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Re: Enforce and Protect Act (“EAPA”) Consolidated Case Number 7501; *Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People’s Republic of China*, 73 FR 58111 (October 6, 2008); CEK Group, LLC; 19 U.S.C. § 1517

Dear Ms. Diaz and Ms. Young:

This is in response to the request for *de novo* administrative review of a determination of evasion dated September 16, 2021, made by the Trade Remedy Law Enforcement Directorate (“TRLED”), Office of Trade (“OT”), U.S. Customs and Border Protection (“CBP”), pursuant to 19 U.S.C. § 1517(c), in Enforce and Protect Act (“EAPA”) Consolidated Case Number 7501 (hereinafter referred to as the “September 16 Determination”).¹ The request for review, dated October 29, 2021, was submitted to CBP OT Regulations and Rulings (“RR”) by Diaz Trade Law, on behalf of CEK Group, LLC (“CEK”), pursuant to 19 U.S.C. § 1517(f) and 19 CFR § 165.41(a). The other importers involved in EAPA Cons. Case No. 7501 are: D&J Trading, Inc.; Power Poly & Hanger Supply, Inc.; and, KSA Supply Corporation. None of the other importers filed a request for administrative review.

¹ See EAPA Consolidated Investigation 7501: Notice of Determination as to Evasion, dated September 16, 2021.

I. Background

Inasmuch as the facts in this case were fully set forth in the September 16 Determination, we will not repeat the entire factual history herein.

In brief, according to the record evidence, on July 6, 2020, M&B Metal Products Company, Inc. (“M&B”), a domestic producer and importer of steel wire garment hangers, filed separate EAPA allegations against four (4) different importers, including CEK. In its submission, M&B alleged that CEK and the other importers evaded antidumping duty (“AD”) Order A-570-918 on steel wire garment hangers (“wire hangers”) from the People’s Republic of China (“China”) by transshipping covered merchandise through Thailand. On August 26, 2020, TRLED acknowledged receipt of the properly filed allegations.²

On September 14, 2020, TRLED initiated a formal investigation, under Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, in response to M&B’s allegations.³

The allegation, and CBP’s subsequent investigation, pertained to the AD Order issued by the U.S. Department of Commerce (“Commerce”) on imports of wire hangers from China.⁴

Commerce defined the scope of the relevant AD Order as follows:

The merchandise that is subject to this investigation is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of this investigation are wooden, plastic, and other garment hangers that are not made of steel wire. The products subject to this investigation are currently classified under HTSUS subheading 7326.20.0020 and 7323.99.9060.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

² See CBP’s E-mail, “Receipt of EAPA Allegations 7501-04: Steel Wire Garment Hangers from China,” dated August 26, 2020.

³ See Notice of Initiation of Investigation and Interim Measures: Consolidated EAPA Case 7501, dated December 18, 2020 (the “Notice of Initiation”).

⁴ See *Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People’s Republic of China*, 73 FR 58111 (October 6, 2008).

On December 18, 2020, in accordance with 19 CFR § 165.2, CBP issued the Notice of Initiation to all parties to the investigation, notifying them of CBP's decision to take interim measures based upon reasonable suspicion that the four (4) importers, including CEK, imported wire hangers covered by the AD Order into the United States, which had been transshipped through Thailand.⁵ Per the notice, the entries subject to the investigation included those entered for consumption from August 26, 2019, through the pendency of the investigation.

On September 16, 2021, TRLED issued a Notice of Determination.⁶ TRLED found substantial evidence that CEK and the other importers entered into the customs territory of the United States wire hangers subject to the AD Order that had been transshipped through Thailand, and that CEK and the other importers had failed to deposit AD duties on this merchandise.

On October 29, 2021, CEK timely filed a Request for Administrative Review.⁷ On November 1, 2021, CBP sent an email to all parties to the investigation notifying them of the commencement of the administrative review process, which was designated RR case number H321678. On November 16, 2021, M&B timely submitted a Response to CEK's Administrative Review Request.⁸

II. Discussion

A. Administrative Review and Standard of Review

Pursuant to 19 U.S.C. § 1517(f)(1) and 19 CFR § 165.45, upon a request for administrative review, CBP will apply a *de novo* standard of review and will render a determination appropriate under the law according to the specific facts and circumstances on the record. For that purpose, CBP will review the entire administrative record upon which the initial determination was made, the timely and properly filed request(s) for review and responses, and any additional information that was received pursuant to 19 CFR § 165.44. The administrative review will be completed within 60 business days of the commencement of the review.

B. Law

Title 19 U.S.C. § 1517(c)(1) provides, in relevant part, as follows:

⁵ See Notice of Initiation. Available at: <https://www.cbp.gov/sites/default/files/assets/documents/2021-Jan/12-18-2020%20-%20TRLED%20-%20NOI%20-%20Cons%207501%20%28508%20compliant%29%20-%20final.pdf>.

⁶ See September 16 Determination. Available at: <https://www.cbp.gov/sites/default/files/assets/documents/2021-Sep/09-16-21%20-%20TRLED%20-%20Final%20Determination%20%28508%20compliant%29%20-%20%28Cons%207501%29%20-%20PV.pdf>.

⁷ See CEK Group, LLC's Request for Administrative Review, dated October 29, 2021.

⁸ See M&B Response to Review Request of CEK Group LLC, dated November 16, 2021.

(1) Determination of Evasion

(A) In general

Except as provided in subparagraph (B), not later than 300 calendar days after the date on which the Commissioner initiates an investigation under subsection (b) with respect to covered merchandise, the Commissioner shall make a determination, based on substantial evidence, with respect to whether such covered merchandise was entered into the customs territory of the United States through evasion.

The term evasion is defined in 19 U.S.C. § 1517(a)(5), as follows:

(5) Evasion

(A) In general

Except as provided in subparagraph (B), the term “evasion” refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.

See also 19 CFR § 165.1.

Examples of evasion include, but are not limited to, misrepresentation of the merchandise’s true country of origin (*e.g.*, through false country of origin markings on the product itself or false sales), false or incorrect shipping and entry documentation, or misreporting of the merchandise’s physical characteristics.⁹

Covered merchandise is defined as “merchandise that is subject to a CVD order issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. § 1671e), and/or an AD order issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. § 1673e).”¹⁰

“Substantial evidence” is not defined by statute. However, the “substantial evidence” standard has been reviewed by the courts in relation to determinations by other agencies. “Substantial evidence requires more than a mere scintilla, but is satisfied by something less than the weight of the evidence.”¹¹

Therefore, CBP must determine whether a party has entered merchandise that is subject to an AD or countervailing duty (“CVD”) order into the United States for consumption

⁹ *See Investigation of Claims of Evasion of Antidumping and Countervailing Duties, Interim Regulations*, 81 Fed. Reg. 56477, 56478 (August 22, 2016).

¹⁰ *See* 19 CFR § 165.1.

¹¹ *See Altx, Inc. v. United States*, 370 F.3d 1108, 1116 (Fed. Cir. 2004) (internal citations and quotation marks omitted).

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, that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or duties being collected on such merchandise. Lastly, our decision herein must be supported by substantial evidence.

C. CEK's Arguments

CEK requests that we reverse the September 16 Determination, arguing that it did not enter covered merchandise into the United States through evasion because the finding is not based upon substantial evidence, but rather, upon improperly applied adverse inferences.

CEK argues that the administrative record demonstrates that there is actual, significant production occurring at the manufacturer, NWH Manufacture Company Limited ("NWH"), which CBP ignored. Specifically, CEK claims that the production records, videos, and photographs provided by both CEK and NWH provide the evidence needed to find that the wire hangers were produced in Thailand and are not of Chinese origin. CEK states that the documentation shows sufficient raw materials purchased by NWH and adequate machinery to produce the quantities imported into the United States during the period of investigation and that CBP has ignored this record evidence. Additionally, CEK notes that CBP acknowledges in the September 16 Determination that NWH produces wire hangers. CEK also states that there is no evidence in the record which establishes that transshipment occurred.

Furthermore, CEK focuses significantly on the contents of M&B's EAPA allegation, stating that CBP should not rely on them to establish that transshipment occurred, as they are unreliable and do not contain information relevant to what occurred during the period of investigation. CEK also notes that, in the September 16 Determination, CBP found that CEK reported the correct quantity of wire hangers imported into the United States. CEK argues that CBP should have examined its own data upon receipt of M&B's allegation and terminated the investigation upon determining that CEK correctly reported the imported quantities of wire hangers.

CEK takes issue with CBP's submission requirements for videos, stating that the limitations imposed were arbitrary and unreasonable. CEK believes that the rejected videos would have further helped to corroborate the evidence in the administrative record of substantial production activities at NWH. Instead, CEK posits that CBP has ignored the evidence in the administrative record and has improperly relied upon the use of adverse inferences to fill gaps which do not exist. CEK further argues that CBP has placed undue weight on the nationalities of CEK's and NWH's owners/directors and their possible connection to wire hanger producers in China.

Additionally, CEK has made several arguments regarding procedural deficiencies, including M&B's alleged lack of standing as a domestic producer of wire hangers to file an allegation against CEK; CEK's lack of access to business confidential information,

particularly the Foreign Market Research Report submitted by M&B as an exhibit to its EAPA allegation; CBP's rejection of submissions from NWH and failure to allow NWH to participate fully in the EAPA investigation; CBP's failure to correct the record and subsequent reliance on factual misstatements and/or omissions; and, CBP's denial of CEK's request for a waiver of the 30-page limit for the request for administrative review.

D. M&B's Arguments

M&B asserts that there is more than sufficient evidence in the record to find that CEK and the other importers evaded the AD Order through transshipment.

First, M&B reviews all of the information contained within its allegation of evasion to demonstrate that those facts would reasonably suggest evasion and support the initiation of an EAPA investigation by CBP. M&B also reviews the EAPA regulations to demonstrate its standing to submit an allegation of evasion as an "interested party."¹²

Second, M&B states that CBP's application of adverse inferences is correct given the deficiencies in CEK's responses to the CF-28 and the Request for Information ("RFI") and CEK's failure to respond at all to the supplemental RFI. M&B also notes that the other importers and NWH provided deficient responses, if they responded to CBP's requests at all. In addition, M&B notes that the administrative record includes evidence that NWH imported wire hangers from China to its factory in Thailand, including documentation provided by the manufacturer in response to the RFI.

E. Administrative Review Analysis

Pursuant to 19 U.S.C. § 1517(f)(1) and 19 CFR § 165.45, RR will apply a *de novo* standard of review under the law, based solely upon the facts and circumstances on the administrative record in the proceeding. In making our determination, we reviewed: (1) the entire administrative record upon which the September 16 Determination was made by TRLED; and (2) the timely and properly filed request for review and response.

As an initial matter, the purpose of this *de novo* review is to analyze the September 16 Determination and the accompanying administrative record to determine whether substantial evidence of evasion exists. CEK's arguments regarding alleged violation of its procedural due process rights and the inability of NWH to fully participate in the EAPA investigation are outside the purview of this *de novo* review.¹³ We are compelled to address, however, CEK's complaint about our decision not to allow CEK to submit more than 30 pages to us. Our decision was appropriate and necessary. Our regulations

¹² See 19 CFR § 165.1.

¹³ Although it is not our role to address these arguments, we do note that the U.S. Court of International Trade ("CIT") has recently opined on the rights of parties in EAPA investigations to have access to business confidential information. In *Royal Brush Mfg., Inc. v. United States*, Ct. No. 19-00198, Slip Op. 20-171, the CIT found that a party is only entitled to public summaries of the business confidential information pursuant to 19 CFR § 165.4(a)(1) and (e). The parties do not otherwise have a right to review business confidential information, as the statute and regulations do not provide for such.

contain a strict 30-page limit¹⁴ for a reason. We must render our decision within 60 business days of when a request for review is filed, based on the existing record, and we must review the entire record in doing so. We limit the number of pages of argument to enable everyone to focus on the key issues; the statutory time limits simply do not permit the review of lengthier arguments. We have, however, considered the arguments made by CEK in its request for review, in light of the record as a whole, and find the arguments unpersuasive.

The administrative record in this case supports a finding of evasion during this *de novo* review, primarily due to the lack of probative evidence to tie the purported production of wire hangers at NWH to imports of hangers by CEK into the United States. First, while some documentation was provided by CEK, NWH, and two of the other importers,¹⁵ it is insufficient to properly trace the merchandise that was entered into the United States through the production process. As such, there is insufficient evidence in the record to establish that CEK's imported hangers were of Thai origin. Second, the documentation provided by NWH is not fully translated into English, further complicating the traceability through the production process. Finally, there are significant discrepancies in some of the production-related documents, which call their authenticity into question. These factors are discussed below and in the September 16 Determination.

In order to properly trace the raw materials through the production process to importation into the United States, we would expect the administrative record to contain the following types of information: documentation supporting the manufacturer's purchases of raw materials; documentation and/or photographs/videos of the equipment needed to transform the raw materials into the relevant merchandise at the manufacturer's facility; purchase orders/invoices/relevant communication from the importers of the merchandise in question; production logs, including employee records, indicating that the manufacturer produced the merchandise ordered by the importers; and, evidence of payment by the importer to the manufacturer for the merchandise. The administrative record in this case lacks a significant amount of this needed documentation. Specifically, there are no formal purchase orders breaking down the types of wire hangers ordered by the importer from the manufacturer and there is almost no evidence of payment of either deposits or balances from the specific importer to the manufacturer.¹⁶ Furthermore, the only evidence of any communication between the manufacturer and CEK in the administrative record are two short email chains regarding only two orders placed by

¹⁴ See 19 CFR § 165.41(f).

¹⁵ As discussed in greater detail herein and in the September 16 Determination, CEK was the only importer who responded to CBP's RFI, although many questions remained unanswered and many of the requested documents were not provided. NWH also provided a response to CBP's RFI, although, again, many questions remained unanswered and many of the requested documents were not provided. See generally September 16 Determination. Two other importers, along with CEK, responded to the CF-28, although all of the requested information and documentation were not provided. See Notice of Initiation, pages 7-13, which details the deficiencies with the CF-28 responses.

¹⁶ See NWH RFI Response, Exhibit 10 (Financial Ledger). This document only shows payments received in a spreadsheet. There are no actual bank records, nor does the translation indicate from whom the payment was received or for what order. CEK did provide some evidence of payment to NWH in response to the CF-28; however, the amounts did not match the invoice values for the entry in question. See CEK CF-28 Response.

CEK during the period of investigation.¹⁷ While NWH provided some invoices and packing lists for its shipments of wire hangers to the importers in the United States, those invoices and packing lists do not provide a breakdown of all of the different types of wire hangers purchased in each order—they only show the total number of cartons and pieces of wire hangers. The invoices and packing lists also show the same date; therefore, except for the two email chains between NWH and CEK mentioned above, it is impossible to determine when the orders were placed to reconcile against the production records.

At the same time, NWH did not fully translate its production records, or other documentation, into English, to ensure full comprehension. For example, NWH did not translate the itemization of the different types of wire hangers produced each day; as such, each daily production record only shows the types of wire hangers in Chinese.¹⁸ This adds another layer of difficulty in attempting to reconcile the production records with the shipments of wire hangers to the United States. Another example of a failure to fully translate documents are the employee records that NWH produced. Although handwritten notes in English translating the column and row headings from Chinese were provided for the first month, the remaining months did not provide similar translations, even as employees left NWH, making it difficult to determine how many employees purportedly worked in each area of the facility on any given day.¹⁹ Therefore, even if NWH and/or CEK had provided the missing purchase orders and more comprehensive financial documentation, the lack of required translation²⁰ would still prevent a proper audit of the administrative record to trace the production of the wire hangers from raw materials to their importation into the United States. As TRLED concluded, and as the record demonstrates, there is an absence of evidence to trace CEK's imports through the production process in Thailand.²¹

In addition to the lack of documentation tracing the entries under investigation from production through the importation process, the discrepancies within the provided documentation signal doubts with respect to their authenticity. Notably, the NWH monthly production document provided by CEK in response to the CF-28 does not mirror NWH's daily production logs for the same month.²² Both the CEK-provided monthly production document and the NWH-provided daily production logs also do not denote the units of measure for the wire hangers apparently produced (*i.e.*, cartons or individual wire hangers or the weight of the wire hangers). NWH's narrative of the production process further indicates that each shipment of wire hangers is made to order; however, the

¹⁷ See NWH RFI Response, Exhibit 18.2. There is no evidence in the administrative record of NWH communicating with any of the other importers.

¹⁸ See NWH RFI Response, Exhibit 12 (Production Logs).

¹⁹ See NWH RFI Response, Exhibit 9.1 (Time Records and Wage Sheets).

²⁰ See 19 CFR § 165.5(b)(1).

²¹ See, *e.g.*, September 16 Determination at pages 18 and 20, discussing such failures, overall, and as to specific entries.

²² See NWH Production Record in CEK CF-28 Response. See also NWH RFI Response, Exhibit 12 (Production Logs). The production records provided by KSA Supply Corporation and D&J Trading Inc. in response to the CF-28s also had similar discrepancies from NWH's daily production logs, in addition to having the exact same daily production numbers for two different months.

production logs appear to indicate that many different types of wire hangers are kept as inventory at NWH's facility and do not necessarily leave the facility close to the time of their production.²³ These various discrepancies as to NWH production numbers and the timing in which the wire hangers were produced to fill orders lead us to conclude that the data as to NWH production is unreliable.

Moreover, the invoices and packing lists from NWH demonstrating its raw material imports from China show that semi-finished wire hangers were imported into Thailand from China during the period of investigation.²⁴ These Chinese-origin semi-finished wire hangers were imported into Thailand along with Chinese-origin raw materials, as the record demonstrates that NWH sourced its raw materials from Chinese wire hanger manufacturers.²⁵ As noted in the September 16 Determination, Commerce has previously determined that the importation of semi-finished wire hangers of Chinese origin into a third country for completion into finished garment hangers prior to importation into the United States constitutes circumvention and those wire hangers are considered covered merchandise.²⁶ The administrative record further confirms that NWH only exported wire hangers to the United States.²⁷ The number of cartons of Chinese-origin semi-finished wire hangers imported into Thailand by NWH was substantial and such imports into Thailand occurred both during the period of investigation ("POI") and the timeframe in which NWH sent shipments of wire hangers to CEK in the United States. In addition to not being able to tie its entries to production in Thailand, CEK has not provided any evidence to show that those semi-finished Chinese-origin hangers were not used in NWH's production of hangers which were sold to CEK and imported into the United States during the POI, or that it did not import any of those Chinese-origin semi-finished wire hangers from NWH into the United States.

Thus, CEK's arguments regarding the quantity of Chinese-origin wire hangers imported into Thailand by NWH prior to the POI being insufficient to have subsequently entered the United States during the POI have no real bearing on our conclusion that evasion occurred. There is sufficient evidence of NWH's sourcing Chinese-origin semi-finished hangers during the POI, and insufficient evidence to establish that the claimed Thai-origin entries were actually manufactured in Thailand (without use of these Chinese-origin materials). (However, we do note that, due to the inability to track orders through production and NWH's substantial inventory of Chinese-origin wire hangers at the start of the POI, there is no way to state with certainty that none of those Chinese-origin wire hangers remained at NWH's facility on August 26, 2019, the start of the POI, given the vast quantity that NWH imported.)

²³ Compare NWH RFI Response, Section IV, Question 3 with NWH RFI Response, Exhibit 12 (Production Log).

²⁴ See NWH RFI Response, Exhibit 8.3.

²⁵ See *id.*

²⁶ See *Steel Wire Garment Hangers from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 76 FR 66895 (October 28, 2011).

²⁷ See NWH RFI Response. See also Memo to the File, "Adding Information to the Administrative Record of Consolidated EAPA Case 7501," dated December 18, 2020.

CEK has argued that the existence of production of wire hangers at NWH and NWH's purchase of substantial amounts of raw materials are sufficient for CBP to find that evasion has not occurred. While the presence of adequate production facilities and the purchase of substantial raw materials to create the subject merchandise *may* indicate that evasion has not occurred, the administrative record in this case does not support a reversal of the September 16 Determination. As discussed in greater detail above, the documentation provided by both NWH and CEK is lacking in several respects. The record contradicts itself in many respects and neither NWH nor CEK provided substantial narratives to explain the production process and allow for tracing of the wire hangers' creation, from initial order placement to the eventual arrival in the United States. There are too many gaps that were never filled to overcome the September 16 Determination's finding of evasion. Further, the record indicates that CEK never conducted its own due diligence by visiting NWH's facilities to ensure that production was occurring in adequate quantities to fill all wire hanger orders it placed and sent to U.S. customers.²⁸ While the record indicates that some wire hanger production likely occurred at NWH, there is not enough to demonstrate that NWH produced any, let alone all, of the wire hangers exported to CEK in the United States. Coupled with NWH's purchase of Chinese-origin semi-finished wire hangers, as well as its exclusive sourcing of raw materials from Chinese wire hanger manufacturers,²⁹ during the period of investigation, a finding that covered merchandise was entered into the United States is warranted.

A review of the administrative record indicates that CEK entered its importations of wire hangers from NWH as type "01" entries, and, therefore, the applicable AD duties owed were not deposited.³⁰ (Imports that are covered by AD/CVD orders are required to be entered as "03" entries; entries declared as "01" entries cannot be subject to AD/CVD orders.)³¹ CEK has been unable to demonstrate to CBP that its entries of wire hangers were indeed of Thai origin, as claimed, and not subject to the AD Order, as also claimed on documentation submitted to CBP. It is incumbent upon an importer to be able to provide documentation to substantiate its claims as to the rate of duty;³² here, that means being able to substantiate that its wire hanger imports were manufactured in Thailand and not subject to the AD Order. CEK failed to do so. Based on the record evidence, we have concluded that, because the entries contained merchandise subject to the AD Order, these entries should have been made as "03" entries, indicating that they are subject to an AD order. It was material and false for these entries to be made as "01" entries.³³

²⁸ See CEK RFI Response.

²⁹ There is some evidence that NWH may have sourced some raw materials domestically in Thailand; however, NWH provided no documentation to substantiate that evidence. See September 16 Determination, pages 25-29.

³⁰ See, e.g., CEK Entry Summary documents for Entry No. XXXXXXXX980-7 (showing entry of "metal cloth hanger" items manufactured by NWH and marked as type "01").

³¹ See, e.g., CBP Form 7501 Instructions, "Block 2) Entry Type," available at <https://www.cbp.gov/sites/default/files/assets/documents/2019-Sep/CBP%20Form%207501.pdf>.

³² See 19 U.S.C. § 1484. See also <https://www.cbp.gov/sites/default/files/documents/Importing%20into%20the%20U.S.pdf>.

³³ The record also indicates that one of NWH's owners and the owner of CEK have previously been involved in other EAPA cases where evasion of AD duties on Chinese-origin wire hangers was found. See September 16 Determination, page 9. While that fact is not one upon which we base our decision, we feel it should be noted.

The application of adverse inferences is not necessary to our conclusion that evasion has occurred; we reach that conclusion without relying on adverse inferences. However, we would be remiss to not address the dearth of documentation within the administrative record that is a direct result of CEK's and NWH's decisions to not provide all of the information requested by CBP during the course of the investigation. The record demonstrates that CEK intentionally did not provide requested documentation upon its unilateral determination that such information was not relevant to the investigation.³⁴ Many other questions were simply left blank and responsive documents were not provided. Some of that information, such as customer lists and orders of wire hangers from CEK, would have been instrumental in tracing production. Contrary to CEK's belief, simply showing that production of wire hangers at NWH occurs, through poorly translated production logs and grainy surveillance videos, does not constitute sufficient evidence that the wire hangers entered by CEK into the United States were actually produced in Thailand. Therefore, even though the application of adverse inferences is unnecessary to our finding of substantial evidence of evasion, CBP's decision to utilize adverse inferences in the September 16 Determination was warranted.

Finally, we address the standing issue by stating that it also is not our role to decide the issue of whether M&B had standing to file an EAPA allegation. As explained above, our role is limited to examination of the record to determine whether evasion has occurred. Nevertheless, we note that the record supports a conclusion that M&B had standing, under the definition of "interested party," to file an EAPA allegation. An "interested party" comes in many forms under 19 U.S.C. § 1517(a)(6)(A) and 19 CFR § 165.1. M&B both produces wire hangers domestically and imports some wire hangers into the United States. While CEK takes issue with M&B's claiming only standing to file an allegation as a domestic producer, this argument is unavailing. The statutory and regulatory language does not qualify how much a manufacturer in the United States must produce of a "domestic like product" in order to file an allegation of evasion. So long as M&B produces wire hangers in the United States, it qualifies as an interested party who can submit an allegation of evasion. Furthermore, an allegation need only reasonably suggest the entry of covered merchandise through evasion.³⁵ This is a low burden of proof. M&B's allegation contained a significant amount of information and did not hinge solely on trade data or the foreign market research report. CEK's arguments in this regard do not warrant a reversal of the September 16 Determination.

Therefore, based upon the documentation and information provided in the administrative record of EAPA Cons. Case No. 7501, we determine there is substantial evidence to support a finding of evasion as to CEK.

III. Decision

Based upon our *de novo* review of the administrative record in this case, including the timely and properly filed request for administrative review submitted by CEK on October

³⁴ See CEK RFI Response.

³⁵ See 19 CFR § 165.15(b)(2).

29, 2021, and M&B's Response submitted on November 16, 2021, the September 16 Determination of evasion under 19 U.S.C. § 1517(c) is **AFFIRMED**.

This decision does not preclude CBP or other agencies from pursuing additional enforcement actions or penalties. Pursuant to 19 CFR § 165.46(a), this final administrative determination is subject to judicial review pursuant to section 421 of EAPA.

Sincerely,

For W. Richmond Beevers
Chief, Cargo Security, Carriers and Restricted Merchandise Branch
Office of Trade, Regulations and Rulings
U.S. Customs & Border Protection

Approved by:

Alice A. Kipel
Executive Director, Regulations and Rulings
Office of Trade
U.S. Customs & Border Protection