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PUBLIC VERSION

Exquis Inc.

c/o Lizbeth Levinson
Fox Rothschild LLP
2020 K Street NW
Suite 500
Washington, DC 20006
LLevinson@foxrothschild.com

Sanster Corporation

c/o Lizbeth Levinson
Fox Rothschild LLP
2020 K Street NW
Suite 500
Washington, DC 20006
LLevinson@foxrothschild.com

Lollicup USA Inc.

c/o Lizbeth Levinson
Fox Rothschild LLP
2020 K Street NW
Suite 500
Washington, DC 20006
LLevinson@foxrothschild.com

**Paper Receipts Converting
Association**

c/o Bonnie Byers
King & Spalding
1700 Pennsylvania Avenue, N.W.
Washington, DC 20006-4706
BByers@kslaw.com

RE: EAPA Consolidated Investigation 7796 and EAPA Investigation 7799: Notice of Determinations as to Evasion

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

Pursuant to an examination of the record in consolidated Enforce and Protect Act (EAPA) Investigation 7796 (EAPA 7796) and EAPA Investigation 7799 (EAPA 7799), U.S. Customs and Border Protection (CBP) has determined there is substantial evidence that the importers under investigation entered merchandise covered by the antidumping (AD) and countervailing duty (CVD) orders on lightweight thermal paper (thermal paper) from the People's Republic of China (China), A-570-920 and C-570-921,¹ into the customs territory of the United States through evasion. Specifically, for EAPA 7796 we find that substantial evidence demonstrates that Exquis Inc. (Exquis), Lollicup USA Inc. (Lollicup) and Sanster Corporation (Sanster) (collectively referred to as the "Importers"), imported Chinese-origin thermal paper into the United States and misrepresented the country of origin as Taiwan. In addition, for EAPA 7799

¹ See *Lightweight Thermal Paper from the People's Republic of China: Antidumping Duty Order*, 73 FR 70959 (Dept. of Commerce, November 24, 2008); and *Lightweight Thermal Paper from the People's Republic of China: Countervailing Duty Order*, 73 FR 70958 (Dept. of Commerce, November 24, 2008) (collectively, the *Chinese Orders*). These EAPA investigations were consolidated in the Initiation Memorandum and assigned consolidated case number 7796. See CBP Memorandum, "Initiation of Consolidated EAPA Investigation 7796 and Initiation of EAPA Investigation 7799," dated February 1, 2023 (Initiation Memorandum).

we find that Exquis evaded AD order A-580-911 by entering into the United States Korean-origin thermal paper that was transshipped through Taiwan.² As a result, no cash deposits were applied to the Importers' entries of thermal paper from Taiwan.

Background

The Paper Receipts Converting Association (hereafter referred to as the "PRCA") filed four EAPA allegations against the Importers on November 8, 2022.³ On January 10, 2023, The Trade Remedy Law Enforcement Directorate (TRLED), within CBP's Office of Trade, acknowledged receipt of the properly filed EAPA allegations by the PRCA against the Importers.⁴ As such, the entries covered by the period of investigation (POI) are those entered for consumption, or withdrawn from warehouse for consumption, from January 10, 2022, through the pendency of these investigations.⁵

TRLED found the information provided in the allegations reasonably suggested that the Importers entered thermal paper into the customs territory of the United States through evasion. Consequently, CBP initiated investigations with respect to the Importers on February 1, 2023, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the "Enforce and Protect Act" or "EAPA."⁶

On May 2, 2023, after evaluating all of the information on record at that time, CBP determined that reasonable suspicion existed that the thermal paper imported into the United States from Taiwan by the Importers was manufactured in China and/or Korea, and imposed interim measures.⁷ Specifically, TRLED based these determinations on several elements introduced through the course of these investigations, including information provided in the Allegations, multiple discrepancies in the Importers' CF28 responses, and additional information gathered by CBP during the course of these investigations.⁸ Consequently, based upon the information stated above, CBP issued the NOI on May 9, 2023.⁹

After the NOI, CBP issued Requests for Information (RFIs) to the Importers, pursuant to section

² See *Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Orders*, 86 FR 66284 (Dept. of Commerce, November 22, 2021) (the *Korean Order*). This EAPA investigation was assigned case number 7799. See Initiation Memorandum.

³ See the PRCA's Letters, "Duty Evasion and False Country of Origin Allegation Against Importers of Thermal Paper from China and The Republic of Korea Pursuant to the Enforce and Protect Act," dated November 8, 2022 (collectively, the Allegations). The four Allegations are identical.

⁴ See, e.g., CBP's Email, "EAPA 7796: Receipt of the Allegations," dated January 10, 2023.

⁵ See 19 CFR 165.22.

⁶ See Initiation Memorandum.

⁷ See CBP's Email, "U.S. Customs and Border Protection EAPA Investigations 7796/7799: Interim Measures," dated May 2, 2023.

⁸ See CBP's Letter, "EAPA Consolidated Case 7796 and EAPA Case 7799: Notice of Initiation of Investigations and Interim Measures," dated May 9, 2023 (the NOI). See also CBP's Memorandum, "Consolidated EAPA Investigation 7796 and EAPA Investigation 7799: Factual Information," dated May 9, 2023; and CBP's Memorandum, "Consolidated EAPA Investigation 7796 and EAPA Investigation 7799: Trade Data," dated May 9, 2023 (Trade Data Memo).

⁹ See, generally, the NOI.

165.5 of the EAPA Regulations.¹⁰ In the RFIs, CBP requested the following information from the Importers: (1) information about each company’s corporate structure and affiliations; (2) information about each company’s accounting and financial practices; (3) information about their procurement and sales practices; and (4) reconciliations, to tie their financial statements to their sales of covered merchandise. Each of the Importers timely responded to the RFI.¹¹

On August 22, 2023, CBP issued a supplemental RFI (SRFI) to Lollicup,¹² and on September 8, 2023, Lollicup timely responded to its SRFI.¹³ On September 18, 2023, Lollicup submitted a clarification to its SRFI response.¹⁴

In addition, pursuant to section 165.5 of the EAPA Regulations, CBP issued RFIs to foreign manufacturers Keary Global Group (Keary) and Mega Thermal Co., Ltd. (Mega Thermal).¹⁵ In the RFIs, CBP requested the following information from the foreign manufacturers: (1) information about each company’s corporate structure and affiliations; (2) information about each company’s accounting and financial practices; (3) information about their procurement and sales practices; (4) information concerning their production process and purchase of raw materials; and (5) reconciliations, to tie their financial statements to their production and sales of covered merchandise. Keary and Mega Thermal timely responded to the RFI.¹⁶

On August 4, 2023, CBP issued a SRFI to Mega Thermal.¹⁷ On September 8, 2023, Mega Thermal timely responded to the SRFI.¹⁸ On September 18, 2023, Mega Thermal submitted a

¹⁰ See CBP’s Letter to Exquis, “EAPA Cons 7796 and EAPA 7799: Request for Information,” dated May 19, 2023; CBP’s Letter to Lollicup, “EAPA Cons 7796: Request for Information,” dated May 19, 2023; and CBP’s Letter to Sanster, “EAPA Cons 7796: Request for Information,” dated May 19, 2023.

¹¹ See Exquis’ Letter, “Lightweight Thermal Paper from China Shipped Allegedly Shipped Through Taiwan: RFI for Exquis Incorporated,” dated June 16, 2023 (Exquis’ RFI Response); Lollicup’s Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: RFI for Lollicup USA Incorporated,” dated June 27, 2023 (Lollicup’s RFI Response); and Sanster’s Letter, “Lightweight Thermal Paper from China Shipped Allegedly Shipped Through Taiwan: RFI for the Sanster Corporation,” dated June 16, 2023 (Sanster’s RFI Response).

¹² See CBP’s Letter to Lollicup, “EAPA Case 7796: Supplemental Request for Information,” dated August 22, 2023.

¹³ See Lollicup’s Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: Supplemental RFI for Lollicup USA Incorporated,” dated September 8, 2023 (Lollicup’s SRFI Response).

¹⁴ See Lollicup’s Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: New Factual Information Submission Mega Thermal Company, Ltd.,” dated September 18, 2023. Although Lollicup indicated this submission is “new factual information,” the deadline to submit voluntary factual information had passed on September 4, 2023. See CBP’s Email, “EAPA 7796/7799: Voluntary Factual Information Deadline,” dated August 21, 2023. This submission is, in fact, a timely filed clarification of Lollicup’s SRFI Response.

¹⁵ See CBP’s Letter to Keary, “EAPA Cons 7796: Request for Information,” dated May 19, 2023; and CBP’s Letter to Mega Thermal, “EAPA Cons 7796 and EAPA 7799: Request for Information,” dated May 19, 2023.

¹⁶ See Keary’s Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: RFI for Keary Global Group,” dated June 29, 2023 (Keary’s RFI Response); and Mega Thermal’s Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: RFI for Mega Thermal Company, Ltd.,” dated June 29, 2023 (Mega Thermal’s RFI Response).

¹⁷ See CBP’s Letter to Mega Thermal, “EAPA Cases 7796 and 7799: Supplemental Request for Information,” dated August 4, 2023.

¹⁸ See Mega Thermal’s Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: Supplemental RFI for Mega Thermal Company, Ltd.,” dated September 8, 2023 (Mega Thermal’s SRFI Response).

clarification to its SRFI response.¹⁹

CBP also issued an RFI to Visionpack Solutions (Visionpack), a Korean company which is not an interested party to these investigations, but record evidence indicated it was potentially involved in the evasion scheme.²⁰ On May 19, 2023, CBP issued an RFI to Visionpack.²¹ Visionpack did not respond to the RFI, so we provided it with a second opportunity to respond on June 13, 2023.²² Visionpack did not respond to any RFI in these investigations.

Between September 19-22, 2023, CBP conducted verification of Mega Thermal's submissions.²³

On September 11, 2023, CBP postponed the deadlines for written arguments until after the release of the verification report.²⁴ On November 28, 2023, CBP set the deadlines for written arguments.²⁵ On December 5, 2023, the PRCA and the Importers submitted written arguments.²⁶ On December 20, 2023, the PRCA and the Importers submitted rebuttal written arguments.²⁷

Analysis

Under 19 USC 1517(c)(1)(A), to reach a determination as to evasion, CBP must “make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.”²⁸ The term “covered merchandise” is defined as “merchandise that is subject to a CVD order... and/or an AD order.”²⁹ The term “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

¹⁹ See Mega Thermal's Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: New Factual Information Submission Mega Thermal Company, Ltd.,” dated September 18, 2023 (Mega Thermal's SRFI Clarification). Although Mega Thermal indicated this submission is “new factual information,” the deadline to submit voluntary factual information had passed on September 4, 2023. See CBP's Email, “EAPA 7796/7799: Voluntary Factual Information Deadline,” dated August 21, 2023. This submission is, in fact, a timely filed clarification of Mega Thermal's SRFI Response. Mega Thermal also submitted a correction to its clarification. See Mega Thermal's Letter, “Lightweight Thermal Paper from China Allegedly Shipped Through Taiwan: Mega Thermal Company Ltd. Letter of Correction Concerning the Supplemental RFI,” dated September 18, 2023

²⁰ See Trade Data Memo.

²¹ See CBP's Letter to Visionpack, “EAPA Cons 7796 and EAPA 7799: Request for Information,” dated May 19, 2023.

²² *Id.*

²³ See CBP's Memorandum, “On-Site Verification Report, Enforcement And Protect Act Case Number: Cons 7796 and 7799,” dated November 28, 2023 (Verification Report).

²⁴ See CBP's email, “EAPA 7796 & 7799: Extension of Written Arguments Deadline,” dated September 11, 2023.

²⁵ See CBP's email, “EAPA 7796 and 7799: Written Arguments,” dated November 28, 2023.

²⁶ See the PRCA's Letter, “EAPA Investigation Case 7796 and EAPA Case 7799 - Allegor's Written Arguments,” dated December 5, 2023 (the PRCA's Written Arguments); and the Importers' Letter, “Lightweight Thermal Paper from China and Korea Allegedly Shipped Through Taiwan: Importers' Written Arguments,” dated December 5, 2023 (the Importers' Written Arguments). See also CBP's email, “EAPA Investigations 7796 and 7799: Written Arguments Acceptance,” dated December 6, 2023.

²⁷ See the PRCA's Letter, “EAPA Investigation Case 7796 and EAPA Case 7799 - Allegor's Rebuttal Arguments,” dated December 20, 2023 (the PRCA's Rebuttal Arguments); and the Importers' Letter, “Lightweight Thermal Paper from China and Korea Allegedly Shipped Through Taiwan: Importers' Rebuttal Written Arguments,” dated December 20, 2023 (the Importers' Rebuttal Arguments).

²⁸ See also 19 CFR 165.27(a) (implementing 19 USC 1517).

²⁹ See 19 CFR 165.1.

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.”³⁰ As discussed below, substantial evidence on the record of these investigations indicate that the Importers entered covered merchandise through evasion.

Evidence of Transshipment

Record evidence indicates that the Importers source their thermal paper imports from Taiwanese supplier Mega Thermal. The thermal paper Exquis and Sanster entered from Taiwan was sourced from Mega Thermal or one of its affiliates, [names of companies].³¹ We note that the Importers and Mega Thermal reported that [names of companies] are [company roles], and [frequency] source their thermal paper from Mega Thermal’s factory.³² Record evidence also indicates that the thermal paper Lollicup imported from Taiwan was sourced from Mega Thermal or Lollicup’s affiliated supplier, Keary, and that Keary sourced its thermal paper from Mega Thermal.³³ In sum, the Importers’ entries of thermal paper from Taiwan were sourced from Mega Thermal.

In its RFI responses and at verification, Mega Thermal indicated that it [description of production processes], imported all of the thermal paper jumbo rolls it converted and sold to the Importers, including jumbo rolls it converted and sold to Keary.³⁴ It is not disputed that Mega Thermal sourced jumbo rolls of thermal paper from other countries, converted it to an end-use size by slitting jumbo rolls into smaller sizes, and then sold the converted thermal paper to the Importers.³⁵ As such, during the POI Mega Thermal was not a manufacturer of thermal paper, but a converter of thermal paper.

The scopes of the *Chinese Orders* and *Korean Order* cover certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (gsm) (with a tolerance of ± 4.0 gsm) or less; irrespective of dimensions. These orders also indicate that the thermal paper is typically produced in jumbo rolls that are slit or converted to certain sizes, and that both jumbo and converted rolls, as well as thermal paper in any other form, presentation, or dimension, are covered merchandise. Two Customs Rulings found that the country of origin of thermal paper is the country where the thermal chemicals are applied, not the country where the thermal paper is converted.³⁶ Because Mega Thermal is not a manufacturer of thermal paper, but only converts jumbo rolls to smaller sizes, its exports to the United States do not have a country-

³⁰ *Id.*

³¹ See Exquis’ RFI Response at 13; Sanster’s RFI Response at 4.

³² See Exquis’ RFI Response at 13; Sanster’s RFI Response at 4.

³³ See Keary’s RFI Response at 2 and 13; Mega Thermal’s RFI Response at 24 – 25.

³⁴ See Mega Thermal’s RFI Response at 25 – 26 and Exhibit IV-1; Mega Thermal’s SRFI Clarification; Verification Report at 3 – 4.

³⁵ Trade data collected by CBP also indicates that Mega Thermal imported jumbo rolls of thermal paper. See Trade Data Memo.

³⁶ See Customs Ruling N030222, “The Country of Origin Marking of Finished Rolls of Lightweight Thermal Paper,” dated July 2, 2008 (Customs Ruling N030222); Customs Ruling N268298, “The country of origin of rolls of coated thermal paper,” dated September 30, 2015 (Customs Ruling N268298).

of-origin of Taiwan, and therefore, entries of thermal paper from Mega Thermal are transshipped.

Written Arguments

Issue 1: Country of Origin of Mega Thermal's Jumbo Rolls

The Importers' Comments: The Importers maintain that they believed the conversion of thermal paper jumbo rolls by Mega Thermal in Taiwan resulted in substantial transformation, and thus, changed the country of origin of that merchandise to Taiwan.³⁷

The Importers argue that Mega Thermal has fully complied with these investigations from the onset and clearly demonstrated, in its RFI responses and at verification, its ability to trace the country of origin of the raw material inputs (*i.e.*, thermal paper jumbo rolls) used in production.³⁸ The Importers contend that Mega Thermal provided over 5,000 pages of documentation, including work orders, requisition forms, and production records for the entirety of the POI, the most important of which is the "Converting Worksheet" provided in Attachment 4 of Mega Thermal's SRFI Clarification, because this document provides the means to calculate the percentages of raw materials used for all shipments during the POI.³⁹

The Importers assert that CBP should accurately apply the AD/CVD rates based on the country of origin of Mega Thermal's jumbo roll inputs, *i.e.*, the country where the thermal coating was applied. According to the Importers, each shipment from Taiwan had a unique production, with different compositions of raw materials from various countries of origin, and therefore, CBP should analyze each shipment to determine the correct AD/CVD rates.⁴⁰ As such, the Importers maintain that there is no basis for the application of adverse inferences in this case, nor should CBP apply rates that would treat all shipments as if they had the same percentage of Chinese and/or Korean merchandise.⁴¹

The Importers submit that CBP should apply rates on a per shipment basis, based on the actual country of origin of each shipment according to the Converting Worksheet and the documentation provided by Mega Thermal, if any AD/CVD rates are to be applied.⁴² Furthermore, for shipments and invoice line items that may have been produced using merchandise from several different countries, the Importers encourage CBP to accurately assess rates based on the amount of merchandise from each country used in the production of each commercial invoice line item, which can be accurately calculated using the Converting Worksheet.⁴³

The Importers note that this methodology is consistent with EPA investigation 7724. The Importers state that EPA 7724 concerned whether an importer transshipped thermal paper from

³⁷ *Id.* See also the Importer's Rebuttal Arguments.

³⁸ See the Importers' Written Arguments at 2.

³⁹ *Id.* at 3 – 6, citing Mega Thermal's SRFI Clarification at Attachment 4.

⁴⁰ *Id.*

⁴¹ *Id.* at 2 – 3.

⁴² *Id.* at 6.

⁴³ *Id.*

Germany, South Korea, and China through Malaysia.⁴⁴ The Importers observe that in that case, CBP applied the South Korean AD rate to certain entries where record information indicated a South Korean country of origin.⁴⁵ The Importers remark that for certain entries, CBP applied the Chinese AD rate as adverse facts available where the importer and manufacturer did not provide sufficient information to show the country of origin of the merchandise.⁴⁶ EAPA 7724 demonstrates that, where it is appropriate, CBP can and should apply the AD rates applicable to merchandise with a certain country of origin, even where that means applying different rates to merchandise included in the same shipment.

Using the Converting Worksheet, the Importers provided sample demonstrations of tracing the country of origin of jumbo rolls through Mega Thermal's books and record to demonstrate its reliability in determining the country of origin of entries for each importer.⁴⁷

The PRCA's Comments: The PRCA contends it stretches credulity that the Importers would not carry out any due diligence to ensure that they were properly declaring their imports.⁴⁸ The PRCA asserts this is especially true given that the PRCA filed four prior EAPA allegations with respect to thermal paper. All prior EAPA investigations involved the identical circumstances, resulted in affirmative findings of evasion, and were highly publicized in the industry.⁴⁹ The PRCA claims that, based on the limited data and information that was provided publicly, it is clear that none of the Importers applied any level of care or diligence to ensure that they were declaring the correct country of origin and paying the requisite duty deposits owed.

According to the PRCA, record evidence in these investigations confirms that the Importers entered converted thermal rolls into the United States through evasion. The PRCA maintains that these rolls should have been declared as the country of origin where the thermal jumbo rolls were produced, and duty deposits should have been paid on each entry.⁵⁰

With respect to the Importers' request for CBP to calculate the duties owed by relying on the Converting Worksheet, the PRCA asserts that it is significantly hampered in its ability to comment on the accuracy of this worksheet, or to determine whether it is appropriate for CBP to rely on this document to assess AD/CVD duties, given that all the relevant information is redacted. The PRCA urges CBP to apply the duties associated with a specific country when it has incontrovertible evidence of the origin of the jumbo rolls, and where there is any lack of clarity about the jumbo roll origin, CBP should apply the highest rates (*i.e.*, the AD and CVD rates for China) as adverse inferences, as it has done in other EAPA investigations.⁵¹

CBP's Position: With respect to parties' arguments concerning due diligence and culpability, under EAPA there is no requirement that CBP determine that the Importers acted with any level

⁴⁴ *Id.* at 6 – 7, citing “Notice of Determination as to Evasion - EAPA Consolidated Case 7724,” dated May 1, 2023.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 8 – 10 for Exquis, 10 – 14 for Sanster, and 16 – 18 for Lollicup.

⁴⁸ See the PRCA's Written Arguments at 4; the PRCA's Rebuttal Arguments at 3.

⁴⁹ See the PRCA's Rebuttal Arguments at 3, referencing EAPA Consolidated Investigation Nos. 7523, 7724, 7737, and 7745.

⁵⁰ See the PRCA's Written Arguments at 3 – 4.

⁵¹ *Id.* at 4.

of culpability. 19 USC 1517(c)(1)(A) requires that CBP determine whether evasion occurred, *i.e.*, whether covered merchandise was entered into 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.”⁵² Thus, CBP does not need to determine any level of culpability, only that evasion occurred.

With respect to comments concerning the application of adverse inferences, the Importers and Mega Thermal responded to CBP’s RFIs and SRFIs in a timely manner. Moreover, Mega Thermal participated in verification, answered CBP’s questions and provided all requested documentation. As such, we find that the Importers and Mega Thermal have cooperated to the best of their abilities, and there is no basis to apply adverse inferences to any party to these investigations.

Both the PRCA and the Importers appear to be in agreement that any AD/CVD duties owed on entries covered by these investigations should be based on the country of origin of the jumbo rolls. While EAPA 7796 covers Chinese-origin thermal paper, and EAPA 7799 covers Korean-origin thermal paper, during the course of the investigation record evidence indicates that Mega Thermal sourced jumbo rolls it converted from a variety of countries, not just China and Korea.⁵³ Mega Thermal indicated this in its RFI and SRFI responses, and provided a Converting Worksheet in its SRFI Clarification.⁵⁴ The accuracy of the Converting Worksheet in tracing jumbo rolls to POI entries was tested numerous times at verification, and CBP did not find any discrepancies. Because the Converting Worksheet provides an accurate account of the country of origin of each of the Importers’ POI entries, CBP will assess any AD/CVD duties owed by the Importers based on the country (or countries) of origin of the entry using the Converting Worksheet.

Issue 2: Substantial Transformation

Lollicup’s Comments: Lollicup notes that certain thermal paper produced by Mega Thermal, and exported by Keary Global, has custom print designs.⁵⁵ Lollicup argues that because Mega Thermal converted this paper (*i.e.*, slit the jumbo rolls into end-use form) and applied a custom print, the thermal paper was substantially transformed, and the country of origin for this merchandise changed to Taiwan.⁵⁶

Lollicup provides several cites in support of this proposition. Lollicup contends that, pursuant to 19 CFR 134, a substantial transformation occurs when an article emerges from a process with a new character from that possessed by the article prior to processing.⁵⁷ In addition, Lollicup states that Customs Ruling 557408 determined that a printing process can change the country of

⁵² See 19 USC 1518(a)(5).

⁵³ See Trade Data Memo.

⁵⁴ See Mega Thermal’s SRFI Clarification.

⁵⁵ See the Importers’ Written Arguments at 14.

⁵⁶ *Id.*

⁵⁷ *Id.* See also *Bell Supply Co., LLC v. United States*, 888 F.3d 1222, 1228 (Fed. Cir. 2018); *National Juice Products Association v. United States*, 628 F. Supp. 978 (Ct. Int’l Trade 1986).

origin for certain products,⁵⁸ and that Customs Ruling H323855 found that the country of origin for printed books was the country where the book was printed, not where it was assembled or cut.⁵⁹

The PRCA's Comments: The PRCA asserts that CBP should reject Lollicup's assertion that certain thermal paper it imported was substantially transformed in Taiwan, and that the origin for these rolls is Taiwan. The PRCA maintains that it is well established practice that CBP applies the country of origin as defined in the scope of the AD/CVD orders issued by the Department of Commerce, which in the case of thermal paper is clear:

The scope of the *Order* covers thermal paper that is converted into rolls with an actual width of less than 4.5 inches and with an actual basis weight of 70 gsm or less in third countries from jumbo rolls produced in the subject countries.⁶⁰

The PRCA remarks that there is no exception or exclusion in the scope for thermal rolls that have been printed, thus, AD/CVD duties should be applied to all imports made by Lollicup, regardless of whether the converted rolls had custom printing.⁶¹

CBP's Position: The scope of the *Chinese Order* and the scope of the *Korean Order* both cover jumbo rolls and converted rolls. In this case, Mega Thermal's raw material and the end product are the same – thermal paper – and both the raw material, *i.e.*, the jumbo rolls, and end product, *i.e.*, rolls converted to certain sizes, are covered merchandise based on the plain language of the order. As such, the thermal paper at issue here could not be substantially transformed as Lollicup suggests.

Although Lollicup cites Customs Ruling 557408 and Customs Ruling H323855 in its arguments, neither of those rulings is applicable to thermal paper. CBP has made Customs Rulings specific to thermal paper, and in those cases found that converting jumbo rolls in small sizes does not change the country of origin of the product.⁶²

AD/CVD laws in Title VII of the Tariff Act of 1930 (codified at 19 USC 1671, *et seq.*) authorize the Department of Commerce to determine whether specific imported products are subject to AD/CVD duties. The Department of Commerce addresses questions of country of origin in its scope determinations, using its own rules in 19 CFR 351.225(j). The Importers did not cite to a Department of Commerce scope ruling for the *Chinese Order* or *Korean Order* that indicates that the conversion of jumbo rolls or custom printing in a third country takes merchandise outside the scope of the order. Therefore, CBP must rely on the plain language of the scopes, which states:

The scope of the *Order* covers thermal paper that is converted into rolls with an actual width of less than 4.5 inches and with an actual basis

⁵⁸ *Id.* at 14 – 15, citing Customs Ruling 557408, “Internal Advice 42/93; eligibility of bingo game cards for duty-free treatment under the GSP,” dated January 14, 1994 (Customs Ruling 557408).

⁵⁹ *Id.* at 15, citing Customs Ruling H323855, “Country of origin marking of a printed book; Section 301 Measures,” dated Apr 4, 2022 (Customs Ruling H323855).

⁶⁰ See the PRCA's Rebuttal Arguments at 5, citing, *e.g.*, the *Chinese Order*.

⁶¹ *Id.*

⁶² See Customs Ruling N030222; Customs Ruling N268298.

weight of 70 gsm or less in third countries from jumbo rolls produced in the subject countries.

The plain language of the scope clearly states that third country conversion of thermal paper into widths of less than 4.5 inches and with an actual basis weight of 70 gsm or less is subject to the scope. Since Mega Thermal only converted the jumbo rolls in its Taiwan facility, its merchandise we find that the thermal paper at issue here does not have a country of origin of Taiwan, and CBP will assess duties based on the information found in the Converting Worksheet for these entries.

Actions Taken Pursuant to the Affirmative Determinations of Evasion

In light of CBP's determinations that the Importers entered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the liquidation for all entries imported by the Importers, that are subject to EAPA 7796 and EAPA 7799, and continue suspension until instructed to liquidate these entries. For those entries previously extended in accordance with the interim measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries. CBP will also evaluate the Importers' continuous bonds in accordance with CBP's policies and may require single transaction bonds as appropriate. None of the above actions precludes CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,



Victoria Cho
Director, Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
Office of Trade