



**U.S. Customs and
Border Protection**

PUBLIC VERSION

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RE: Notice of Initiation of Investigation and Interim Measures: EAPA Case 7902

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 of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”). Specifically, CBP is investigating whether Global Natural Ingredients, LLC (“Global Natural Ingredients”) evaded the antidumping (“AD”) duty order A-570-985 on xanthan gum from the People’s Republic of China (“China”)¹ by entering into the United States Chinese-origin xanthan gum that was transshipped through India, and not declaring the xanthan gum as subject to the aforementioned *Order*. Based on a review of information on the record, CBP has determined that there is reasonable suspicion of evasion of AD duties by Global Natural Ingredients; therefore, CBP has imposed the interim measures outlined below.

¹ See *Xanthan Gum from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 43143 (U.S. Department of Commerce, July 19, 2013) (“*Order*”).

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...”² Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”³ CP Kelco U.S., Inc. (“CP Kelco”) filed an EAPA allegation against the importer.⁴ On February 20, 2024, CBP acknowledged receipt of the properly filed EAPA allegation.⁵ Therefore, the entries covered by the period of investigation (“POI”) are those entered for consumption, or withdrawn from warehouse for consumption, on February 20, 2023, through the pendency of this investigation.⁶

Initiation

CP Kelco alleged that Global Natural Ingredients entered into the United States Chinese-origin xanthan gum transshipped through India that is subject to the *Order* without declaring it subject to *Order* or paying the required AD cash deposits. On March 12, 2024, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, initiated an investigation under EAPA against Global Natural Ingredients after finding that the Allegation and information available to CBP reasonably suggests evasion.⁷

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...”⁸ 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.”⁹ 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.

² See 19 CFR 165.2.

³ See 19 CFR 165.1.

⁴ See the March 12, 2024, document named Initiation of Investigation for EAPA Case Number 7902 (“Initiation Memo”) at 1-2, which references CP Kelco’s final revised allegation dated February 13, 2024 (“the Allegation”), as well as its February 16, 2024, supplement to the Allegation (“Supplement to the Allegation”). Note that footnote 2 of the Initiation inadvertently identified the date of the *Order* as July 19, 2023, rather than the correct date, July 19, 2013.

⁵ See TRLED Email, “EAPA 7902 – Official Receipt of Allegation” (February 20, 2024).

⁶ See 19 CFR 165.2.

⁷ See Initiation Memo.

⁸ See 19 CFR 165.15(b)(2).

⁹ See 19 CFR 165.1; see also 19 USC 1517(a)(5).

In assessing the claims made and information provided in the Allegation, TRLED found that the information provided by CP Kelco, in conjunction with other information available to TRLED, reasonably suggests that Global Natural Ingredients engaged in attempts to evade the *Order* by failing to declare entries of xanthan gum as subject to the *Order*.¹⁰ The information submitted by CP Kelco supporting its allegation of evasion by Global Natural Ingredients is summarized below.

CP Kelco submitted commercial trade data indicating that Global Natural Ingredients may have entered into the United States xanthan gum and declared India as its country of origin, as described below. The Alleger provided monthly U.S. import data for 2023 (January through December) from USITC DataWeb for Harmonized Tariff Schedule of the United States (“HTSUS”) subheading 3913.90.2015, covering xanthan gum,¹¹ and maritime import data from Descartes Datamyne listing Global Natural Ingredients as the consignee for xanthan gum from India entering the United States.¹² The Alleger noted that three of the five Descartes Datamyne listings for Global Natural Ingredients shipments are consistent, with regard to timing and quantities, with corresponding USITC DataWeb monthly import data.¹³ These data support CP Kelco’s contention that Global Natural Ingredients was importing xanthan gum from India.¹⁴

CP Kelco submitted information demonstrating that there likely is no production of xanthan gum in India. CP Kelco provided an affidavit from Mr. Shaw Gilmer, Senior Director of Operations for the Biogum Strategic Platforms at CP Kelco, and the U.S. International Trade Commission’s 2018 report on xanthan gum from China, both of which asserted that xanthan gum is only produced in four countries worldwide: Austria, China, France, and the United States.¹⁵

In addition, CP Kelco provided information indicating it is reasonable to conclude the merchandise in question originated in China, rather than other countries known to have production of xanthan gum. The Alleger provided Global Trade Atlas India import data for Indian tariff subheading 3913.90.90, covering xanthan gum and other natural and modified natural polymers, and argues these data show that China accounted for 86.15% of total imports by volume in January-August 2023 of products covered by this subheading, while imports from Austria, France, and the United States accounted for 0.24%, 1.46%, and 2.47%, respectively, of total imports into India.¹⁶ CP Kelco maintained that the significant volume of imports from China provides further support that Chinese-origin xanthan gum likely was transshipped through India to the United States.¹⁷

Furthermore, CBP determined that the importer entered merchandise during the EAPA period of investigation as country of origin [location] under a HTSUS subheading associated with xanthan

¹⁰ See Initiation Memo at 3-4.

¹¹ *Id.* at 2, citing the Allegation at 5 and Attachment 7.

¹² *Id.* at 2, citing the Allegation at 5 and Attachment 8.

¹³ *Id.* at 2, citing the Allegation at 5-7, Attachment 7, and Attachment 8.

¹⁴ CP Kelco also indicated that the only apparent employee of Global Natural Ingredients, Moiz Khorakiwala, is also the owner of Global Merchants, an Indian exporter that advertises xanthan gum for sale on its website. *Id.* at 8 and Attachments 11, 12, and 13.

¹⁵ *Id.* at 3, citing the Allegation at 8-9, Attachment 2, and Attachment 15.

¹⁶ *Id.* at 3, citing Supplement to the Allegation at 2 and Attachment 1.

¹⁷ *Id.* at 3, citing Supplement to the Allegation at 2.

gum covered by the scope of the *Order*, and, for those entries, did not pay the AD duties/deposits required by the *Order*.¹⁸

Consequently, CBP found that there was sufficient information to reasonably suggest that AD duties were not paid on subject entries of xanthan gum from China imported by Global Natural Ingredients.¹⁹

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, CBP will decide based on the record evidence if there is reasonable suspicion that such merchandise covered by an AD and/or CVD order was entered into the United States through evasion.²⁰ CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be evading entered merchandise covered by an AD and/or CVD order into the customs territory of the United States by a materially 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. 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 record evidence, there is reasonable suspicion that Global Natural Ingredients entered covered merchandise into the customs territory of the United States through evasion.

CF28s

On November 30, 2023, CBP issued a Customs Form 28 request for information (“CF28”) to Global Natural Ingredients for a lead entry (entry number [number]4705 (“Entry 4705”)) and two associated entries (entry number [number]0711 (“Entry 0711”) and entry number [number]5041 (“Entry 5041”)). In the CF28, CBP asked Global Natural Ingredients to provide the following information for the entries in question:

- 1) entry transaction information (including the original commercial invoice(s), proof of payment(s), purchase order, CF7501, and all bills of lading (including master bills of lading and through bills of lading) (including through bills of lading));
- 2) complete production records for the xanthan gum (to include purchase orders, commercial invoices, and proof of payment for all raw materials used to produce the xanthan gum);
- 3) transportation documents and container load plans from the manufacturer of the raw materials; foreign customs documentation (if imported) for all raw materials;
- 4) complete factory production records, including stamped timecards and work orders;
- 5) description of all the equipment used in the production of xanthan gum;
- 6) photos of each piece of equipment;
- 7) description of the production capacity of all equipment used to manufacture xanthan gum;

¹⁸ *Id.* at 4, citing TRLED Receipt Report documentation dated March 6, 2024.

¹⁹ *Id.* at 4.

²⁰ *See* 19 CFR 165.24(a).

- 8) all packaging costs and information; explanation of details regarding the xanthan gum factory businesses; and
- 9) names of all forwarding agents, subcontractors, and intermediaries involved and their contact information.

On January 26, 2024, Global Natural Ingredients submitted responses to the CF28 for each entry. In each instance, Global Natural Ingredients provided only an entry summary, commercial invoice, packing list, and through bill of lading for shipped xanthan gum, but none of the requested information relating to production.²¹

On March 6, 2024, CBP issued a Customs Form 29, notice of action, (“CF29”) for the three entries. The CF29 indicated CBP determined that the information provided in the CF28 responses was “insufficient to support country of origin and/or the country of origin provided is not consistent with the production or manufacturing of Xanthan Gum.” The CF29 also indicated that the xanthan gum is subject to the *Order*, and proposed several rate advancement actions on the entries, including suspension of the entries, conversion of the entries to type 03, application of suspension of the entries, and application of the China-wide entity deposit rate. The importer did not respond to the actions proposed in the CF29 by the deadline for providing such a response.

Analysis

As noted above, Global Natural Ingredients did not provide a complete response to the CF28 covering the three entries in question, failing to provide, among other things, any evidence the merchandise in question was produced in India. Global Natural Ingredients also did not respond to the Center’s proposed CF29 actions by the deadline for providing such a response, and those proposed actions are based on a conclusion the merchandise originated in China. These facts, as well as the aforementioned information submitted with the Allegation (*i.e.*, shipment and entry information, information regarding countries in which there is known xanthan gum production, and Indian import data), leads CBP to find that there is reasonable suspicion that the xanthan gum entered into the United States by Global Natural Ingredients during the period of investigation originated in China, and therefore should have been declared as subject to the *Order* and to AD cash deposits under the *Order*.

Enactment of Interim Measures

Based on the record evidence described above, CBP determines that reasonable suspicion exists that Global Natural Ingredients imported Chinese-origin xanthan gum into the United States through evasion. The Chinese-origin xanthan gum was subject to the *Order* and was transshipped through India before being imported into the United States with a declared country of origin India. Global Natural Ingredients failed to pay the applicable cash deposits. Therefore, CBP is imposing interim measures pursuant to this investigation.²²

²¹ For Entry 5041, Global Natural Ingredients also provided a “Safety Data Sheet” identified with the name of the Indian supplier, but that document contained no documentation of the actual production of the xanthan gum.

²² See 19 USC 1517(e); *see also* 19 CFR 165.24.

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 March 12, 2024, 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 March 12, 2024, the date of the initiation of the investigation; 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.²³

In addition, CBP will require live entry, reject any entry summaries that do not comply with live entry, and require refile of entries that are within the entry summary rejection period. CBP will also evaluate Global Natural Ingredients' continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

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 summary²⁴ 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.²⁵ 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, please feel free to contact us at eapallegations@cbp.dhs.gov with steve.d.bezirgianian@cbp.dhs.gov and tobias.a.vandall@cbp.dhs.gov copied. Please include "EAPA Case 7902" 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,



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

²³ See also 19 CFR 165.24(b)(1)(i)-(iii).

²⁴ See 19 CFR 165.4, 165.23(c), and 165.26.

²⁵ You will need a login name and password to use the CMS. The website will direct you how to obtain those.