



1300 Pennsylvania Avenue NW
Washington, DC 20229

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

June 5, 2024

PUBLIC VERSION

Paul Fudacz
Braumiller Law Group, PLLC
On behalf of Texas United Chemical Company, LLC.
5220 Spring Valley Rd., Suite 200
Dallas, Texas 75254
paul@braumillerlaw.com

Matthew Kanna
Greenburg Traurig LLP
On behalf of CP Kelco U.S. Inc.
2101 L St., N.W. Suite 1000
Washington, DC 20037
kannam@gtlaw.com

RE: EAPA CASE 7814 – Notice of Determination as to Evasion

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

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) 7814, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that Texas United Chemical Company, LLC., operating under the name of its U.S. affiliate, TBC-Brinadd, LLC,¹ entered merchandise covered by the antidumping duty (AD) order A-570-985 on xanthan gum from the People's Republic of China (China) into the customs territory of the United States through evasion.² Substantial evidence demonstrates that TUCC imported Chinese-origin xanthan gum transshipped through Turkey by TUCC's supplier, Neu Kimya Anonim Sirketi (Neu Kimya). The Importer declared the Chinese-origin xanthan gum it received from Neu Kimya as Turkish-origin and as a result, no cash deposits were applied to the covered merchandise at the time of entry.

¹ For the purposes of this EAPA investigation, Texas United Chemical Company, LLC and TBC-Brinadd, LLC are collectively referred to as "the Importer" or "TUCC", unless specifically delineated otherwise. *See* letter from CP Kelco U.S., Inc., "Xanthan Gum from the People's Republic of China: Supplement to EAPA Case #7814," dated July 7, 2023 (Allegation Supplement 2) at 2 and Attachments 1 and 2.

² *See Xanthan Gum from the People's Republic of China: Antidumping Duty Order*, 78 F.R. 43,143 (Dep't Commerce, July 19, 2013) (the *Order*).

I. Background

On March 2, 2023, CP Kelco U.S., Inc. (the Allegor or CPK) filed an EAPA allegation through counsel alleging that U.S. importer TUCC was evading AD order A-570-985 on xanthan gum from China by means of transshipment through Turkey.³ The Allegation included an affidavit from Shaw Gilmer, who in his position as Senior Director of Biogum Strategic Platforms at CPK, is familiar with global production and supply of xanthan gum. Mr. Gilmer attested that xanthan gum is only manufactured in four countries worldwide⁴ and this assertion was supported by the United States International Trade Commission's (USITC) 2018 report on xanthan gum from China, which states that xanthan gum is only produced in Austria, France, China, and the United States.⁵ The Allegation also provided evidence that if not made in Turkey, the xanthan gum TUCC imported from Neu Kimia was most likely Chinese-origin by providing Turkish import statistics showing that 84 percent of all Turkish imports of xanthan gum were Chinese-origin.⁶ CBP acknowledged receipt of CPK's properly filed allegation July 19, 2023 and initiated EAPA investigation 7814 on August 3, 2024.⁷

II. Research Conducted by CBP Prior to the Notice of Initiation of Investigation

CBP Data

In order to evaluate the Allegation, CBP reviewed records of the Importer's past imports in internal CBP data sources. CBP confirmed that the allegor identified the correct name and address of the importer and confirmed that the importer had not declared the xanthan gum it entered as Chinese-origin at time of entry.⁸

CF-28s

On August 25, 2023, CBP sent a CBP Form 28 (CF-28) request for information to TUCC requesting, *inter alia*, photographs and a description of equipment used in the production of xanthan gum, factory production records (e.g., stamped timecards, work orders) for the manufacturer of the xanthan gum, details regarding the production process from start to finish, and invoices for all raw materials used to produce the xanthan gum for entry numbers [#]4552 (4552), [#]9832 (9832), [#]4279 (4279), [#]5367 (5367), and [#]

³ See letter from CPK, "Xanthan Gum from the People's Republic of China: Evasion of Antidumping Order via Transshipment through Turkey," dated March 2, 2023 (Allegation) at 2. On March 24, 2023, the Allegor supplemented its EAPA allegation to clarify that Texas United is the parent company of TBC-Brinadd and incorporated at the same address in Houston, TX. See letter from CPK, "Xanthan Gum from the People's Republic of China: Supplement to EAPA Case #7814," dated March 24, 2023 (Allegation Supplement 1). On July 7, 2023, the Allegor submitted a second allegation supplement clarifying that Texas United, LLC and TBC-Brinadd, LLC as of July 2018, share the same Registered Agent and, as of May 2021, share the same President. See Allegation Supplement 2 at 2, and Attachments 1 and 2.

⁴ See Allegation at Attachment 6.

⁵ See *Xanthan Gum from China, Inv. No. 731-TA-1203* (Review), USITC Pub. 4839 at 13 and I- 15 (Nov. 2018), provided in the Allegation at Attachment 7.

⁶ *Id.* at 6 and Attachment 8.

⁷ See CBP Memorandum, "Initiation of Investigation for EAPA Case Number 7814" dated August 3, 2023 (Initiation Memo).

⁸ See EAPA Receipt Report dated July 19, 2023.

]7785 (7785).⁹ The deadline for TUCC to submit its response was September 25, 2023.¹⁰ TUCC emailed CBP on September 19, 2023, requesting a 30-day extension to submit its response to the CF-28. Although CBP did not send TUCC any reply granting the requested extension, TUCC submitted a second email on September 26, 2023, stating “{i}n not hearing from you, I am assuming that the 30 day extension to reply to the Request for Information as mentioned in my email below is acceptable and I thank you for your patience and cooperation.”¹¹ However, CBP never granted any extension to the deadline for submission of TUCC’s CF-28 response and on September 26, 2023, CBP emailed the Importer’s customs broker stating that it was two days past the deadline for TUCC to submit its response, but CBP had not received any response.¹²

On October 26, 2023, TUCC submitted an untimely CF-28 response providing the requested information about entry number 4552.¹³ The Importer stated that the name of the owner of the factory that produced the xanthan gum “is Beijing Cheng Yi Chemical Co. Ltd., Room 803 Tower B, No. 46., South Road of Xisihuan, Fengtai District, Beijing 100071, China (Beijing Yi).”¹⁴ TUCC also provided the country of origin certificate (COO) identifying China as the country of origin for this shipment, the commercial invoice issued by the Chinese manufacturer to Neu Kimya, and the packing list for shipment of the xanthan gum from China to Turkey.¹⁵ TUCC also provided CBP with a copy of a [DOCUMENT] the Importer filed on October 5, 2023, with its CF-28 response. The letter attached to the [DOCUMENT] stated that: “[DESCRIPTION OF SUPPLY CHAIN].”¹⁶ Significantly, TUCC acknowledged in this statement that all the xanthan gum it imported from Neu Kimya was in fact, Chinese-origin.

III. Notice of Initiation of Investigation and Interim Measures

Based on the information in the Allegation and CBP’s own research, CBP determined that there was reasonable suspicion of evasion by TUCC. Accordingly, CBP notified the parties to the investigation of this determination by email on November 1, 2023¹⁷ and imposed interim measures.¹⁸ CBP also provided TUCC and the Alleger with the Notice of Initiation of Investigation and Interim Measures on November 8, 2023, in accordance with 19 C.F.R. § 165.15(d)(1).¹⁹

Requests for Information

⁹ See CF-28 issued to Texas United dated August 25, 2023.

¹⁰ *Id.*

¹¹ See Texas United’s email, “RE: Request for Information” dated September 26, 2023.

¹² See CBP’s email, “Copy of form 28 for [#]4552” dated October 26, 2023.

¹³ See Texas United’s letter, “Re: Response to CBP Form 28, Texas United Chemical Co. [#] Entry No.: [#]455-2” dated October 26, 2023 (10-26 CF-28 Response).

¹⁴ *Id.* at 2.

¹⁵ *Id.* at Attachment 3.

¹⁶ See 10-26 CF-28 Responses at Attachment 1.

¹⁷ See CBP’s email to the Parties to the Investigation “EAPA - 7814 - Xanthan Gum - Texas United Chemical Company, LLC” dated November 1, 2023 (Day 90 External email).

¹⁸ See CBP internal email, “EAPA 7814 – Xanthan Gum – Implementing interim measures on Texas United” dated November 1, 2023 (Day 90 Internal Email).

¹⁹ See CBP’s letter, “Notice of Initiation of Investigation and Interim Measures - EAPA Case Number 7814” dated November 8, 2024 (NOI). See also 19 C.F.R. § 165.15(d)(1).

On November 17, 2023, CBP issued a request for information (RFI) to TUCC with a response deadline of December 1, 2023, that CBP subsequently extended.²⁰ TUCC submitted its timely response on January 3, 2023.²¹ CBP asked TUCC, *inter alia*, about its affiliates and organizational structure, documents including CBP form 7501 entry summaries (7501), packing lists, invoices, country of origin certificates, bills of lading and purchase orders documenting the purchase of covered merchandise for six entries, and its sourcing of the covered merchandise.²² TUCC stated that it has 100 percent ownership of TBC-Brinadd, LLC and [#] other companies.²³ TUCC further stated that it “is known in the US as TBC-Brinadd.”²⁴ TUCC responded that its only supplier of covered merchandise was Neu Kimya.²⁵ The Importer also stated it has not implemented any written policies or procedures related to AD or countervailing duties (CVD) and that it does not require a factory profile from foreign suppliers before importing merchandise from them.²⁶

The Importer provided the requested documents for four of the six entries, but did not provide some of the requested documents for entry numbers [#]9832 (9832) and [#]8445 (8445).²⁷ TUCC provided sales contracts for its sale of xanthan gum to a U.S. customer, showing that the company sold a product called “[Product code]” described as “[DESCRIPTION]” which met certain [DESCRIPTION] xanthan gum specifications to its U.S. customer..²⁸

TUCC provided CBP the COO certificate Neu Kimya sent TUCC at the time of shipment to the U.S. The COO certificate included with the shipment certified that the xanthan gum was Turkish-origin.²⁹ TUCC also provided COO certificates Neu Kimya provided when the goods in entry numbers 4552, 4279, 5367, and 7785 were shipped. All the COO certificates were issued

²⁰ See CBP’s letter to Texas United, “RE: EAPA 7814 Request for Information” dated November 17, 2023, and CBP’s accompanying email, “EAPA 7814 - Request for information from Texas United” dated November 17, 2023 (RFI).

²¹ See Texas United’s Letter, “Re: Response to EAPA 7814 November 17, 2023, Request for Information” dated January 3, 2023 (Texas United RFI Response). CBP extended the deadline for Texas United to submit its response until December 15, 2023. On December 15, 2023, Texas United submitted its RFI response. However, on December 18, 2023, CBP rejected Texas United’s RFI response due to inadequate public summaries, citing EAPA’s regulations at 19 C.F.R. 165.4(a)(2). CBP established a deadline of December 21, 2023, for Texas United to resubmit its RFI response with adequate public summaries of the business confidential information. See CBP’s Email, “EAPA7814 – Rejecting Texas United’s RFI Response” dated December 18, 2023. On December 20, 2023, Texas United resubmitted its RFI response with revised the public summaries of some the pages CBP identified in its first rejection, but not all pages CBP identified. CBP therefore, rejected Texas United’s resubmitted RFI response on January 2, 2023, and established a deadline of January 8, 2023, for Texas United to resubmit its RFI response. See CBP’s email, “2nd Rejection of Texas United’s RFI Response-PD” dated January 2, 2023. Texas United resubmitted its RFI response on January 3, 2023. Texas United did not refile the business confidential version on January 3, 2023, so the business confidential version is dated December 20, 2023.

²² See RFI.

²³ See RFI Response at 2/20 and 5/20.

²⁴ *Id.* at 8/20.

²⁵ *Id.* at 9/20.

²⁶ *Id.* at 12/20.

²⁷ *Id.* at 13/20 and Exhibit 3.

²⁸ *Id.* at Exhibit 3, pages 340-345/581.

²⁹ *Id.* at Attachment 3, page 389/581.

by the Istanbul Chamber of Commerce certifying that the xanthan gum was Turkish-origin.³⁰ Notably, CBP has encountered fraudulent COO certificates issued by chambers of commerce in past EAPA investigations.³¹ The fact that TUCC previously furnished with its CF-28 responses another COO showing that the merchandise was in fact, Chinese, as well as a packing list and commercial invoice showing that the merchandise was first shipped from China to Turkey, further supports the inference that the Turkish COO was fraudulent.³² The fact that TUCC previously stated in its CF-28 responses that “[DESCRIPTION OF SUPPLY CHAIN]” also indicates that the Turkish COO from Neu Kimya was fraudulent and indicates that Neu Kimya provided false documents with its shipments of xanthan gum to the Importer.³³

Further, TUCC also provided copies of its sales negotiation correspondence, which indicate Neu Kimya offered a fraudulent certificate of analysis (COA) for the xanthan gum. Specifically, TUCC provided copies of email correspondence between Onur Nenez Narin, O&G Fluids Manager at Neu Kimya, negotiating the purchase of xanthan gum and TUCC employee Kim Tresco. In an email dated September 19, 2022, Mr. Narin asked Kim Tresco, “{o}ne important questions before pricing, do you need Turkish CoA {certificate of analysis} or is transit shipment OK for you?”³⁴ Ms. Tresco responded on September 19, 2023, “{w}e {TUCC} would require a Turkish COA”³⁵ This email exchange appears to indicate that TUCC was aware at the time it negotiated the purchase of this xanthan gum with Neu Kimya that the merchandise was not Turkish-origin because the supplier offered a “transit COA” or a “Turkish COA.” Ms. Tresco’s reply email requesting that Neu Kimya provide a Turkish COA indicates that TUCC requested a fraudulent COA. TUCC also submitted 7501s for entry numbers 4552, 4279, 5367, and 7785, which showed that TUCC declared Turkey as the country of origin and filed these entries as not subject to AD/CVD duties at time of entry.³⁶

CBP also issued an RFI to Neu Kimya on November 17, 2023, with a response deadline of December 1, 2023, which CBP subsequently extended until December 15, 2023.³⁷ The RFI requested information about Neu Kimya’s corporate structure, accounting and financial practices, and the sourcing and production of the xanthan gum Neu Kimya sold to TUCC.³⁸ On December 15, 2023, Neu Kimya submitted a letter that did not directly answer any of the questions CBP

³⁰ *Id.* at Exhibit 3, pages 409/581, 431/581, and 542/581.

³¹ *See* Notice of Determination as to Evasion - EAPA Case Number 7699 at 6.

³² *See* 10-26 CF-28 Response at Attachment 3

³³ *See* 10-26 CF-28 Response at Attachment 1.

³⁴ *See* RFI Response at Exhibit 3, page 350/581. In its February 13, 2024, response to a supplemental RFI, TUCC “CoA” is an abbreviation for Certificate of Analysis. *See* Texas United’s Letter, “Re: Response to EAPA 7814 January 31, 2024, Supplemental Request for Information” dated February 13, 2024 (SRFI Response).

³⁵ *Id.* at Exhibit 3, page 349-351/581.

³⁶ *Id.* at Exhibit 3, pages 381/581, 397/581, 424/581, 449/581, 492/581, 535/581, and 560/581.

³⁷ *See* CBP’s Letter, “RE: EAPA 7814 – Request for Information” dated November 17, 2024 (Neu Kimia RFI).

³⁸ *See* CBP’s email, “RE: Neu Kimya - Request for Extension (PUBLIC)” dated November 30, 2023 (Neu Kimya Extension Email). On November 30, 2023, Neu Kimya requested 60 additional days to submit its RFI response, which would have made the deadline January 30, 2024. *See* Neu Kimya’s email, “Neu Kimya - Request for Extension (PUBLIC)” dated November 30, 2023. CBP noted that EAPA has strict statutory and regulatory deadlines and instead, extended the deadline for Neu Kimya to submit its RFI response by 14 days.

asked in the RFI.³⁹ Instead, the letter from Neu Kimya’s counsel stated that “Neu Kimya has reviewed the RFI and engaged in significant efforts to gather the documentation requested. However, Neu Kimya is unable to address the RFI in extensive detail.”⁴⁰ Neu Kimya’s letter did not indicate that it has any capacity to produce xanthan gum or identify any other company as Neu Kimya’s supplier of xanthan gum.⁴¹

On December 19, 2023, CBP contacted Neu Kimya by email and noted that the company did not answer the questions in the RFI, did not provide any supporting documents, and gave Neu Kimya a second opportunity to submit a response to the RFI.⁴² CBP’s email established a new response deadline of December 28, 2023, for Neu Kimya to submit a more complete RFI response.⁴³ CBP further reminded Neu Kimya of CBP’s authority pursuant to 19 C.F.R. § 165.6(a) and 19 C.F.R. § 165.27 to “apply an inference adverse to the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion”⁴⁴ Neu Kimya provided no response or further communication with CBP.

Supplemental RFIs

In order to obtain all requested information for entries 9832 and 8445 that CBP requested in the first RFI, CBP sent TUCC a second “supplemental” RFI (SRFI) on January 31, 2024.⁴⁵ TUCC submitted its timely SRFI response on February 13, 2024, with the requested information.⁴⁶

CBP found that the purchase order (PO) number [#] associated with entry number 5367 and provided in TUCC’s SRFI response had a total value that did not match the commercial invoice associated with this entry.⁴⁷ CBP also noted that one purchase order associated with entry 9832 was missing.⁴⁸ Therefore, CBP issued TUCC a second supplemental RFI (SRFI2) on February 29, 2024.⁴⁹ TUCC submitted its response on March 8, 2024, and provided the requested documents.⁵⁰ The purchase order confirmed that TUCC purchased the xanthan gum in entry 9832 from Neu Kimya, but provided no other information.⁵¹

TUCC’s Telephone Call to Correct the Record

³⁹ See Neu Kimya’s letter, “Re: Neu Kimya Anonim Sirketi’s Response to Request for Information” dated December 15, 2023 (Neu Kimya RFI Letter).

⁴⁰ *Id.* at 2.

⁴¹ *Id.*

⁴² See CBP’s email to Neu Kimya, “EAPA 7814 - Additional Opportunity For Neu Kimia to Submit RFI Response” dated December 19, 2023 (Neu Kimya RFI 2nd Opportunity).

⁴³ *Id.*

⁴⁴ *Id.* and 19 C.F.R. § 165.6(a)

⁴⁵ See EAPA 7814 Supplemental Request for Information dated January 31, 2024 (SRFI).

⁴⁶ See SRFI Response.

⁴⁷ *Id.* at Attachment D.

⁴⁸ *Id.* at Attachment A.2.

⁴⁹ See CBP’s letter, “RE: EAPA 7814 Supplemental Request for Information” dated February 29, 2024 (SRFI2).

⁵⁰ See TUCC’s letter, “Re: Response to EAPA 7814 February 29, 2024, Supplemental Request for Information” dated March 8, 2024 (SRFI2 Response).

⁵¹ *Id.* at Attachment B.

On April 19, 2024, Paul Fudacz, counsel to the Importer, called the CBP International Trade Analyst assigned to this investigation. Mr. Fudacz, notified CBP that TUCC had found emails indicating that some employees within the company had known prior to TUCC's importation of the xanthan gum from Neu Kimya that the merchandise was likely Chinese-origin.⁵² Mr. Fudacz explained that he was contacting CBP based on the instructions provided in the RFIs CBP issued to TUCC, which state that “{i}t is your responsibility to contact the official in charge if, subsequent to your filing, there are events that affect your response (e.g., changes in your cost accounting system and/or changes because of an audit).”⁵³ Mr. Fudacz's statement corroborates the interpretation of emails in TUCC's RFI response indicating some TUCC company officials were aware that the xanthan gum TUCC received from Neu Kimya was not Turkish-origin at the time of entry.⁵⁴

Voluntary Factual Information and Written Arguments

Neither the Importer nor the Alleger submitted written arguments or voluntary factual information in this investigation.

Analysis as to Evasion

Under 19 U.S.C. § 1517(c)(1)(A), in order 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.”⁵⁵ “Covered merchandise” is defined as “merchandise that is subject to a CVD order ... and/or an AD order.”⁵⁶ “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.”⁵⁷ As discussed below, the record of this investigation contains substantial evidence supporting a determination that TUCC entered covered merchandise into United States through evasion, resulting in the avoidance of applicable AD/CVD cash deposits or other security.

Adverse Inference

19 C.F.R. § 165.6(a) provides that if “the importer, or the foreign producer or exporter of the covered merchandise fails to cooperate and comply to the best of its ability with a request for

⁵² See CBP's Memorandum “EAPA 7814 – Phone Conversation with Paul Fudacz” dated April 25, 2024 (4-25 Telephone Memo). CBP also provided the Alleger and Importer with an opportunity to submit information and/or arguments in rebuttal to this memorandum and established a deadline of May 6, 2024. See CBP email “EAPA 7814 - Adding Memorandum to the File to the Record” dated April 25, 2024 and 19 C.F.R. § 165.23(c).

⁵³ See RFI at 6, SRFI at 7 and SRFI2 at 1. See also 4-25 Telephone Memo.

⁵⁴ See RFI Response at Exhibit 3, pages 351/581, 381/581, 397/581, 424/581, 449/581, 492/581, 535/581, and 560/581. See also 4-25 Telephone Memo.

⁵⁵ See 19 U.S.C. § 1517(c)(1)(A). See also 19 C.F.R. § 165.27(a) (implementing 19 U.S.C. § 1517).

⁵⁶ See 19 C.F.R. § 165.1.

⁵⁷ *Id.*

information made by CBP, CBP may apply an inference adverse to the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion”⁵⁸ Because Neu Kimya failed to submit a timely response with any direct answers to the questions in CBP’s RFI, despite the opportunities to respond described above, Neu Kimya has not cooperated or complied with this investigation to the best of its ability.⁵⁹ Due to Neu Kimya’s failure to respond to the RFI, CBP did not have information about Neu Kimia’s production capacity, or any documents directly from Neu Kimya about any efforts to source xanthan gum from a Turkish manufacturer. Therefore, CBP is relying on adverse inferences to make its determination as to evasion. The following record information indicates that the xanthan gum Neu Kimya sold TUCC was Chinese-origin:

- (1) In its October 26, 2023, CF-28 response, TUCC provided a Chinese country of origin certificate for the xanthan gum it imported from Neu Kimya.
- (2) TUCC provided CBP an invoice the Chinese xanthan gum manufacturer sent to Neu Kimya for payment for the xanthan gum.
- (3) TUCC told CBP that it “[DESCRIPTION OF SUPPLY CHAIN]”⁶⁰
- (4) The USITC Report and the affidavit in the Allegation show that Turkey has no capacity to produce xanthan gum.⁶¹

TUCC further stated in its CF-28 response that the xanthan gum imported from Neu Kimya was Chinese origin, and provided CBP a Chinese country of origin certificate, an invoice from the Chinese manufacturer, and a packing list for a shipment of the merchandise from China to Turkey.⁶²

IV. Determination as to Evasion

In addition to relying on an adverse inference with respect to Neu Kimya, the facts on the record of this investigation establish that there is substantial evidence that TUCC imported Chinese-origin xanthan gum into the United States through evasion. Specifically, TUCC’s acknowledgment that the xanthan gum it imported from Neu Kimya and declared as Turkish-origin was, in fact, Chinese-origin demonstrates that TUCC entered xanthan gum into the U.S. through evasion. Additionally, emails from Neu Kimya to TUCC requested whether TUCC wanted a “transit COA” or a Turkish COA;⁶³ the packing list, commercial invoice, and COO TUCC furnished with its CF-28 response indicating that the xanthan gum originated in China;⁶⁴ and the April 19, 2024, phone conversation between CBP and Paul Fudacz⁶⁵ discussing TUCC employees’ knowledge that the merchandise was likely Chinese-origin, all indicate that TUCC evaded AD duties by falsely declaring Turkey as the country of origin for the xanthan gum instead of China. Since EAPA is a strict liability statute, its acknowledgement in CF-28

⁵⁸ See 19 C.F.R. § 165.6(a). See also 19 U.S.C. § 1517(c)(3)(A).

⁵⁹ See Neu Kimya Extension Email; Neu Kimya RFI Letter; and Neu Kimya RFI 2nd Opportunity.

⁶⁰ See 10-26 CF-28 Responses at Attachment 1.

⁶¹ See Allegation at Attachments 6 and 7.

⁶² *Id.* at Attachment 1.

⁶³ See RFI Response at Exhibit 3, pages 381/581, 397/581, 424/581, 449/581, 492/581, 535/581, and 560/581.

⁶⁴ See 10-26 CF-28 Response at Attachment 3.

⁶⁵ See 4-25 Telephone Memo.

responses and the corroborating information provided in its RFI responses⁶⁶ constitute substantial evidence of evasion.⁶⁷

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

In light of CBP's determination that substantial evidence demonstrates that TUCC entered covered merchandise into the customs territory of the United States through evasion, CBP will take action, as applicable, pursuant to 19 U.S.C. § 1517(d) and 19 C.F.R. § 165.28. CBP will suspend or continue to suspend the liquidation of all entries imported by TUCC that are subject to this EAPA investigation and continue suspension of liquidation 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 of liquidation until instructed to liquidate those entries. CBP will also evaluate TUCC's continuous bond 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.⁶⁸

Sincerely,



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

⁶⁶ See 10-26 CF-28 Responses at Attachment 1 and RFI Response at Exhibit 3.

⁶⁷ See 19 U.S.C. § 1517 (5)(A). See also 19 C.F.R. § 165.1 and *Ikadan System USA, Inc. v. United States*, No. 21-00592, slip op. 23-88 (Ct. Int'l Trade June 13, 2023).

⁶⁸ See 19 U.S.C. § 1517(h).