxes per month. Assuming, *arguendo*, that the "Production Records" provided by the importers in the CF28 responses are measured in boxes per month, TRLED notes that neither owner's estimate is close to NWH's average monthly production. Mr. Tu's estimate is close to double what was reported in the CF28s and Mr. Netibutr's estimate is seven times smaller than what was reported in the CF28s.

Summary

The Importers filed entries for hangers during the POI that identified NWH as the manufacturer in Thailand. Based on the Importers' responses to the CF28s, or lack of responses, and other evidence placed on the record by CBP, TRLED has determined there is reasonable suspicion that the Importers entered covered merchandise into the United States through evasion, by means of transshipment through Thailand. Consequently, there is reasonable suspicion of evasion *via* transshipment.

Enactment of Interim Measures

Based on the record evidence described above, CBP determines that reasonable suspicion exists that the Importers imported hangers into the United States from China that were transhipped through Thailand and should have been subject to the *Order*. Therefore, CBP is imposing interim measures pursuant to this investigation.¹⁵⁹ 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 September 14, 2020, the date of the initiation of the investigation;

¹⁵⁶ *Id.*

¹⁵⁷ See the Allegations at 5 and Exhibit 5.

¹⁵⁸ See Memo to the File, "EAPA Cons Case 7501: Additional Information Added to the Record of the Investigation," dated December 18, 2020.

¹⁵⁹ See 19 USC 1517(e); see also 19 CFR 165.24.

- (2) pursuant to the Commissioner's authority under 19 USC 1504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation: September 14, 2020; and
- (3) pursuant to the Commissioner's authority under 19 USC 1623, 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.¹⁶⁰

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 the Importers' 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 these investigations into a single investigation covering the four importers. The new consolidated case number will be EAPA Consolidated Case 7501, and a single administrative record will be maintained. 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 the AD order; and 4) overlap in time periods of entries of covered merchandise. In these investigations, the Importers are alleged to have entered Chinese-origin steel hangers from Thailand that are covered by the same AD order. The Importers' entries also fall within a common period of investigation. Moreover, the Importers all have a common supplier in Thailand. Because factors warranting consolidation are present in these investigations, CBP is consolidating them and providing this notice pursuant to 19 CFR 165.13(c). TRLED notes that the deadlines for the consolidated investigation will be set from the date of initiation of the investigations, which is September 14, 2020.

For any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP; Kimberly Young, counsel for M&B, at kryoung@vorys.com; and the Importers via the respective email address referenced above (unless an alternative address is provided at a later date).¹⁶¹

¹⁶⁰ See also 19 CFR 165.24(b)(1)(i-iii).

¹⁶¹ For further information on the submission of public summaries as well as guidance on their content and proper marking, please refer to 19 CFR 165.4, 165.23(c), and 165.26.

Should you have any questions regarding this investigation, please feel free to contact us at epallegations@cbp.dhs.gov. Please include “EAPA Cons Case 7501” 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/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 "Brian" being the most prominent.

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