



## U.S. Customs and Border Protection

### **PUBLIC VERSION**

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VIA EMAIL

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Dear Counsel and/or Representatives for the above-referenced Entities:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act (“TFTEA”) of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”). Specifically, CBP is investigating whether the importers, named below, evaded the antidumping duty (“AD”) order A-570-814<sup>1</sup> by entering into the United States, Chinese-origin carbon steel butt-weld pipe fittings (“CSBW pipe fittings”) that were transshipped through Cambodia and/or misclassified as non-subject merchandise, without declaring the merchandise as subject to the order. Based on review of available information, CBP has determined that there is reasonable

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<sup>1</sup> See *Anti-Dumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China*, 57 FR 29,702 (Dep’t Commerce July 6, 1992).

suspicion of evasion of AD duties by six importers named in EAPA Allegations 7297 through 7302 and CBP has initiated the interim measures outlined below.

Allied Group (“Allied” or “Alleger”) filed six allegations separately identifying and alleging that Ductilic, Inc. (“Ductilic”), Iron Mule Products (“Iron Mule”), Missouri Pipe Fittings (“Missouri Pipe”), Norca Industrial Company, LLC (“Norca”), Trupply, LLC (“Trupply”) and Service Metal Products (“Service Metal”) (herein after referred to collectively as “the Importers”) as importers that have entered CSBW pipe fittings through evasion of the AD order.

### **Period of Investigation:**

Pursuant to 19 C.F.R. § 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 for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.” *See* 19 C.F.R. § 165.1. In this case, Allied filed six allegations on February 13, 2019,<sup>2</sup> and CBP acknowledged receipt of the properly filed allegations on February 28, 2019.<sup>3</sup> Therefore, the Importers’ entries covered by this investigation are those entries of CSBW pipe fittings from the People’s Republic of China (“China”) that were entered for consumption, or withdrawn from warehouse for consumption, from February 28, 2018, through the pendency of this investigation.

### **Initiation**

On March 21, 2019, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, initiated investigations under EAPA as the result of allegations submitted by Allied regarding the evasion of AD duties by the Importers.<sup>4</sup> Allied alleged that the Importers entered Chinese-origin CSBW pipe fittings into the United States that were misclassified and/or transshipped through KKFF Bend (Cambodia) Co., Ltd. (“KKFF Bend”), an alleged producer of CSBW pipe fittings in Cambodia, and falsely declared as being of Cambodian origin.

Allied’s allegations provided evidence supporting the existence of transshipment and, in some instances, misclassification by the Importers. Specifically, the alleger first became aware of the evasion schemes during a visit to KKFF Bend’s facility in Cambodia.<sup>5</sup> The Allied personnel who visited the Cambodian facility observed large quantities of finished and semi-finished CSBW pipe fittings from China. They also observed forming equipment that was underutilized or not operational. The Allied team observed that the bulk of the work being done at KKFF Bend involved marking and painting the Chinese-origin pipe fittings. According to the alleger, KKFF

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<sup>2</sup> *See* Allied’s EAPA Allegations (February 13, 2019) (“Allegations”).

<sup>3</sup> *See* Email acknowledging receipt from EAPA Allegations, “Receipt of Cases involving KKFF Bend of Cambodia - EAPA Case Nos. 7297-7302” (February 28, 2019).

<sup>4</sup> *See* the following memoranda, all dated March 21, 2019: Initiation of Investigation for EAPA Case Number 7297 (“Ductilic Initiation Memo”), Initiation of Investigation for EAPA Case Number 7298 (“Iron Mule Initiation Memo”), Initiation of Investigation for EAPA Case Number 7299 (“Missouri Pipe Initiation Memo”), Initiation of Investigation for EAPA Case Number 7300 (“Norca Initiation Memo”), Initiation of Investigation for EAPA Case Number 7301 (“Trupply Initiation Memo”), and Initiation of Investigation for EAPA Case Number 7297 (“Service Metal Initiation Memo”).

<sup>5</sup> *See* Allegations.

Bend does not possess the capacity to produce the volume of merchandise that it has exported to the named U.S. importers, and is instead importing finished and semi-finished pipe fittings from China and shipping the merchandise to the United States falsely as a product of Cambodia. The allegor also indicated that in some instances fittings identified as products other than CSBW pipe fittings (*i.e.*, threaded fittings) were being shipped by KKFF Bend to U.S. importers, but that KKFF does not possess the equipment necessary to produce threaded fittings, and that the Allied personnel that visited the facility observed no threaded fittings.

During a meeting with Allied representatives and the manager of both KKFF Bend and Qingdao KKF Bend Co., Ltd. (“Qingdao KKF”),<sup>6</sup> which is KKFF Bend’s affiliate in China, the KKFF Bend manager verbally conveyed that the company knowingly imports Chinese-origin pipe fittings for re-export to the United States and elsewhere, falsely declaring the Chinese imports as raw materials. KKFF Bend also admitted to paying bribes to Cambodian Customs officials in connection with its falsified import documents.<sup>7</sup> This meeting was recorded by Allied and submitted as evidence of evasion.

CBP 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.” *See* 19 CFR § 165.15(b). 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 merchandise.” *See* 19 CFR § 165.1. Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or countervailing duty (“CVD”) order was entered into the customs territory of 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 its allegations, Allied provided evidence to reasonably suggest that the Importers entered merchandise into the United States through evasion. Information submitted by Allied reasonably suggested the Importers entered Chinese-origin CSBW pipe fittings into the United States through evasion, and that in some instances such fittings also appear to have been misclassified as non-subject merchandise. Allied’s visual observation, combined with statements by manufacturer KKFF Bend, indicates that KKFF Bend does not have the capacity to produce the volume of merchandise it exports to the Importers, and instead is receiving, marking and painting Chinese-origin CSBW pipe fittings for shipment to the Importers as a product of Cambodia. For the foregoing reasons, TRLED determined on March 21, 2019, that the allegations reasonably suggest that the Importers entered covered merchandise into the customs territory of the United

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<sup>6</sup> Note: On its website, the company call itself Qingdao Kum Kang Fittings Co., Ltd., and says it is “invested by Kum Kang Corporation from Korea. We specialize in producing high quality Carbon Steel, Stainless Steel & Alloyed Steel Butt-Welding Fittings and Flanges including Elbows, Tees, Con. Reducers, Ecc. Reducers...” *See* [http://kkfbend.globalimporter.net/g1\\_aboutus.asp](http://kkfbend.globalimporter.net/g1_aboutus.asp).

<sup>7</sup> *See* Allegations and associated exhibits.

States through evasion by a material false statement or act, or material omission, and initiated an investigation pursuant to 19 U.S.C. § 1517(b)(1).

### **Interim Measures**

Not later than 90 calendar days after initiating an investigation under EAPA, CBP will decide based on the record of the investigation if there is reasonable suspicion that such covered merchandise was entered into the United States through evasion. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 U.S.C. § 1517(e) and 19 C.F.R. § 165.24. As explained below, CBP is imposing interim measures because based on the evidence of record there is reasonable suspicion that the Importers entered covered merchandise into the customs territory of the United States through evasion by means of transshipment through Cambodia and/or misclassifying it as non-subject merchandise.<sup>8</sup>

#### *Preliminary Onsite Visit to KKFF Bend's facility in Cambodia*

In February 2019, CBP conducted a visit to KKFF Bend's Cambodian facility.<sup>9</sup> CBP issued a report on its findings indicating that while there was a small amount of raw materials on site, in the form of small diameter steel tubing, the bulk of the materials within the warehouse consisted of finished and semi-finished pipe fittings. The production manager stated that the company produces only CSBW pipe fittings, of which there was a significant amount on hand at the facility, and the attaché noted the company currently has the ability to produce CSBW pipe fittings. However, during the tour of KKFF Bend, a member of the visit team asked one of the Cambodian workers if all of the finished materials were produced at KKFF Bend. The worker indicated that most of the pipe fittings were brought in from elsewhere and finished and packed by KKFF Bend. Further, CBP was not permitted to review any purchase, production, shipping or sales documentation during the visit.

#### *Importers' Responses to CF-28's*

In addition to the on-site visit, CBP issued questionnaires to the Importers via CBP Form 28 ("CF-28"), requesting various information including invoices, packing slips, bills of lading, sources of raw materials, mill text certificates, etc. One importer did not respond at all, while the other five responses were incomplete and/or CBP was unable to confirm the veracity of the information contained in the CF-28 responses. For example,

- Ductilic confirmed receipt of the CF-28, but provided deficient responses to the original CF-28 and supplemental CF-28.<sup>10</sup> Because of the deficiencies, including redacted shipping information, CBP could not confirm where the merchandise was actually produced.

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<sup>8</sup> See 19 U.S.C. § 1517(e); 19 C.F.R. § 165.24(a).

<sup>9</sup> See CBP Attaché Memorandum for Onsite Visit (February 26, 2019) ("Onsite Visit Memorandum").

<sup>10</sup> See Ductilic's Initial CF-28 Response (April 28, 2019) and Supplemental CF-28 Response (May 9, 2019).

- Iron Mule confirmed receipt of the CF-28. However, its initial response and supplemental responses were incomplete.<sup>11</sup> Because of the deficiencies, including redacted shipping information, CBP could not confirm where the merchandise was actually produced.
- Missouri Pipe provided a CF-28 response and a supplemental CF-28 response.<sup>12</sup> When the Base Metals Center of Excellence and Expertise (“Center”) asked why the bills of lading/invoices/shipping documents had been redacted, the company provided in its supplemental CF-28 response an un-redacted bill of lading showing [ ] was the shipper of plate and tube.<sup>13</sup> However, based on Panjiva, that shipper has only ever exported pipe fittings to Cambodia.<sup>14</sup> Based on the information in the CF-28 responses, CBP could not confirm where the merchandise was actually produced. The Center also noted that the company had [ ]].
- Norca initially confirmed receipt of the CF-28,<sup>15</sup> but failed to provide a response. The Center sent out a supplemental request, and Norca failed to reply or acknowledge receipt of that request. The Center also found that Norca has [ ]].
- Trupply failed to respond to the first CF-28 request, but provided entry summary documents upon receiving the second request for information from the Center, and some additional information from KKFF Bend in a subsequent response.<sup>16</sup> In its response, Trupply indicated company officials met with KKFF Bend at [ ]]. When asked with whom they met, they backtracked and said they were contacted on LinkedIn by [ ]]. Trupply told the Center they reached out to KKFF Bend for additional information but did not receive a response. Based on the information in the responses, CBP could not confirm where the merchandise was actually produced.
- Service Metal, after requesting multiple extensions through its attorney, provided incomplete responses,<sup>17</sup> and CBP could not confirm where the products were actually produced.

Missouri Pipe, Ductilic, Norca, and Trupply, all filed entries during the period of investigation that included CSBW Pipe Fittings with KKFF Bend identified as the manufacturer. Additionally, CBP noted that Iron Mule, Missouri Pipe and Service Metal each filed entries during the period of investigation identifying KKFF Bend as manufacturer but misclassified the merchandise under tariff classifications not subject to the ADCVD duties. Based on the importers’ incomplete or lack of response to the CF-28s, the recorded statements of KKFF Bend and Qingdao KKF management indicating that they knowingly transship Chinese-pipe fittings through Cambodia to the United States, and CBP’s observation of minimal operations occurring at KKFF Bend facility during a site visit, CBP has determined there is reasonable suspicion that

<sup>11</sup> See Iron Mule’s Initial CF-28 Response (April 22, 2019) and Supplemental CF-28 Response (May 2, 2019).

<sup>12</sup> See Missouri Pipe’s Initial CF-28 Response (April 23, 2019) and Supplemental CF-28 Response (May 3, 2019).

<sup>13</sup> See Missouri Pipe Supplemental CF-28 Response.

<sup>14</sup> See Panjiva report pertaining to Qingdao KKF Bend Co., Ltd.

<sup>15</sup> See Norca’s Confirmation of CF-28 Receipt (April 3, 2019).

<sup>16</sup> See Trupply’s Supplemental CF-28 Responses (May 7, 2019 and May 14, 2019, respectively).

<sup>17</sup> See Service Metal’s Initial CF-28 Response (May 7, 2019) and Supplemental CF-28 Response (May 23, 2019).

the aforementioned importers entered covered merchandise into the United States through evasion by means of transshipment through Cambodia, in some instance involving misclassification as well. Consequently, there is reasonable suspicion of evasion via transshipment and/or misclassification.

### Enactment of Interim Measures

As CBP is undertaking interim measures, all unliquidated entries of CSBW pipe fittings under this investigation that entered the United States as not subject to AD duties will be rate-adjusted to reflect that they are subject to the AD order on CSBW pipe fittings from China. Cash deposits are also now required. Additionally, “live entry” is required for all future imports from the Importers, meaning that all entry documents and duties must be provided before cargo is released by CBP into the U.S. commerce. CBP will reject any entry summaries that do not comply with live entry, and require refile of entries that are within the entry summary rejection period. CBP will also suspend the liquidation for any entry that has entered on or after March 21, 2019, the date of initiation for the investigations incorporated into this consolidated investigation (*see* below); as well as extend the period for liquidation for all unliquidated entries that entered before that date.<sup>18</sup> For any entries that have liquidated and for which CBP’s reliquidation authority has not yet lapsed, CBP will reliquidate those entries accordingly. CBP will also evaluate the continuous bonds for the Importers to determine their sufficiency, among other measures, as needed. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 U.S.C. § 1517(h).

### Consolidation of the Investigations

CBP is consolidating the six investigations involving Ductilic, Iron Mule, Missouri Pipe, Norca, Trupply, and Service Metal into a single investigation covering all six importers. The new consolidated case number will be EAPA Consolidated Case 7297, and TRLED will maintain a single administrative record. At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation, pursuant to 19 C.F.R. § 165.13(b), which provides that:

The factors that CBP may consider when consolidating multiple allegations include, but are not limited to, whether the multiple allegations involve: 1) Relationships between the importers; 2) Similarity of covered merchandise; 3) Similarity of AD/CVD orders; and 4) Overlap in time periods for entries of covered merchandise.

In these investigations, all of the Importers are alleged to have entered suspected Chinese-origin CSBW pipe fittings via Cambodia and/or to have misclassified said merchandise; the merchandise is also covered by a single AD order. Moreover, each of the imports during the period of investigation originated from the same Cambodian manufacturer. Because factors warranting consolidation are present in these investigations, CBP is consolidating them and providing this notice pursuant to 19 C.F.R. § 165.13(c). We note that the deadlines for the

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<sup>18</sup> See 19 C.F.R. § 165.24(b)(1)(i) and (ii).

consolidated investigation will be set from the date of initiation of the allegations, which is March 21, 2019.<sup>19</sup>

For any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP, as well as to Mr. Trendl, counsel for Allied, at [ttrendl@steptoe.com](mailto:ttrendl@steptoe.com), and the respective email addresses for each of the Importers referenced above (unless alternative addresses are provided at a later date).<sup>20</sup> Should you have any questions regarding this investigation, please feel free to contact us at [eapallegations@cbp.dhs.gov](mailto:eapallegations@cbp.dhs.gov). Please include “EAPA Case 7297” 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/enforce-and-protect-act-eapa>.

Sincerely,

*Africa R. Bell*

Africa Bell  
Acting Director  
Enforcement Operation Division  
Trade Remedy Law Enforcement Directorate  
Office of Trade

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<sup>19</sup> See, e.g., 19 C.F.R. § 165.13(a).

<sup>20</sup> See 19 C.F.R. §§ 165.4, 165.23(c), and 165.26.