



U.S. Customs and  
Border Protection

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**PUBLIC VERSION**

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**RE: EAPA CASE 7844 – Notice of Initiation of Investigation and Interim Measures**

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

This letter is to inform you that U.S. Customs and Border Protection (CBP) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA). CBP is investigating whether U.S. importer Guy & O'Neill, Inc. (GON or the Importer) is evading antidumping duty (AD) order A-570-985 on xanthan gum (xanthan gum or covered merchandise) from the People's Republic of China (China).<sup>1</sup> CBP has imposed interim measures because there is reasonable suspicion that the Importer evaded the *Order* by entering Chinese xanthan gum into the United States without paying applicable duties or declaring to CBP that these entries contained Chinese xanthan gum subject to the *Order*.<sup>2</sup>

**Period of Investigation**

On August 25, 2023, CP Kelco U.S., Inc. (CPK or the Allegor)<sup>3</sup> filed EAPA allegation 7844 claiming that GON is evading antidumping duty (AD) order A-570-985 on xanthan gum from

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<sup>1</sup> See *Xanthan Gum from the People's Republic of China*, 78 FR 43,143, (U.S. Department of Commerce) Jul. 19, 2013 (the *Order*).

<sup>2</sup> See 19 USC 1517(e); see also 19 C.F.R. § 165.24.

<sup>3</sup> See CPK's Letter, "*Xanthan Gum from the People's Republic of China: Evasion of Antidumping Order via Transshipment through Israel Against Dormeco Industrial Supplies and Guy & O'Neil, Inc.*" dated August 25, 2023

China.<sup>4</sup> CBP acknowledged receipt of the properly filed allegation on December 1, 2023.<sup>5</sup> Pursuant to 19 C.F.R. § 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 ....” Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States....”<sup>6</sup> As such, the entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from December 1, 2022, through the pendency of this investigation.<sup>7</sup> At its discretion, CBP may also investigate entries of covered merchandise outside of that period.<sup>8</sup>

## **Initiation**

On December 22, 2023, the Trade Remedy Law Enforcement Directorate (TRLED) within CBP’s Office of Trade, initiated EAPA investigation 7844 in response to CPK’s allegation which reasonably suggests that GON evaded the *Order* by means of transshipment through Israel.<sup>9</sup> A more detailed description of the alleged evasion scheme and evidence CPK provided follows.

### *Description of the Alleged Transshipment Scheme*

In the Allegation, CPK alleged that GON imported covered merchandise from the Israeli supplier Dormeco Industrial Supplies (Dormeco). According to CPK, GON falsely declared Israel as the country of origin, even though the xanthan gum was most likely produced by Deoson Biochemical (Ordos) Ltd. or its affiliate, Deosen Biochemical Ltd. both located in China.<sup>10</sup>

CPK supported its claim that GON imported Chinese xanthan gum and declared it as Israeli-origin by providing U.S. import data from the USITC Dataweb showing imports of xanthan gum into the U.S. from Israel<sup>11</sup> and shipment data showing that GON acted as the consignee for shipments of xanthan gum sent from Israel to the U.S. by the shipper Dormeco.<sup>12</sup>

CPK supported its assertion that the xanthan gum Dormeco sold to GON was produced by Deosen in China rather than by Dormeco in Israel by providing printouts from Dormeco’s public website showing that Dormeco describes its own business activities by stating that “Dormeco represents *and distributes* active ingredients to the cosmetics and personal care industry from

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(Allegation) at 2-3. The Allegor demonstrates that it qualifies as an interested party because CPK is a U.S. importer of covered merchandise. *Id.* at Attachments 1 and 2. CPK also demonstrates that it is a U.S. manufacturer of domestic like product and previously filed AD petitions with the U.S. Department of Commerce and U.S. International Trade Commission (USITC) seeking imposition of AD order on xanthan gum *Id.* at Attachment 11, page I-8. Thus, pursuant to 19 C.F.R. § 165.1(4), the Allegor meets the definition of an interested party that is permitted to submit an EAPA allegation.

<sup>4</sup> See the *Order*.

<sup>5</sup> See TRLED’s Email, “EAPA 7844 - Receipt of Allegation” dated December 1, 2023.

<sup>6</sup> See 19 C.F.R. § 165.1.

<sup>7</sup> See 19 C.F.R. § 165.2.

<sup>8</sup> See 19 C.F.R. § 165.2.

<sup>9</sup> See CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7844” dated December 22, 2023 (Initiation Memo).

<sup>10</sup> See Allegation at 7.

<sup>11</sup> *Id.* at Attachment 3.

<sup>12</sup> *Id.* at Attachment 4.

leading manufacturers such as Cargill, *Deosan*, Elkay, Godrej and other *suppliers* {emphasis added}.”<sup>13</sup> The website printouts CPK provided also show that Deosan is Dormeco’s xanthan gum supplier and Dormeco does not claim to produce its own xanthan gum on the website.<sup>14</sup> This evidence draws a direct connection between GON’s importations of xanthan gum and Deosan.

CPK also demonstrated that Deosan is a Chinese xanthan gum producer by providing the most recently completed antidumping administrative review (AR) conducted by the U.S. Department of Commerce, which identifies “Deoson Biochemical (Ordos) Ltd., Deosen Biochemical Ltd. (collectively Deosen)” as a Chinese respondent with a separate AD rate of 17.36 percent.<sup>15</sup>

To further demonstrate that GON likely made a material and false statement by declaring Israel as the country of origin for its xanthan gum imports, CPK provided an affidavit from the Alleger’s Senior Director of Biogum Platforms asserting that Israel has no xanthan gum production.<sup>16</sup> CPK also supported this affidavit by providing a copy of the USITC’s 2018 report on xanthan gum from China, showing that only four countries—China, France, Austria, and the United States—produce xanthan gum.<sup>17</sup>

### *Initiation Assessment*

TRLED will initiate an investigation if it determines that “{t}he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion....”<sup>18</sup> 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.”<sup>19</sup> Thus, an allegation must reasonably suggest not only that an importer alleged to be evading entered merchandise subject to an AD and/or CVD order into the United States, but also that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the Allegation, CBP found that the information CPK provided reasonably suggested that GON imported xanthan gum covered by the *Order* by means of evasion. Specifically, the shipment data and official U.S. import data provided in the Allegation demonstrates that GON likely acted as the importer of xanthan gum declared as Israeli-origin, while the affidavit and ITC report both indicate that no xanthan gum is produced in Israel. The screenprints from Dormeco’s

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<sup>13</sup> *Id.* at Attachment 6.

<sup>14</sup> *Id.* at 7 and Attachment 6.

<sup>15</sup> *Id.* at 7 and Attachment 7.

<sup>16</sup> *Id.* at 7 and Attachment 10.

<sup>17</sup> *Id.* at and Attachment 11, page 13, and page I-11.

<sup>18</sup> See 19 C.F.R. § 165.15(b)(2); see also 19 USC 1517(b)(1).

<sup>19</sup> See 19 C.F.R. § 165.1; see also 19 USC 1517(a)(5)(A).

website that CPK provided in the allegation also indicate that the true country of origin for GON's xanthan gum is China.

#### *Supplemental Evidence Submitted by CPK*

On February 13, 2024, CPK provided CBP with shipment data showing that GON imported "slac xanthan gum Ziboxan F80" from Dormeco.<sup>20</sup> CPK explained that Ziboxan F80 is a proprietary type of xanthan gum produced by Deosen.<sup>21</sup> This information supports CPK's contention in the Allegation that the xanthan gum GON imported from Dormeco was produced in China by Deosen rather than in Israel by Dormeco.

#### **Research Conducted by CBP**

CBP confirmed GON's name and addresses in its systems.<sup>22</sup> CBP further found that GON declared entries of xanthan as Israeli-origin on Customs entry forms (7501s) filed since the beginning of the POI as [description] and therefore, GON did not pay AD duties on those entries.<sup>23</sup>

CBP also located the public websites of GON, Dormeco, and Deosen.<sup>24</sup> Review of these public websites confirms that Dormeco does not advertise any production of xanthan gum or list any production facilities on its website, but instead identifies only Deosan as its xanthan gum supplier.<sup>25</sup> Deosan's website confirmed that it is a xanthan gum manufacturer and indicates that it has facilities located only in China.<sup>26</sup>

#### *CBP Form 28s*

On January 19, 2024, CBP sent a CBP Form 28 request for information (CF-28) to GON requesting a copy of the contract or purchase order (PO) GON used to purchase the goods in entry number [ # ]4904 (4904) and the name and address of the manufacturer of the xanthan gum imported with that entry.<sup>27</sup> On February 6, 2024, CBP sent a second CF-28 requesting the POs, a description of the merchandise, a breakdown of the ingredients or raw materials used to produce the merchandise, photographs of the manufacturing process, photographs of the facility where the xanthan gum was produced, and the name and address of the manufacturer that produced the xanthan gum in entry numbers [ # ]4902 (4902), [ # ]5778 (5778), and [ # ]2877 (2877).<sup>28</sup>

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<sup>20</sup> See CPK's letter, "Xanthan Gum from the People's Republic of China – Supplement to EAPA Case #7844" dated February 13, 2024 (CPK Supplement) at 3 and Attachment 2.

<sup>21</sup> *Id.* at 3 and Attachment 3.

<sup>22</sup> See CBP Receipt Report for EAPA 7814. This satisfies the requirements in 19 C.F.R. § 165.11(b)(3).

<sup>23</sup> See CBP Receipt Report for EAPA 7814.

<sup>24</sup> See CBP memorandum, "EAPA 7844 – Adding Websites to the Administrative Record" dated February 11, 2024 (Websites Memo).

<sup>25</sup> *Id.* at Attachment 2.

<sup>26</sup> *Id.* at Attachment 3.

<sup>27</sup> See CF-28 dated January 19, 2024.

<sup>28</sup> See CF-28 dated February 6, 2024.

GON did not respond to the CF-28 for entry 4904 sent January 19, 2024, by the February 18, 2024 deadline. After CBP contacted GON through its custom broker, GON submitted a late response to the CF-28 for 4904, along with timely responses to the CF-28 for entries 5778, 2877, and 4902 on February 27, 2024.<sup>29</sup> Along with the CF-28 responses, GON's customs broker furnished CBP an email from GON dated February 23, 2024, acknowledging that Deosan manufactured in China the xanthan gum that GON imported from Dormeco. GON also submitted corrected 7501s for entry numbers 4902, 4904, 5778, and 2877 declaring the merchandise as Chinese-origin and subject to AD duties along with its CF-28 responses.<sup>30</sup>

### **Interim Measures**

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the AD/CVD orders was entered into the United States through evasion. CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be evading entered merchandise covered by an AD or CVD order into the United States by a materially false statement or act, or material omission that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or other security.<sup>31</sup> If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 U.S.C. § 1517(e) and 19 C.F.R. § 165.24. As explained below, CBP is imposing interim measures because the evidence establishes reasonable suspicion that GON entered Chinese-origin xanthan gum into the United States through evasion.<sup>32</sup>

#### *Analysis*

As noted above, GON acknowledged in its response to the CF-28s that the xanthan gum it imported from Dormeco in entry numbers 4902, 4904, 5778, 2877 was produced in China by Deosan. Specifically, GON acknowledged in the February 23, 2024, email to its customs broker that the xanthan gum it purchased from Dormeco was Chinese-origin rather than Israeli-origin and furnished corrected 7501s declaring the xanthan gum as Chinese-origin and subject to AD duties. The evidence the allegor provided in its February 13, 2024, supplemental information submission also indicates that all the xanthan gum GON imported was a proprietary product made by Deosan, and therefore, supports the conclusion that all GON's xanthan gum was Chinese. Further, the allegor provided information in the allegation showing that Israel likely has no xanthan gum production capacity. Therefore, the information from GON's CF-28 responses, combined with information CBP obtained from public websites and its own internal systems, information in the Allegation, and CPK's February 13, 2024, supplemental information all indicate that GON evaded the *Order*. This information supports a reasonable suspicion that GON entered xanthan gum covered by the *Order* into the customs territory of the United States through evasion.

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<sup>29</sup> See CF-28 Response dated February 23, 2024.

<sup>30</sup> See February 27, 2024, CF-28 responses.

<sup>31</sup> See 19 U.S.C. § 1517(e) and 19 C.F.R. § 165.24.

<sup>32</sup> See 19 C.F.R. § 165.24(a).

### *Enactment of Interim Measures*

Based on the record evidence described above, CBP finds that reasonable suspicion exists that the Importer entered covered merchandise through evasion into the United States by importing Chinese-origin xanthan gum transshipped through Israel while falsely declaring Israel as the country of origin. Therefore, CBP is imposing interim measures pursuant to this investigation.<sup>33</sup> 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 December 22, 2023, the date of the initiation of the investigation;
- (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, December 22, 2023; 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.<sup>34</sup>

For future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a business confidential version and a public version with a public summary<sup>35</sup> using the EAPA Case Management System (CMS), found at <https://eapallegations.cbp.gov>. All public versions will be accessible to the parties to the investigation via the CMS.<sup>36</sup> Please note that CBP is requiring that all documents submitted via the CMS are made text searchable, especially if those documents are submitted as PDFs.

Should you have any questions regarding this investigation, you may contact us at [eapallegations@cbp.dhs.gov](mailto:eapallegations@cbp.dhs.gov) with "EAPA Cons. Case Number 7844" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

Sincerely,

*Steven Emilius*

Steven Emilius  
Acting Director  
Enforcement Operations Division  
Trade Remedy Law Enforcement Directorate  
CBP Office of Trade

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<sup>33</sup> See 19 U.S.C. § 1517(e); see also 19 C.F.R. § 165.24(a).

<sup>34</sup> See also 19 C.F.R. § 165.24(b)(1)(i-iii).

<sup>35</sup> See 19 C.F.R. § 165.4, 165.23(c), and 165.26.

<sup>36</sup> You will need a login name and password to use the CMS. The website will direct you how to obtain those.