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Border Protection

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EAPA Case Number 7523

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RE: Notice of initiation of investigation and interim measures taken as to Amlink Sourcing Incorporated concerning evasion of the antidumping and countervailing duty orders on lightweight thermal paper from the Peoples' Republic of China

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). Specifically, CBP is investigating whether Amlink Sourcing Incorporated (Amlink) has evaded the antidumping (AD) and countervailing (CVD) duty orders A-570-920 and C-570-921 on lightweight thermal paper (LWTP) from the People's Republic of China (China)¹ when importing LWTP into the United States. CBP found that the evidence on the record establishes a reasonable suspicion that the importer has entered merchandise into the United States through evasion and as a result, has imposed interim measures.

¹ See *Antidumping Duty Orders: Lightweight Thermal Paper From Germany and the People's Republic of China*, 73 FR 70959 (November 24, 2008) (*AD Order*). See also *Lightweight Thermal Paper from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order*, 73 FR 70958 (November 24, 2008) (*CVD 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 prior to 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.”² On August 26, 2020, Paper Receipts Converting Association (PRCA), an association of U.S. producers of lightweight thermal paper, filed an EAPA allegation through its counsel.³ CBP acknowledged receipt of the properly filed allegation against Amlink on September 28, 2020.⁴ In addition, and at its discretion, CBP may investigate other entries of such covered merchandise.⁵

Initiation

On October 20, 2020, the Trade Remedy Law Enforcement Directorate (TRLED) within the CBP Office of Trade initiated an investigation under EAPA as the result of an allegation submitted by PRCA, the Allegor, as to evasion of AD/CVD duties by Amlink.⁶ PRCA alleges that information available to it reasonably suggests Amlink evaded the *AD* and *CVD Orders* through the misclassification of Chinese-origin LWTP.⁷

PRCA alleges that Amlink imported LWTP manufactured by Shenzhen Likexin Industrial Co., Ltd. (Likexin) in China.⁸ PRCA asserts that Amlink declared these entries as “type 01” in field 2 of its entry summaries, instead of as “type 03” entries, to avoid paying AD/CVD duties upon liquidation.⁹ To support its allegation, the Allegor submitted the bills of lading for U.S. imports obtained through *Datamyne*, which list the port of export as Yantian, China, country of origin as China, and product description as thermal paper, thermal label, or thermal paper rolls.¹⁰ PRCA provided print outs of Likexin’s website listing the company’s products as commercial printing products such as thermal roll paper, point of sale (POS) paper, various stickers, tickets, and airline tickets.¹¹ Also, PRCA described how in January 2020 the Department of Commerce (Commerce) published a *Federal Register* notice announcing the initiation of an administrative review of the AD/CVD orders on LWTP from China.¹² Commerce requested that CBP provide information whether any historical exporters of LWTP from China were declaring their U.S.

² See 19 CFR 165.1.

³ See Letter from PRCA, “Evasion Allegation Against Amlink Sourcing Incorporated, An Importer Of Certain Light Weight Thermal Paper From The People’s Republic Of China (A-570-920 & C-570-921), Pursuant To The Enforce and Protect Act of 2015,” dated August 26, 2020 (Allegation).

⁴ See “Receipt Notification Email to Bonnie Byers and Richard Lutz of King & Spalding for EAPA 7523,” dated September 28, 2020.

⁵ See Memorandum to Brian Hoxie, Director, Enforcement Operations Division, “Initiation of Investigation for EAPA Case Number 7523 – Amlink Sourcing Inc.,” dated October 20, 2020 (Initiation).

⁶ *Id.*

⁷ See Allegation.

⁸ See Allegation at 4.

⁹ Importers must provide transaction detail on all entries with a coding system and “type 01” is defined as entries for consumption and “type 03” are entries for consumption and AD/CVD duties apply.

¹⁰ See Allegation at Exhibits 5A – 5E.

¹¹ *Id.* at Exhibits 6A – 7.

¹² *Id.* at Exhibit 15 and 16.

imports as “type 03” entries subject to AD/CVD duties.¹³ In response, CBP indicated that there were no “type 03” entries of LWTP during that administrative review period.¹⁴

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.”¹⁵ 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.”¹⁶ Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the claims made and evidence provided in the allegation, TRLED found that the allegation reasonably suggests that Amlink has engaged in attempts to evade the *AD and CVD Orders* by misclassifying Chinese-origin LWTP into the United States and failing to declare the merchandise as subject to the *AD and CVD Orders*. Consequently, TRLED initiated investigations pursuant to 19 USC 1517 (b)(1) and 19 CFR 165.15.¹⁷

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 and CVD Orders* was entered into the United States through evasion. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because there is reasonable suspicion that Amlink entered covered merchandise into the customs territory of the United States through evasion by means of misclassification and/or misdeclaration of entry type.¹⁸

CF-28 Responses and Analysis

On November 5 and 6, 2020, as part of the EAPA investigation process, CBP issued a CBP Form 28, Request for Information (CF-28) to Amlink and its broker on entry numbers (nos.)

¹³ *Id.* at Exhibit 16.

¹⁴ *Id.*

¹⁵ *See* 19 CFR 165.15(b); *see also* 19 USC 1517(b)(1).

¹⁶ *See* 19 CFR 165.1; *see also* 19 USC 1517(a)(5)(A).

¹⁷ *See* Initiation.

¹⁸ *See* 19 CFR 165.24(a).

[number]9204, [number]4625, and [number]4755.¹⁹ At the time CF-28s were issued, the entries were declared as type “01,” not subject to any AD/CVD duties. CBP requested the importer to provide entry transaction documents such as commercial invoice, proof of payment, purchase order, and all bills of lading; technical literature, diagrams, photographs, product brochures, websites links, marketing and other pertinent product information; manufacturer affidavit with description of products; detailed answers regarding the HTS classification and physical characteristics of the merchandise; and justification for why the entry is not subject to the *AD* and *CVD Orders*.

On December 3, 2020, the broker provided a partial response to the CF-28s on behalf of the importer.²⁰ The broker indicated that entry nos. 9204 and 4625 were indeed subject to the *AD* and *CVD Orders*; however, the broker also claimed entry no. 4755 was out of scope. The product description and HTS code on the commercial invoices for each entry provided inconsistent information.²¹ For example, the product descriptions for entry no. 4625 were

[product description] and the HTS code listed is [HTS code]. The product description for entry no. 4755 were [product description] and the HTS code listed is [HTS code].²² Because there was no substantial difference in product description and HTS code, CBP followed up and gave the broker/importer until December 16, 2020, to provide documentary evidence to support the claim that entry no. 4755 is not covered merchandise.²³ As of this notice, parties have not provided any of the requested information, *i.e.*, manufacturer affidavit, product brochures, diagram, photograph, etc. As such, Amlink failed to support its claim that entry no. 4755 was out of scope and not covered by the *AD* and *CVD Orders*. As discussed above, Amlink admitted that two entries were indeed subject to the *AD* and *CVD Orders* and failed to provide sufficient information on the third entry.

Enactment of Interim Measures

Because of the reasons stated above, TRLED finds that there is reasonable suspicion Amlink entered covered merchandise into the customs territory of the United States through evasion by means of misclassification and/or misdeclaration of entry type. Therefore, CBP is imposing interim measures pursuant to this investigation. 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 October 20, 2020, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner’s authority under section 504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation October 20, 2020; and

¹⁹ See Memorandum to the File, “CF-28 and Follow-up Issued to Amlink,” dated January 25, 2020 (CF-28 and Follow-Up).

²⁰ See Memorandum to the File, “Partial Responses to CF-28 Issued for Entry Nos. 9204, 4625, and 4755,” dated January 25, 2020 (Amlink CF-28 Response).

²¹ *Id.*

²² *Id.*

²³ See CF-28 and Follow-Up.

(3) pursuant to the Commissioner's authority under section 623, 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.²⁴

In addition, CBP will require live entry requiring cash deposits to be posted prior to release of merchandise from CBP custody. CBP will reject any entry summaries that do not comply with live entry procedure and require refile of entries that are within the entry summary rejection period. CBP will also evaluate Amlink's continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

For any future submissions or factual information to CBP pursuant to this EAPA investigation, please provide a business confidential version and public version to CBP. In addition, please also provide a public version to the email addresses of the parties identified at the top of this notice.²⁵

Should you have any questions regarding this investigation, please feel free to contact us at eapallegations@cbp.dhs.gov. Please include "EAPA Case Number 7523" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's EAPA website, <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.

Sincerely,



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

²⁴ See also 19 CFR 165.24(b)(1)(i) and (ii).

²⁵ See 19 CFR 165.4, 165.23(c), and 165.26.