



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

PUBLIC VERSION

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On behalf of the Paper Receipts
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Re: Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7724

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), against WHP Associates LLC (WHP Associates). CBP is investigating whether WHP Associates evaded antidumping duty (AD) orders A-570-920, A-428-840, and A-580-911 on thermal paper from China, Germany, and the Republic of Korea, respectively and/or countervailing duty (CVD) order C-570-921 on thermal paper from China (collectively referred to as the *Orders*).¹ CBP has found that reasonable suspicion exists that WHP Associates entered covered merchandise into the customs territory of the United States through evasion, and therefore CBP has imposed interim measures.²

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....” Entry is defined as an “entry, or withdrawal from warehouse for consumption, of merchandise into the customs territory of the United States.”³ CBP acknowledged receipt of the properly filed

¹ See *Lightweight Thermal Paper From the People’s Republic of China: Antidumping Duty Order*, 73 FR 70959 (Nov. 24, 2008); *Lightweight Thermal Paper From the People’s Republic of China: Countervailing Duty Order*, 73 FR 70958 (Nov. 24, 2008); see also *Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Orders*, 86 FR. 66284 (Nov. 22, 2021) (collectively, the *Orders*).

² See 19 USC 1517(e); see also 19 CFR 165.24.

³ See 19 USC 1517(a)(4); see also 19 CFR 165.1.

allegation against WHP Associates on June 7, 2022.⁴ The entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from June 7, 2021, through the pendency of this investigation.⁵

Initiation

On June 28, 2022, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP's Office of Trade, initiated this investigation under EAPA as a result of allegations submitted by the Paper Receipts Converting Association (the Alleger or PRCA)⁶ concerning the evasion of AD/CVD by WHP Associates.⁷ In the Allegations, the PRCA asserts that WHP Associates evaded the *Orders* by importing thermal paper either from China, Germany, or South Korea into the United States that was transshipped through Malaysia.⁸

The PRCA states that shipping data from Datamyne shows that the Importer imported thermal paper from Actan (Malaysia) Sdn Bhd (Actan) declared as country-of-origin (COO) Malaysia.⁹ Additionally, imports from Actan totaled 1034 metric tons in 2020, 896 metric tons in 2021, and 319 metric tons through March 2022.¹⁰ The PRCA alleges that Actan does not produce thermal paper, but instead purchases jumbo rolls from producers in other countries to convert into smaller thermal paper rolls.¹¹ To support this, the Alleger provided a copy of Actan's website, where Actan claims that it converts different types of papers but does not mention producing paper.¹² The Alleger also states that information in an April 2018 industry publication, Lavies

⁴ See email "Receipt of EAPA Allegations 7724-7729," dated June 7, 2022.

⁵ See 19 CFR 165.2.

⁶ The Alleger is a trade or business association in which a majority of the members manufacture, produce, or wholesale a domestic like product in the United States; thus, pursuant to 19 CFR 165.1(4), the Alleger meets the definition of an interested party that is permitted to submit an EAPA allegation.

⁷ See CBP Memorandum, "Initiation of Investigation for EAPA Consolidated Case Number 7724," dated June 28, 2022 (Initiation Notice). In the Initiation Notice, in accordance with 19 CFR 165.13, CBP consolidated cases 7724, 7726, and 7728 into one investigation because factors warranting consolidation were present, including that there is one importer entering similar covered merchandise, the *Orders* are similar, and there is an overlap in time periods of entries of covered merchandise.

⁸ See 7724 Letter from the PRCA, "Duty Evasion and False Country of Origin Allegation Against WHP Associates Importer Of Thermal Paper From The People's Republic Of China, Germany, and the Republic of Korea (A- 570-920 & C-570-921), Pursuant To The Enforce and Protect Act," dated April 17, 2022 (7724 Allegation) at 1; 7726 Letter from the PRCA, "Duty Evasion and False Country of Origin Allegation Against WHP Associates Importer Of Thermal Paper From The People's Republic Of China, Germany, and the Republic of Korea (A- 570-920 & C-570-921), Pursuant To The Enforce and Protect Act," dated April 17, 2022 (7726 Allegation) at 1; and 7728 Letter from the PRCA, "Duty Evasion and False Country of Origin Allegation Against WHP Associates Importer Of Thermal Paper From The People's Republic Of China, Germany, and the Republic of Korea (A- 570-920 & C-570-921), Pursuant To The Enforce and Protect Act," dated April 17, 2022 (7728 Allegation) at 1 (collectively, the Allegations).

⁹ See Allegations, at 6.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*, at Exhibit 15.

Chemi, shows the production capacity of all the thermal paper producers around the world and also that there are no companies producing thermal paper in Malaysia.¹³

The PRCA avers that Actan’s conversion of jumbo thermal paper rolls into smaller slit rolls is a minor operation and does not change the COO.¹⁴ The PRCA states that the COO for converted thermal rolls is the COO where the thermal paper was originally produced.¹⁵ The PRCA cites to the 2008 CROSS Ruling N030222 and the 2015 CROSS Ruling N268298 to support its claim; in both instances, CBP determined that the minor operations of unrolling the jumbo thermal paper rolls, slitting the rolls into strips, and rerolling the strips does not change the COO of thermal paper from where it was initially produced.¹⁶ Additionally, Malaysian Customs data, provided by the PRCA, shows that from January 2021 through March 2022, Actan imported into Malaysia thermal paper from Hansol Paper in South Korea, Mitsubishi HiTec Paper in Germany, Sailing Paper in China, and Gold Hua Sheng Paper in China.¹⁷ Furthermore, the customs data shows that Actan did not import into Malaysia any thermal jumbo rolls from countries that are not subject to AD/CVD.¹⁸ Thus, the PRCA concludes that the COO for Actan’s thermal paper would not be Malaysia, but either China, Germany, or South Korea.¹⁹

Therefore, the PRCA concludes *in toto* that all evidence reasonably suggests that WHP Associates entered the covered merchandise – thermal paper from subject countries – into the territory of the United States through evasion by transshipping such merchandise through Malaysia to avoid paying duties as per the *Orders*.

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.”²⁰ 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.”²¹ 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, but also that such entry was made by a material false statement or act, or material omission, which resulted in the reduction or avoidance of applicable AD and/or CVD cash

¹³ *Id.*, at 6 and Exhibit 16.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*, at 7 and Exhibits 17-18.

¹⁷ *Id.*, at 7 and Exhibit 19.

¹⁸ *Id.*

¹⁹ *Id.*, at 7-9.

²⁰ See 19 CFR 165.15(b); see also 19 USC 1517(b)(1).

²¹ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

deposits or other security.

In assessing the basis for the Allegations, CBP finds that the information submitted by the PRCA reasonably suggests that WHP Associates entered merchandise covered by the *Orders* into the customs territory of the United States through evasion by means of transshipment through Malaysia. While CBP has information provided by WHP Associates in their CBP Form 28 response, summarized below, that Actan purchased jumbo thermal rolls from a company in South Korea, CBP is also investigating whether thermal paper from Actan is of German-origin and/or Chinese-origin based on information provided in the Allegations. Specifically, Malaysian Customs data reasonably available to the PRCA and submitted to CBP show Actan specifically imported thermal paper into Malaysia from China, Germany, and South Korea during the POI. However, this requires further investigation to get more accurate information of the COO for all the thermal rolls imported by WHP Associates.

Actan's own company information shows that its main business is converting paper products. Furthermore, the Alleger provided evidence that there is no known thermal paper production in Malaysia and that the conversion of jumbo thermal paper rolls – the merchandise being imported into Malaysia by Actan – into smaller rolls, by unrolling, slitting into strips, and rerolling the strips, is a minor operation that does not change the COO. Finally, commercial trade data show that WHP Associates imported thermal paper from Actan in Malaysia into the United States. Consequently, TRLED initiated an investigation pursuant to 19 USC 1517(b)(1) and 19 CFR 165.15.²²

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 *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 a reasonable suspicion that the importer entered covered merchandise into the United States through evasion by means of transshipment through Malaysia.²³

CBP Form 28

On July 28, 2022, as part of the EAPA investigation process, CBP issued a CBP Form 28, Request for Information (CF-28) to WHP Associates concerning certain entries.²⁴ WHP Associates submitted its CF28 response on September 1, 2022.²⁵ In its response, WHP Associates provided information that aligned with the Allegations by indicating it purchased

²² See 19 CFR 165.15(d)(2). See Initiation. In the Initiation, CBP also initiated against another company; however, since then the Alleger has withdrawn its allegation against the company.

²³ See 19 CFR 165.24(a).

²⁴ See CF-28 sent to WHP Associates, dated July 28, 2022 (CF-28).

²⁵ See WHP Associates Response to CF-28, dated September 1, 2022 (CF-28 response).

thermal paper that Actan exported from Malaysia.²⁶ WHP Associate claimed that Actan produced all the thermal paper that it exported to the United States by providing a Malaysian COO certificate.²⁷ However, WHP Associates also provided information regarding Actan’s raw material purchases.²⁸ Information in the CF-28 response shows that Actan purchased jumbo thermal paper rolls from Hansol Paper Co., Ltd. that were shipped from [city], South Korea to Actan in Malaysia.²⁹ Furthermore, the CF-28 contained certificates of origin from South Korea for [#] thermal paper rolls of [product description].³⁰ Further, WHP Associates provided payments from Actan to a [country] bank related to the raw material purchases.³¹ All of these documents indicate that the raw materials are of South Korean origin. Finally, pictures of the production process from the CF-28 response show Actan unrolling jumbo rolls of thermal paper that are then slit and rerolled into smaller rolls.³²

As such, for these reasons and due to the information provided in the Allegations, *i.e.*, the 2008 CROSS Ruling N030222 and 2015 CROSS Ruling N268298 finding “no substantial transformation” in the jumbo roll to smaller roll conversion process, CBP finds that the minor processing of thermal paper by Actan in Malaysia, as described by WHP Associates in its CF-28 response above, does not change the COO of the thermal paper being purchased to COO Malaysia. As a result, CBP determines that Actan has at least exported to the United States thermal paper products that are of South Korean origin and thus subject to the *Orders*.

Enactment of Interim Measures

Record evidence, specifically the Actan documents in the CF-28 response, shows that Actan purchased thermal paper from South Korea as raw material inputs that were slit and rerolled into smaller sizes. This evidence, in conjunction with the fact that the CBP rulings, *i.e.*, 2008 CROSS Ruling N030222 and 2015 CROSS Ruling N268298, indicate that rerolling does not result in a substantial transformation so as to change the COO of the merchandise, supports CBP’s determination that reasonable suspicion exists that covered merchandise – thermal paper – produced by Actan is being entered into the customs territory of the United States by WHP Associates through evasion of the *Orders* by means of transshipment from South Korea through Malaysia.³³ Therefore, TRLED is imposing interim measures pursuant to this investigation.³⁴ 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

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ Due to information on the record showing that there is not a Malaysian thermal paper producer and because CBP has reasonable suspicion that thermal paper from South Korea is being transshipped by Actan, CBP will apply interim measures to all thermal paper entries imported by WHP Associates from Actan.

³⁴ See 19 USC 1517(e); *see also* 19 CFR 165.24.

entered on or after June 28, 2022, 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; 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.³⁵

In addition, CBP will require live entry and reject any non-compliant entry summaries, as well as require refile of entries that are within the entry summary rejection period. CBP will also evaluate WHP Associates’ continuous bonds to determine sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

Any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation must be made electronically using EAPA’s case management system (CMS) at <https://eapallegations.cbp.gov/>. Please provide a business confidential, if applicable, and public version to CBP and serve the public version on the parties to this investigation (*i.e.*, to the parties identified at the top of this notice). Public versions of administrative record documents will be available via the EAPA Portal at <https://eapallegations.cbp.gov>.³⁶

Should you have any questions regarding this investigation, you may contact us at eapallegations@cbp.dhs.gov with “EAPA Cons. Case 7724” 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,



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

³⁵ See also 19 CFR 165.24.

³⁶ See 19 CFR 165.4; see also 19 CFR 165.23(c) and 19 CFR 165.26.