



PUBLIC VERSION

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Re: Notice of Determination as to Evasion - EAPA Case 7810

To the Counsel for the above-referenced entities:

Pursuant to an examination of the record in Enforce and Protect Act (“EAPA”) Investigation Case Number 7810 (“EAPA 7810”), U.S. Customs and Border Protection (“CBP”) determines that the record does not contain substantial evidence that CIMC Intermodal Equipment LLC (“CIE”) entered merchandise covered by antidumping duty (“AD”) and countervailing duty (“CVD”) orders A-570-135 and C-570-136 on certain chassis and subassemblies from the People’s Republic of China (“China”)¹ into the customs territory of the United States through evasion. Moreover, substantial evidence does not exist for CBP to determine that Dee Siam Manufacturing Co., Ltd (“DS Manufacturing”) transshipped and exported certain chassis and subassemblies of Chinese-origin through Thailand.²

¹ See *Certain Chassis and Subassemblies Thereof From the People’s Republic of China: Antidumping Duty Order*, 86 FR 36093 (July 8, 2021); and see also *Certain Chassis and Subassemblies Thereof From the People’s Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination*, 86 FR 24845 (May 10, 2021) (collectively, “the Orders”).

² CIE reported that CIMC Vehicle (Thailand) Co., Ltd. changed its business name to DS Manufacturing. For clarity, the Determination as to Evasion will use the name DS Manufacturing to refer CIE’s supplier. See CIE’s Entry 1870 CF-28 and CIE’s Entry 5670 CF-28 Response (collectively, “CIE’s CF-28 Responses”), both dated June 14, 2023.

I. Background

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 also may, at its discretion, investigate other entries of such covered merchandise.⁴ CBP acknowledged receipt of a properly filed allegation against CIE on April 3, 2023.⁵ However, the entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from October 3, 2021,⁶ through the pendency of this investigation.⁷

*Scope of the Orders*⁸

The merchandise covered by the *Orders* consists of chassis and subassemblies thereof, whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (“RORO”) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.

Subject merchandise includes, but is not limited to, the following subassemblies:

- Chassis frames, or sections of chassis frames, including kingpin assemblies, bolsters consisting of transverse beams with locking or support mechanisms, goosenecks, drop assemblies, extension mechanisms and/or rear impact guards;
- Running gear assemblies or axle assemblies for connection to the chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may or may not include suspension(s) (mechanical or pneumatic), wheel

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

⁴ See 19 CFR 165.2.

⁵ See email “EAPA 7810 - CERTAIN CHASSIS AND SUBASSEMBLIES - CIMC Intermodal Equipment, LLC,” dated April 3, 2023.

⁶ At initiation, there were unliquidated entries that extended beyond the typical one-year period of investigation provided for in 19 C.F.R. § 165.2. Specifically, there were unliquidated entries from 18 months before receipt of the allegation, *i.e.*, October 3, 2021. Therefore, CBP determined that it was appropriate in this case for those additional entries to be subject to this investigation.

⁷ See 19 CFR 165.2. See also Memorandum, “Initiation of Investigation for EAPA Case Number 7810 – CIMC Intermodal Equipment, LLC,” dated April 24, 2023 (“Initiation Memorandum”).

⁸ See *Certain Chassis and Subassemblies Thereof From the People’s Republic of China: Antidumping Duty Order*, 86 FR 36093 (July 8, 2021); and see also *Certain Chassis and Subassemblies Thereof From the People’s Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination*, 86 FR 24845 (May 10, 2021).

end components, slack adjusters, axles, brake chambers, locking pins, and tires and wheels;

- Landing gear assemblies, for connection to the chassis frame, capable of supporting the chassis when it is not engaged to a tractor; and
- Assemblies that connect to the chassis frame or a section of the chassis frame, such as, but not limited to, pintle hooks or B-trains (which include a fifth wheel), which are capable of connecting a chassis to a converter dolly or another chassis.

Importation of any of these subassemblies, whether assembled or unassembled, constitutes an unfinished chassis for purposes of the *Orders*.

Subject merchandise also includes chassis, whether finished or unfinished, entered with or for further assembly with components such as, but not limited to: Hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses, and lighting systems.

Processing of finished and unfinished chassis and components such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished chassis does not remove the product from the scope.

Individual components entered and sold by themselves are not subject to the *Orders*, but components entered with or for further assembly with a finished or unfinished chassis are subject merchandise. A finished chassis is ultimately comprised of several different types of subassemblies. Within each subassembly there are numerous components that comprise a given subassembly.

The scope excludes dry van trailers, refrigerated van trailers and flatbed trailers. Dry van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself. Refrigerated van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems. Flatbed (or platform) trailers consist of load-carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members.

The finished and unfinished chassis subject to the *Orders* are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the *Orders* is dispositive.

Initiation

On April 24, 2023, 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 Coalition of American Chassis Manufacturers (the “Alleger” or the “CACM”)⁹ concerning the evasion of AD and CVD duties by CIE.¹⁰ The Alleger submitted documentation reasonably available to it, including aggregate and Importer specific U.S. import trade data, [Source], manufacturer-specific production capacity and financial information, and sworn affidavits from industry figures.¹¹ The information reasonably suggested that Chinese-origin chassis and subassemblies may have been transshipped through Thailand, that DS Manufacturing is processing or assembling Chinese subassemblies and components in Thailand, and that Chinese-origin chassis and subassemblies are being commingled with Thai merchandise and then imported into the United States without being declared as subject to the *Orders*.¹²

CBP Form 28 (“CF-28”)

On May 4, 2023, CBP issued CF-28 requests for information to CIE, requesting various information including invoices, packing slips, bills of lading, sources of raw materials, production records, and customs documentation for entries from Thailand during the POI.¹³ CIE submitted timely CF-28 responses.¹⁴ CIE’s CF-28 Responses contained the multiple discrepancies and were not complete.

CIE did not provide all the requested documentation for the raw materials associated with Entry 5670 and Entry 1870. CBP requested documentation showing raw materials were obtained by the factory in Thailand and were available for production. CIE explained that there are total of eight work orders associated with these entries.¹⁵ CIE only provided the specific raw material documentation associated with two of the eight work orders.¹⁶ The work orders that were provided each accounted for approximately 15 to 17 percent of the quantity produced by the work orders associated with each entry.¹⁷ Additionally, both work orders did not represent the largest work order within each set of work orders reported by CIE and DS Manufacturing.¹⁸ CIE

⁹ 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.

¹⁰ See Initiation Memorandum; See also CBP Memorandum, “Notice of Initiation of Investigation and Interim Measures - EAPA Case 7810,” July 31, 2023 (“NOI”) at 3-4.

¹¹ See Alleger’s letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated December 22, 2023 (Allegation); and “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Supplement to Request for an Investigation under the Enforce and Protect Act,” dated March 24, 2023 (Supplemental Allegation) (collectively, the Allegations).

¹² See Allegations at 1 and 4-5.

¹³ See CF-28 request for entries [#]5670 (Entry 5670) and [#]1870 (Entry 1870) sent to CIE, dated May 4, 2023 (CIE’s CF-28 Requests).

¹⁴ See CIE’s CF-28 Responses.

¹⁵ See CIE’s Entry 1870 CF-28 Response and CIE’s Entry 5670 CF-28 Response at 2, 5-9 and Exhibits 5 and 6.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

did not comply with CBP's request for documentation regarding all raw materials and did not provide a reason why they did not submit raw material documentation for all eight work orders associated with Entry 5670 and Entry 1870. CBP relies on raw material documentation to substantiate production and the country of origin of the imported products. CIE failed to provide all, or even the majority of, the raw material documentation for the requested entries.

CIE's CF-28 Responses were not complete regarding CBP's requests for production documentation:

- CIE failed to provide all requested documentation on country of origin of raw materials that comprised the final products, specifically for DS Manufacturing's purchases of [Products].¹⁹ CBP notes that CIE reported that DS Manufacturing's [Products] purchase order contracts required certificates of origin and that CIE failed to provide these documents in its CF-28 responses, nor did it state reasons or an explanation why did not comply with CBP's request.
- For Entry 1870 and Entry 5670, CIE reported that DS Manufacturing's purchase orders for [Products] and [Product] required a mill certificate.²⁰ However, CIE did not submit any mill certificate documentation in its CF-28 responses. CBP relies on complete purchase order/raw material information to assess production and country of origin for products imported into the United States.
- CIE failed to provide all documentation concerning Customs clearance records for raw materials imported into the country of manufacture, specifically export documentation from the country of origin for certain raw materials for purchases of [Product] and [Product].²¹
- CBP requested shipping records for raw materials purchased by CIE's foreign manufacturer.²² CIE provided shipping records for DS Manufacturing's raw material purchases; however, CBP notes that the delivery information provided by CIE is incomplete.²³
- CIE provided production records but failed to connect the raw material inventory withdrawal with production records.²⁴ The documentation that CIE provided for DS Manufacturing's raw material withdrawal shows that all raw materials were withdrawn from the exact same warehouse ([Location]) and storage area ([Location]).²⁵ DS Manufacturing's raw material withdrawals refer to different commodity goods, such as [Products]. Citing one warehouse

¹⁹ For [Product], purchase orders [#s] do not have country of origin certificates. See CIE's CF-28 Responses at 5-9 and Exhibits 5 and 6.

²⁰ For [Products], purchase orders [#s]. *Id.*

²¹ See CIE's CF-28 Responses at 5-9 and Exhibit 5, and CIE's Entry 5670 CF-28 Response at 5-9 and Exhibit 5 at sections A-03 and A-05 through A-08.

²² See CF-28 Requests at question 4.

²³ See CIE's Entry 1870 CF-28 Response at 5-9 and Exhibit 5.

²⁴ See CIE's CF-28 Responses at 5-9, 14-22, and Exhibits 5 and 8.

²⁵ See CIE's CF-28 Responses at Exhibit 8.

and one location does not substantiate that DS Manufacturing can track these raw materials by purchase order.

- CIE provided insufficient proof that DS Manufacturing tracked the chassis frames from production to shipment.²⁶ DS Manufacturing traced the chassis production for welding, bending, and painting operations by chassis serial number.²⁷ However, CBP could not corroborate the chassis serial numbers with the Thai export documentation provided.²⁸ DS Manufacturing provided an “Equipment Interchange Receipt,” which is a spreadsheet that assigned the specific chassis frames to the Bill of Lading numbers associated with Entries 1870 and 5670.²⁹ CIE did not provide an explanation on how DS Manufacturing tracks specific chassis frames production to the shipments. Further, these chassis frame serial numbers do not appear on Thai export documentation, including commercial invoices and packing lists, or the U.S. import documentation provided by CIE.³⁰

CIE’s CF-28 responses contained multiple discrepancies and were not complete. Specifically, CIE provided incomplete raw material purchase records, missing country of origin and mill certificates, partial information on customs clearance records, incomplete and incongruent raw material delivery records, partial raw material withdrawal records, and incomplete finished goods shipping records.³¹ Therefore, TRLED was unable to rely on the information contained in CIE’s CF-28 responses to determine if CIE’s supplier, DS Manufacturing, can produce chassis and subassemblies and to determine the correct country of origin of the CIE’s imported chassis and subassemblies.³²

Notice of Initiation of Investigation and Interim Measures

Based on CIE’s incomplete CF-28 responses, as well as other evidence on the administrative record as of July 24, 2023, such as the allegation, CBP determined that a reasonable suspicion existed that CIE entered covered merchandise for consumption into the customs territory of the United States through evasion by importing certain chassis and subassemblies of Chinese-origin to the United States while declaring the merchandise as a product of Thailand.³³ Therefore, CBP imposed interim measures on CIE’s imports of certain chassis and subassemblies from Thailand into the United States pursuant to the investigation.³⁴

In accordance with 19 U.S.C. § 1517(e)(1)-(3), CBP suspended the liquidation of each unliquidated entry of covered merchandise that entered on or after April 23, 2023, the date of the initiation of the investigation; extended the period for liquidating each unliquidated entry of covered merchandise that entered before April 23, 2023; and took additional measures necessary

²⁶ See CIE’s CF-28 Responses at 12 and Exhibits 4 and 8.

²⁷ *Id.* The chassis serial number is also referred to as Chassis Frame ASSY in CIE and DS Manufacturing’s documentation.

²⁸ *Id.*

²⁹ See Verification Report at 14.

³⁰ See CIE’s CF-28 Responses at 12 and Exhibits 4 and 8.

³¹ See NOI

³² See NOI.

³³ See CBP email, “EAPA 7810: External Notice of Initiation and Interim Measures,” dated July 24, 2023, and CBP email, “EAPA 7810: Internal Notice of Initiation and Interim Measures,” dated July 24, 2023.

³⁴ See NOI.

to protect the revenue of the United States, including requiring a single transaction bond or requiring the posting of a cash deposit with respect to covered merchandise.³⁵ On July 31, 2023, interested parties were notified that CBP had commenced a formal EAPA investigation of CIE and that the aforementioned interim measures had been enacted.³⁶

Requests for Information (“RFI”)

On August 8, 2023, CBP issued an RFI to both CIE, as the importer of record, and DS Manufacturing, as the manufacturer of the covered merchandise.³⁷ Following CBP’s granting of extension requests to CIE and DS Manufacturing,³⁸ both provided timely responses on September 8, 2023, and September 20, 2023 respectively.³⁹ On September 18, 2023, the Allegor submitted comments on CIE’s RFI Response.⁴⁰ The RFIs were specific to the following entries:

Entry Summary	Bill of Lading Number
[#] 0792	[#]
[#] 3673	[#]
[#] 1782	[#]
[#] 7343	[#]
[#] 1664	[#]
[#] 5555	[#]

On September 29, and October 31, 2023, CBP issued supplemental requests for information (SRFI) to CIE and DS Manufacturing, respectively.⁴¹ Following CBP’s granting of extension requests to both companies,⁴² CIE and DS Manufacturing provided timely responses on

³⁵ See 19 U.S.C. § 1623 and 19 C.F.R. § 165.24(b)(1)(i)-(iii).

³⁶ See CBP’s email, “EAPA 7810: Notice of Initiation and Interim Measures Public Memo,” dated July 31, 2023.

³⁷ See CBP’s RFI to CIE and DS Manufacturing (August 8, 2023).

³⁸ See CBP’s email, “EAPA 7810: First RFI Extension,” dated August 18, 2023, and CBP’s email, “EAPA 7810: Second MID RFI Extension,” dated August 30, 2023.

³⁹ See CIE’s Response to the RFI, dated September 8, 2023 (“CIE’s RFI Response”), and DS Manufacturing’s Response to the RFI, dated September 20, 2023 (“DS Manufacturing’s RFI Response”).

⁴⁰ See the Coalition American Chassis Manufacturer’s letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Comments on CIE’s Response to CBP Requests for Information,” dated September 18, 2023.

⁴¹ See CBP’s SRFI to CIE, dated September 29, 2023, and DS Manufacturing, dated October 31, 2023.

⁴² See CBP’s email, “EAPA 7810: First Extension of CIE Manufacturing SRFI,” dated October 24, 2023, and CBP’s email, “EAPA 7810: First Extension of DS Manufacturing SRFI,” dated November 9, 2023.

November 6, and 21, 2023, respectively.⁴³ On December 8, 2023, the Alleger provided comments on DS Manufacturing’s SRFI Response.⁴⁴

On November 10, 2023, both CIE and the Alleger voluntarily submitted information ahead of the voluntary factual information deadline.⁴⁵

On-Site Verification

During the period of December 12-15, 2023, CBP visited DS Manufacturing’s manufacturing facilities located at 7/258 Mu 6, Amata City Industrial Estate Map Yang Phon, Pluak Daeng Rayong 21140 Thailand, to conduct an on-site verification.

As part of the verification, CBP compared the information contained in DS Manufacturing’s RFI responses with the information reviewed at DS Manufacturing’s facility. For example, CBP focused reviewed information related to the COO of the parts used in production. CBP also received an overview of DS Manufacturing’s company organization and operations. In addition, CBP received a tour of DS Manufacturing’s facilities.

Prior to and during the on-site verification, CBP requested that DS Manufacturing provide documentation for additional shipments of certain chassis and subassemblies for which extensive sales and production traces were conducted. The shipments/entries selected for on-site review were:⁴⁶

Bill of Lading Number
[#]
[#]
[#]
[#]

⁴³ See CIE’s Response to the SRFI, dated November 6, 2023, (“CIE’s SRFI Response”) and DS Manufacturing’s Response to the SRFI, dated November 21, 2023 (“DS Manufacturing’s SRFI Response”).

⁴⁴ See CBP’s email, “EAPA 7810: Rejection of Submission,” dated December 6, 2023, the Alleger’s letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Request for Reconsideration of Rebuttal Factual Information,” dated December 8, 2023, CBP’s email, “EAPA 7810: Reconsideration of Rejected Submission,” dated December 11, 2023, and the Alleger’s letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Response to CBP’s Request for Clarification of Rebuttal Factual Information,” dated December 13, 2023.

⁴⁵ See CIE’s letter, “EAPA Case 7810: CONFIDENTIAL Version of CIE’s Voluntary Submission of Factual Information,” dated November 10, 2023, CIE’s letter, “EAPA Case 7810: PUBLIC Version of CIE’s Voluntary Submission of Factual Information,” dated November 10, 2023, (collectively, “CIE’s Voluntary Factual Information Submission”) and Alleger’s letter, “Certain Chassis and Subassemblies Thereof from the People’s Republic of China: Voluntary Factual Information Submission,” dated November 10, 2023 (the “Alleger’s Voluntary Factual Information Submission”).

⁴⁶ See CBP’s letter, “Engagement Letter and Verification Agenda,” dated December 5, 2023; see also “Verification Report,” dated January 26, 2024, at 13 and 16.

II. Summary and Analysis

Under 19 U.S.C. § 1517(c)(1)(A), to reach a final 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.” 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 of any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.”⁴⁷ As discussed in this determination and based on the totality of the record of this investigation, substantial evidence does not exist to determine that CIE entered covered merchandise into the customs territory of the United States through evasion that resulted in the avoidance of applicable AD/CVD cash deposits or other security.

Specifically, the totality of information contained in the administrative record demonstrates a lack of substantial evidence that CIE evaded the *Orders* by importing chassis frames with Chinese-origin subassemblies and subassembly components into the United States as a product of Thailand leading up to the enactment of interim measures, CACM’s allegations generally comported with CBP data other evidence, giving rise to suspicion of evasion and the imposition of interim measures. However, subsequent objective observations and information acquired during the onsite verification of DS Manufacturing’s Thai-based production facility largely resolved suspicions that CIE had engaged in evasion, and CIE was able to resolve discrepancies that arose during the verification. For example, CBP conducted employee interviews, asking key DS employees questions on the topics of sales, marketing, production, purchasing, and various potential inconsistencies found during our review of information previously placed on the Administrative Record. As reported in detail in the verification report, CBP found the information provided during the employee interviews was consistent with the information previously placed on the Administrative Record.⁴⁸

Among the concerns raised by CACM’s allegations was DS Manufacturing’s capacity for production. However, as reported by CIE and verified by CBP, DS Manufacturing invested in a new production facility to manufacture chassis frames for the North American market in early 2021. The project was titled “Project Durian,” which began production in June 2021. DS submitted all the contracts, invoices, and payment records supporting its investment in the factory building for Project Durian, including its design, construction, and utility system, the total contracted value for which amounted to approximately [#] Thai baht (“THB”).⁴⁹ At verification, DS also presented a reconciliation to show that the units of chassis frames produced by DS exceeded the number of units DS shipped to the United States.⁵⁰ In short, DS purchased sufficient raw materials for its production of chassis frames shipped to the United States.⁵¹

⁴⁷ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

⁴⁸ See Verification Report at 5-10.

⁴⁹ See DS Manufacturing’s SRFI Response (“SRFI”) at Exhibit SR-10.

⁵⁰ See Verification Report at 11 and Verification Exhibit 16A (Purchase, Production, Shipment Reconciliation).

⁵¹ *Id.*, at 2.

At verification, CBP was also able to satisfy concerns of alleged “commingling” based on the suggestion that chassis or chassis subassemblies manufactured by DS were being supplemented with Chinese origin chassis/subassemblies at the port in China. CBP reviewed and verified the shipping documentation, such as bills of lading and internal “Equipment Interchange Receipts” along with import documentation, such as entry summaries submitted on the record of this investigation, which link chassis frames manufactured and loaded into containers at DS Manufacturing’s facility and demonstrate that DS Manufacturing produced the chassis frames imported by CIE.⁵²

The issue of comingling appears to stem from the suspicion that DS Manufacturing lacked the capability to manufacture chassis imported by CIE. However, as reported by CIE and verified by CBP, DS Manufacturing invested in a new production facility referred to as Project Durian to manufacture chassis frames for the North American market in early 2021. Reportedly, only 1.3 percent of the steel inputs by weight came from China, and no covered merchandise originated from China. The primary inputs for Project Durian are steel coils, I-beams, steel profiles, and welding parts. At verification, CBP verified DS Manufacturing’s ability to produce chassis frames for the North American market, particularly CIE, during that time by analyzing the manufacturer’s manpower, finances, utilities, machinery, sales, and production.⁵³

Finally, the premise for which CBP pursued this investigation and ultimately imposed interim measures was grounded in the evidence-based suggestion that DS Manufacturing uses Chinese-origin chassis subassemblies or components as defined by the scope of the *Orders*. However, CBP confirmed through extensive sales and production traces conducted at the onsite verification that DS Manufacturing was not using any Chinese-origin subassemblies for its production of chassis frames.⁵⁴ Nor does DS Manufacturing use any covered merchandise in its production of chassis frames exported to the United States based on a selective production trace and firsthand observation of DS Manufacturing’s production processes. Moreover, and in support of this conclusion, CBP reviewed and verified purchase records for materials used to manufacture chassis frames from the beginning of Project Durian in 2021 through July 2023. As documented in the verification report, DS Manufacturing reconciled the few discrepancies CBP noted, such as those relating to material inputs and accounting.⁵⁵

After considering evidence collected as part of CIE and DS Manufacturing’s RFI Responses coupled with the benefit of verification thereof, CBP’s finds that substantial evidence on the record does not exist that CIE has engaged in evasion of the *Orders*.

⁵² See CIE’s RFI Response at 18 & Exhibit III-5-3 at 19-38, Exhibit III-5-4 at 20-55, Exhibit III-5-5 at 33-53, Exhibit III-5-6 at 124-144 and Exhibit III-5-7 at 28-72; DS Manufacturing’s RFI Response at 23, 38 and Exhibit IV-9; Verification Exhibit 3 at 130-161; Verification Exhibit 4 at 49-69; Verification Exhibit 5 at 9; Verification Exhibit 6 at 9-21; Verification Exhibit 7 at 9-10; Verification Exhibit 8 at 39-52; Verification Report at 15 & 17.

⁵³ See Verification Report in its totality.

⁵⁴ See Verification Report at 5, 10 and Verification Exhibit 17.

⁵⁵ *Id.*, at 5, 10, 18-19 and Verification Exhibits 3-8.

III. Written Arguments

On November 14, 2023, CBP extended the deadline to submit the written arguments and responses, and on March 12, 2024, CBP set the deadlines for written argument and responses as March 19, 2024 and April 3, 2023, respectively.⁵⁶ On March 19, 2024, the Alleger as well as CIE submitted timely written arguments.⁵⁷ On April 3, 2023, the Alleger and CIE submitted timely written rebuttal arguments.⁵⁸ CBP offers its position to the parties' arguments as follows:

Issue 1: Substantial Evidence

CACM's Arguments

- The evidence CBP relied on for initiation and interim measures and information collected during the investigation provide substantial evidence of evasion.

CIE's Arguments

- CACM disregards a core tenet of the "Substantial Evidence" standard: an agency determination that fails to consider contradictory evidence is not supported by substantial evidence.⁵⁹
- CACM merely reiterates its allegations, all aspects of which are fully disproven by the verified record evidence compiled in CBP's EAPA Investigation.

CBP's Position

Based on CIE's incomplete CF-28 responses and other record evidence as of July 24, 2023, CBP determined that reasonable suspicion existed that CIE entered covered merchandise for consumption into the customs territory of the United States through evasion by declaring certain chassis and subassemblies of Chinese-origin as a product of Thailand.⁶⁰ Therefore, CBP imposed interim measures on CIE's imports of certain chassis and subassemblies from Thailand into the United States. However, as discussed below in this determination and based on the totality of the record of this investigation, which is inclusive of CIE's RFI responses, onsite verification at DS Manufacturing's facilities based in Thailand, and written arguments, CBP

⁵⁶ See CBP's Memo, "Extension of Deadlines for Written Arguments and Responses to Written Arguments," dated November 14 and CBP's Memo, "Memo regarding extension of deadlines for written arguments," dated March 12, 2024.

⁵⁷ See Alleger's "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Written Arguments," dated March 19, 2024 (the "Alleger's Written Arguments"); "Written Argument of CIMC Intermodal Equipment, LLC," dated March 19, 2024 ("CIE's Written Arguments").

⁵⁸ See "Certain Chassis and Subassemblies Thereof from the People's Republic of China: Response to Written Arguments," dated April 3, 2024 (the "Alleger's Rebuttal Arguments"); "Rebuttal Argument of CIMC Intermodal Equipment, LLC," dated April 3, 2024 ("CIE's Rebuttal Arguments").

⁵⁹ See CIE's Rebuttal Arguments, which cites to *Target Corp. v. United States*, 609 F.3d 1352, 1358 (Fed. Cir. 2010); *Husteel Co. v. United States*, 471 F. Supp. 3d 1349, 1362 (Ct. Int'l Trade 2020) ("determinations must be supported by substantial evidence, such that a reasonable mind might accept the evidence as adequate to support its conclusion while considering contradictory evidence"); *Ad Hoc Shrimp Trade Action Comm. v. United States*, 791 F. Supp. 2d 1327, 1334 (Ct. Int'l Trade 2011) ("Because Commerce failed to take into account record evidence that fairly detracts from the weight of the evidence supporting its . . . determinations, these determinations are not supported by substantial evidence.").

⁶⁰ See NOI at 6.

concludes substantial evidence does not exist to determine that CIE entered covered merchandise into the customs territory of the United States through evasion.

Issue 2: Covered Merchandise

CACM's arguments

- CIE made material and false statements and evaded the *Orders*.

CIE's arguments

- CACM's "Evasion" allegations are false.
- CIE did not enter covered merchandise into the United States.
- CIE did not enter chassis frames by means of a material false statement or material omission.
- CIE imported non-subject chassis frames (not "covered merchandise") and, thus, did not engage in evasion.

CBP's position

The *Orders* are specific to Chinese-origin chassis and/or subassemblies. As described further above and below, the record demonstrates that CIE did not import covered merchandise. Among record evidence contributing to this conclusion, DS submitted all the contracts, invoices, and payment records supporting its investment in the factory building for Project Durian, including its design, construction, and utility system, the total contracted value for which amounted to approximately [#] Thai baht ("THB").⁶¹ At verification, DS also presented a reconciliation to show that the units of chassis frames produced by DS exceeded the number of units DS shipped to the United States.⁶² In short, DS purchased sufficient raw materials for its production of chassis frames shipped to the United States.

In addition, and as noted in the verification report, CBP compared the voluminous documents reviewed during the on-site visit with DS Manufacturing's responses to the RFIs to verify information placed on the Administrative Record and confirmed DS Manufacturing's capability to produce chassis and subassemblies in sufficient quantities to account for the quantity of merchandise imported by CIE to the United States.⁶³

Issue 3: Comingling and Production Capacity

CACM's Arguments

- Substantial evidence indicates that CIE comingled chassis and chassis subassemblies produced in China with merchandise produced at its affiliated facility in Thailand for export to the United States and/or assembled subject, Chinese-origin subassemblies in Thailand for export to the United States.

⁶¹ See DS Manufacturing's SRFI Response ("SRFI") at Exhibit SR-10.

⁶² See Verification Report at 11 and Verification Exhibit 16A (Purchase, Production, Shipment Reconciliation).

⁶³ See Verification Report at 2.

- Portions of CIE’s and DS Manufacturing’s reporting that were made publicly available confirm that CIMC shipped Chinese-origin chassis and parts to its Thai facility and that the number of chassis CIE claimed to produce in Thailand are inconsistent with official U.S. import statistics.
- Official import statistics and bill of lading data indicate that, following the imposition of the *Orders*, CIE rapidly declared a shift in the origin of its chassis from China to Thailand.

CIE’s Arguments

- The record evidence soundly refutes CACM’s allegation that Chinese chassis/subassemblies were commingled with chassis frames that DS Manufacturing manufactured. DS Manufacturing had sufficient production capacity and manufactured all the chassis frames that it shipped to the United States, as confirmed by CBP at verification.
- Overwhelming record evidence disproves CACM’s claim that DS Manufacturing’s facility commingled Chinese-origin chassis subassemblies and components for Project Mango⁶⁴ with its production of chassis frames for the U.S. market.
- CACM’s claim of a “serious misalignment” between official U.S. import data and CIE/DS Manufacturing’s reporting lacks merit.

CBP’s Position

The issue of comingling appears to stem from the suspicion that DS Manufacturing lacked the capability to manufacture chassis imported by CIE. However, as reported by CIE and verified by CBP, DS Manufacturing invested in a new production facility to manufacture chassis frames for the North American market in early 2021.

For Project Durian, less than 1.3 percent of the steel inputs by weight came from China, and no covered merchandise originated from China. The primary inputs for Project Durian are steel coils, I-beams, steel profiles, and welding parts. Whereas the nearly complete chassis trailers imported from China are for Project Mango and only sold to the Thai market.⁶⁵ At verification, CBP verified DS Manufacturing’s ability to produce chassis frames during that time by analyzing the company’s manpower, finances, utilities, machinery, sales, and production.

Issue 4: Interim Measures & Due Process

CIE’s Arguments

- The interim measures imposed against CIE are unlawful.
- CBP imposed interim measures without affording CIE an opportunity to view or address the evidence ostensibly in support of CBP’s ‘reasonable suspicion’ finding, denying CIE of its due process rights afforded by the Constitution.

⁶⁴ See Verification Report at 3. Project Mango started in 2007 and is for the assembly of complete chassis trailers and truck bodies for sale in Thailand.

⁶⁵ *Id.*

- CBP should determine that no evasion occurred; cease applying interim measures taken under 19 U.S.C. § 1517(e) and 19 C.F.R. § 165.24; and liquidate CIE’s entries in the normal course and without regard to any antidumping or countervailing duty.

CACM’s Arguments

- CIE bases its argument on the text of 19 U.S.C. § 1517(e), which states that CBP shall take three actions in response to a preliminary finding of evasion.⁶⁶ CBP is not merely “authorized”⁶⁷ to take these actions—it must take these actions.
- While *Royal Brush Mfg., Inc. v. United States* (“*Royal Brush*”)⁶⁸ requires CBP to disclose confidential factual information relied on in an evasion determination, CBP’s decision to apply interim measures was not before the court and the *Royal Brush* court does not opine on that issue. Interim measures are not a determination of evasion that would implicate due process requirements discussed in *Royal Brush*; rather, implementing interim measures is a decision that there is a “reasonable suspicion” that evasion occurred.

CBP’s Position

Per 19 U.S.C. § 1517(e), CBP must make a determination as to whether there is reasonable suspicion of evasion within 90 days of initiation, and if CBP determines that there is, the agency is directed to implement certain interim measures. In accordance with 19 C.F.R. 165.15(d)(1), CBP aptly notified all parties of its decision to initiate an investigation no later than 95 calendar days after the decision had been made. Notice of interim measures occurred within 5 business days after taking interim measures, in accordance with 19 C.F.R. 165.24(c). CBP followed its regulatory and statutory procedures during the investigation. CIE had ample opportunities to participate in the investigation and place evidence on the administrative record under section 165.23, in addition to having an opportunity to submit written arguments to CBP under 165.26. In addition, CIE has an opportunity to seek a *de novo* review of this determination under 19 U.S.C. § 1517(f).⁶⁹ In accordance with 19 U.S.C. § 1517(e)(3), the Agency has discretion to determine the appropriate manner for which to best protect the revenue of the United States.

IV. Determination as to Evasion

Based on an examination of the record in EAPA 7810, CBP determines that there is not substantial evidence that CIE entered merchandise covered by the *Orders* into the customs territory of the United States through evasion as defined by 19 U.S.C. § 1517(a)(5)(A). There is also not substantial evidence that DS Manufacturing transshipped and exported certain chassis and subassemblies of Chinese-origin to CIE through Thailand. The chassis that CIE entered from DS Manufacturing during the period of investigation were not subject to the AD/CVD rates on chassis and subassemblies from China.

⁶⁶ See CIE’s Written Arguments at 47.

⁶⁷ *Id.*

⁶⁸ *Royal Brush Manufacturing, Inc. v. United States*, 75 F. 4th 1250, 1259 (Fed. Cir. 2023).

⁶⁹ See *Aspects Furniture International, Inc. v. United States*, 607 F.Supp.3d 1246, 1273 (finding that importer was not deprived of due process by virtue of CBP imposing the interim measures, because the importer failed to identify how CBP deviated from its regulations, and CBP provided the importer with opportunities to place evidence on the record and submit written arguments).

V. **Actions Taken Pursuant to the Affirmative Determination as to Evasion**

In consideration of CBP's determination that there is not substantial evidence that CIE entered covered merchandise into the customs territory of the United States through evasion during the period of this investigation, CBP will reverse any interim actions taken with respect to entries subject to this investigation. CBP's negative determination as to evasion in this EAPA investigation does not preclude CBP or other agencies from pursuing other enforcement actions or penalties as may be appropriate.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victoria Cho".

Victoria Cho
Director, Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
Office of Trade
U.S. Customs and Border Protection