



February 8, 2021

**PUBLIC VERSION**

EAPA Consolidated Case: 7454

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**Re: Notice of Determination as to Evasion**

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To the Counsel of the above-referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) consolidated investigation 7454, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that Blue Star Global, Inc., doing business as Blue Star Casting (Blue Star), and Lino International Inc. (Lino) entered merchandise covered by antidumping (AD) and countervailing (CVD) duty orders A-570-079 and C-570-080 into the customs territory of the United States through evasion.<sup>1</sup> Substantial evidence demonstrates that Blue Star and Lino imported cast iron soil pipe (soil pipe) from the People's Republic of China (China) into the United States by transshipment through Cambodia. Blue Star and Lino did not declare that the merchandise was subject to the AD/CVD orders upon entry and, as a result, no cash deposits were collected on the merchandise.

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<sup>1</sup> See *Cast Iron Soil Pipe from the People's Republic of China: Antidumping Duty Order*, 84 FR 19035 (May 3, 2019); see also *Cast Iron Soil Pipe from the People's Republic of China: Countervailing Duty Order*, 84 FR 19039 (May 3, 2019) (collectively referred to as the AD/CVD Orders).

## Background

On March 9, 2020, the Cast Iron Soil Pipe Institute (the Alleger), a business association of domestic producers of covered merchandise, submitted allegations to CBP that Blue Star and Lino were evading the AD/CVD orders on soil pipe from China.<sup>2</sup> The allegations asserted that Blue Star and Lino were importing soil pipes into the United States that were Chinese-origin and transshipped through HiCreek Plumbing Co., Ltd. (HiCreek) in Cambodia.<sup>3</sup> On March 17, 2020, CBP acknowledged receipt of the allegations filed by the Alleger.<sup>4</sup>

CBP found the information in the allegations reasonably suggested that Blue Star and Lino entered covered merchandise for consumption into the customs territory of the United States through evasion. Consequently, on April 7, 2020, CBP consolidated the two allegations and initiated an EAPA investigation pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.<sup>5</sup> After the initiation of this investigation, CBP issued CF-28 questionnaires to Blue Star and Lino concerning certain entries of soil pipe and requested the corresponding entry and production documentation.<sup>6</sup> In addition, CBP added several memoranda to the administrative record that contained entry documentation related to Blue Star, Lino, and HiCreek.<sup>7</sup>

After evaluating the information on the record, CBP determined that reasonable suspicion existed that Blue Star and Lino imported soil pipes into the United States that were transshipped through Cambodia. This information included the timing of HiCreek's establishment by a

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<sup>2</sup> See Letter from the Alleger, "Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act," dated March 9, 2020 (Lino Allegation); see also Letter from the Alleger, "Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act," dated March 9, 2020 (Blue Star Allegation). The Alleger's individual members are AB&I Foundry, Charlotte Pipe & Foundry, and Tyler Pipe. Page 4 and Exhibit 10 of the Lino allegation indicate that each of the Alleger's members are U.S. producers of cast iron soil pipe, and thus, meet the definition of an interested party that is permitted to submit an EAPA allegation pursuant to 19 USC 1517(a)(6)(A)(iv), 19 CFR 165.1(4), and 19 CFR 165.11(a). See also Blue Star Allegation at 3 and Exhibit 11.

<sup>3</sup> See Lino Allegation at 1-2, 6-9; see also Blue Star Allegation at 1-2, 6-9.

<sup>4</sup> See 19 CFR 165.12; see also CBP Email, "EAPA 7454: Receipt of EAPA Allegation Pertaining to Alleged Transshipment of Pipe from China," dated March 17, 2020 (Lino Official Receipt); see also CBP Email, "EAPA 7456: Receipt of EAPA Allegation Pertaining to Alleged Transshipment of Pipe from China," dated March 17, 2020 (Blue Star Official Receipt).

<sup>5</sup> See 19 USC 1517(b)(1); see also 19 CFR 165.15; see also CBP Memorandum, "Initiation of Investigation for EAPA Consolidated Case Number 7454 – Lino International Inc. and Blue Star Casting Inc.," dated April 7, 2020 (Initiation). After CBP officially received the two allegations, they each constituted two separate cases, EAPA case 7454 and EAPA case 7456. At initiation CBP consolidated these two EAPA cases into one consolidated EAPA case in accordance with 19 USC 1517(b)(5) and 19 CFR 165.13. See Initiation at 10.

<sup>6</sup> See CBP Form 28 (CF-28) sent to Blue Star, dated May 4, 2020. CBP requested information on the following entries: [ # ]2430, [ # ]3826, [ # ]0920, and [ # ]2736. See also CF-28 sent to Lino, dated April 22, 2020. CBP requested information on the following entries: [ # ]8746, [ # ]5627, [ # ]6716, [ # ]6724, [ # ]8134, [ # ]0130, [ # ]1278, and [ # ]1286.

<sup>7</sup> See CBP Memorandum, "Adding Information to the Administrative Record of EAPA Case 7454," dated June 18, 2020. This memorandum contained documentation pertaining to entry [ # ]2736. See also CBP Memorandum, "Adding Information to the Administrative Record of EAPA Case 7454," dated June 29, 2020. This memorandum contained a list of all entries from HiCreek to Lino and Blue Star from March 17, 2019, to June 29, 2020. It also contained a list of HiCreek's imports into and exports from Cambodia during 2019-2020. See also CBP Memorandum, "Adding Information to the Administrative Record of EAPA Cons. Case 7454," dated July 10, 2020 (July 10 Memorandum). This memorandum contained HiCreek export documentation.

Chinese producer of soil pipe and cast iron soil pipe fittings (fittings), which closely followed the U.S. Department of Commerce’s (Commerce) issuance of preliminary AD/CVD duties on fittings from China.<sup>8</sup> It also included the fact that HiCreek’s “[DESCRIPTION]” imports from China were similar in quantity to the quantity of soil pipe it exported.<sup>9</sup> Additionally, Hicreek imported many different types of machinery from China in [ DATE ] and [ DATE ], which was about the same time it began exporting soil pipes to the United States in [ DATE ].<sup>10</sup> Consequently, on July 13, 2020, CBP issued a notice of initiation of investigation and interim measures to Blue Star, Lino, and the Alleger.<sup>11</sup> This notice informed Blue Star, Lino, and the Alleger of the initiation of the investigation and of CBP’s decision to impose interim measures based upon a reasonable suspicion of evasion.<sup>12</sup> The notice also informed Blue Star, Lino, and the Alleger that the entries covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from March 17, 2019, through the pendency of this investigation.<sup>13</sup> As part of interim measures, CBP suspended the liquidation of Blue Star’s and Lino’s entries entered after the initiation of the investigation pursuant to its authority under 19 USC 1517(e).

After CBP issued its notice of initiation and interim measures, on July 29, 2020, officials from the United States Department of Homeland Security (DHS) met with Cambodian Customs officers and with them performed a site inspection of HiCreek’s facility in Cambodia.<sup>14</sup> [ NAME ], also known as “[ NAME ]”, was identified as HiCreek’s production manager and then took them on a tour of the facility and answered questions.<sup>15</sup> During the tour, DHS officials observed [ # ] workers, including [ # ] Chinese nationals, in the warehouse.<sup>16</sup> In the production area, DHS officials observed centrifugal pipe machines, which were unused, dry, and covered in spider webs.<sup>17</sup> [ NAME ] initially claimed that HiCreek stopped production in [ DATE ] due to COVID. However, he later claimed that HiCreek stopped production in [ DATE ].<sup>18</sup> [ NAME ] said that HiCreek’s production is manual and that during production they have [ # ] workers working five days each week for eight hours per day.<sup>19</sup> [ NAME ] claimed that he did not know what countries or companies HiCreek exported soil pipes to or the quantity of shipments exported per month because he only controls the production lines and the staff in charge of this information were not working that day.

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<sup>8</sup> See Letter from CBP, “Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7454,” dated July 13, 2020 at 5.

<sup>9</sup> *Id.* at 8-9.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*; see also 19 USC 1517(e); see also 19 CFR 165.24.

<sup>13</sup> See 19 USC 1517(b)(5); see also 19 CFR 165.13; see also 19 CFR 165.2. Entries covered by the investigation include entries up to one year prior to the date CBP officially received the allegations, which was March 17, 2020.

<sup>14</sup> See CBP Memorandum, “Adding Information to the Administrative Records of EAPA Cases 7454-7455,” dated September 25, 2020 (Site Visit Report).

<sup>15</sup> *Id.* at Attachment 1.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at Attachment 1 and Attachment 2, pages 8-10. For further information on the function of centrifugal pipe machines and on the production of soil pipes in general, see CBP Memorandum, “Adding Information to the Administrative Records of EAPA Cases 7454-7455,” dated August 19, 2020 (August 19 Memorandum).

<sup>18</sup> See Site Visit Report at Attachment 1.

<sup>19</sup> *Id.* Manual as opposed to automated. HiCreek’s number of workers varied on the record. See, e.g., Letter from HiCreek, “HiCreek Request for Information,” dated September 21, 2020 (HiCreek RFI).

In addition to soil pipe, [ NAME ] said that HiCreek produced fittings and showed DHS officials the [NUMBER] machines used for their production.<sup>20</sup> These machines were dry, dusty, and had spider webs. Although DHS officials did not observe production of soil pipes or fittings during the site visit, or evidence of recent production, the warehouse contained finished fittings in sealed boxes and unfinished fittings in bags and open crates. DHS observed that these boxes were marked “[DESCRIPTION].”<sup>21</sup> [NAME] confirmed that these boxes contained fittings that were shipped from China.<sup>22</sup> Correspondingly, some of their labels were marked “Made in China” while other boxes’ labels were marked “Made in Cambodia.”<sup>23</sup> DHS officials observed HiCreek’s warehouse workers threading, cleaning, and touching up yellow paint on these fittings. In contrast to [ NAME ]’s previous statement that he did not know where HiCreek exported its products, [NAME] stated that these fittings were going to be exported to [COUNTRY]. Record evidence later confirmed that HiCreek exported fittings to [COUNTRY].<sup>24</sup>

To further investigate the allegations’ claims, CBP issued requests for information (RFI) to Blue Star, Lino, and HiCreek.<sup>25</sup> In its RFI responses, Blue Star stated that it is affiliated with [ COMPANY NAME ], with which it shares common ownership.<sup>26</sup> Blue Star noted that it imports soil pipes, fittings, and other plumbing material that [ COMPANY NAME ] then buys and sells to customers.<sup>27</sup> Blue Star stated that it imported several entries of merchandise shipped from HiCreek but it did not contact HiCreek directly.<sup>28</sup> Blue Star placed these orders through [ NAME ], the owner of [ COMPANY NAME ], which is an affiliate of [ COMPANY NAME ]; [ NAME ], the president of [COMPANY NAME]; or from [ NAME ], also known as [ NAME ], a salesperson for Lino affiliate [ COMPANY NAME ].<sup>29</sup> Blue Star noted that it is not affiliated with [COMPANY NAME] but its understanding was that [ STATUS DESCRIPTION ].<sup>30</sup>

Blue Star stated it has had a working relationship with [ NAME ] and her companies for over seven years.<sup>31</sup> Blue Star stated that in March 2019, [ NAME ] contacted them and [

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<sup>20</sup> *Id.* at Attachment 1 and Attachment 2, pages 1, 3-4.

<sup>21</sup> *Id.* at Attachment 1 and Attachment 2, pages 12-15.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* The labels in the photographs are in [LANGUAGE] and state “[DESCRIPTION]” and “[DESCRIPTION].”

<sup>24</sup> See CBP Memorandum, “Adding Information to the Administrative Records of EAPA Cases 7454-7455,” dated November 13, 2020 (November 13 Memorandum) at Attachment 3.

<sup>25</sup> See Letter from CBP, “Request for Information – Blue Star Casting Inc. / Blue Star Global, Inc.,” dated July 13, 2020; see also Letter from CBP, “Request for Information – Lino International Inc.,” dated July 13, 2020; see also Letter from CBP, “Request for Information – HiCreek Plumbing Co., Ltd.,” dated July 13, 2020.

<sup>26</sup> See Letter from Blue Star, “EAPA Cons. Case No. 7454: Blue Star Request for Information Questionnaire Response,” dated August 14, 2020 (Blue Star RFI) at 2 and 13; see also Letter from Blue Star, “EAPA Cons. Case No. 7454: Blue Star Supplemental Request for Information Questionnaire Response,” dated October 2, 2020, at 6.

<sup>27</sup> See Blue Star RFI at 4, 13-14.

<sup>28</sup> *Id.* at 8-9 and Exhibits 15-21.

<sup>29</sup> *Id.* at 7-8 and 32; see also Letter from Lino, “EAPA Investigation Nos. 7454/7455– Submission of 1st Supp. RFI Response,” dated November 3, 2020, (Lino Supplemental RFI) at 8 and Exhibit S1-5; see also Letter from the Allegor, “EAPA Investigation 7456, Cast Iron Soil Pipe: Additional Information Submission,” dated June 9, 2020 (Allegor’s June 9 Voluntary Submission) at Exhibit 3.

<sup>30</sup> See Blue Star RFI at 5, 17.

<sup>31</sup> *Id.* at 5-6.

STATUS DESCRIPTION

initial contact, [NAME] informed Blue Star that her company was [ STATUS DESCRIPTION ].<sup>32</sup> After this  
 STATUS DESCRIPTION ].<sup>33</sup> On April 15, 2019, [  
 STATUS DESCRIPTION  
 ].<sup>34</sup> Blue Star maintained that her texts stated the  
 soil pipes were made in Cambodia and [ STATUS DESCRIPTION QUOTE  
 ].<sup>35</sup>

In response to CBP’s question about the nature of its relationship to Sibio International Inc. (Sibo), Blue Star stated, “{w}e were introduced to [ COMPANY NAME ] through its affiliate [ COMPANY NAME ] in 2015. [ NAME ] used to work for [COMPANY NAME] and according to him he left to set up his own company, [ NAME ].”<sup>36</sup> Blue Star placed an order from [ NAME ] after he contacted them and claimed that [ PLACE DESCRIPTION] had been established and was ready to export soil pipes and fittings.<sup>37</sup> Blue Star later learned that [COMPANY NAME] sourced this order from HiCreek.<sup>38</sup> During the site visit of HiCreek’s facility, [ NAME ] claimed he did not recognize the name Sibio or know of any relationship to HiCreek.<sup>39</sup> However, in its RFI response, HiCreek affirmed its relationship to Sibio and provided a product inspection report that contained an email address from Sibio’s affiliate, [ EMAIL ADDRESS ], among the contact information.<sup>40</sup> Previously, Commerce investigated Sibio in its AD investigation.<sup>41</sup> In its submission to Commerce, Sibio claimed not to be affiliated with any other exporters or to any affiliates in the United States, which contradicts the record of this case.<sup>42</sup> Commerce ultimately determined that Sibio was uncooperative and applied a 235.93 percent AD rate against them.<sup>43</sup>

In its RFI responses, Lino affirmed that it was registered in the United States in 2003 and is [ NUMBER ] owned by [ NAME ].<sup>44</sup> Lino noted that at the time of its U.S. registration, [NAME] was still living in China and did not move to the United States until 2008.<sup>45</sup> In addition to Lino, [NAME] also owns 100 percent of Lino affiliates Lino Metal Corp. (Lino Metal), [COMPANY NAME], [COMPANY NAME], and [COMPANY NAME].<sup>46</sup> [COMPANY

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<sup>32</sup> *Id.* at 5-6 and Exhibit 3.

<sup>33</sup> *Id.* at 6 and Exhibit 3.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 17-18.

<sup>37</sup> *Id.* at 7, 34; Exhibit 5, page 7; and Exhibit 21. This is Blue Star entry [ # ]2736.

<sup>38</sup> *Id.* at 9.

<sup>39</sup> See Site Visit Report at Attachment 1, page 2.

<sup>40</sup> See HiCreek RFI at UPC Inspection Report and at General Information, page 4.

<sup>41</sup> See *Cast Iron Soil Pipe from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6767 (February 28, 2019) (Commerce AD Pipe Determination).

<sup>42</sup> See Alleger’s June 9 Voluntary Submission at Exhibit 3, pages 29-30. This was Sibio’s separate rate application that Commerce filed in its ACCESS system on March 29, 2018.

<sup>43</sup> See Commerce AD Pipe Determination. Sibio was originally a mandatory respondent that was entitled to its own AD rate. However, Commerce included them within the “China-Wide Entity” rate after Sibio was found non-responsive.

<sup>44</sup> See Letter from Lino, “EAPA Investigation Nos. 7454/7455– Submission of RFI Response,” dated August 26, 2020 (Lino RFI) at 4-5; see also Lino Supplemental RFI at 1.

<sup>45</sup> See Lino Supplemental RFI at 1.

<sup>46</sup> See Lino RFI at 11; see also Lino Supplemental RFI at 3.

NAME], [COMPANY NAME], and [COMPANY NAME] are all trading companies in China and were established in [YEAR], [YEAR], and [YEAR] respectively.<sup>47</sup> [

PROCEDURE DESCRIPTION ]<sup>48</sup>

Lino noted that [ NAME ] established Lino Metal in [YEAR].<sup>49</sup> Lino stated that Lino acts as the importer of merchandise and [COMPANY NAME] is the distributor of the merchandise.<sup>50</sup> Lino stated that it has no relationship with Sibos and that Sibos is one of its primary competitors.<sup>51</sup>

Lino claimed that HiCreek contacted them to introduce themselves and provided pictures of its factory and samples of its products.<sup>52</sup> Lino claimed that [NAME] spoke to [NAME], also known as [ NAME ] – whom Lino stated was the [NOUN] of HiCreek – and then [NAME] traveled to Cambodia to inspect HiCreek’s factory in March 2019.<sup>53</sup> Lino stated that by the end of [

EVENT DESCRIPTION ]<sup>54</sup> Lino stated that,

procedurally, it generated and provided the purchase order to HiCreek, and HiCreek then generated and provided the commercial invoice, packing list, and bill of lading to Lino.<sup>55</sup> This was contradicted when Blue Star ordered soil pipes from HiCreek through [ COMPANY NAME ]. Blue Star correspondence indicated that CBP [ EVENT DESCRIPTION

].<sup>56</sup> Email correspondence and

documentation show that [ NAME AND COMPANY NAME ], rather than a HiCreek employee, then [

EVENT DESCRIPTION ]

to “HiCreek” and its Cambodian address.<sup>57</sup>

Lino claimed that [ NAME ] has never owned any production facilities in Cambodia or China.<sup>58</sup> In response, the Alleger subsequently submitted information to the record concerning Lino’s previous ownership claims of production facilities in China. Some of this information was obtained directly from Linghong Li’s LinkedIn profile.<sup>59</sup> Her profile listed her position as the “President at Lino International Inc” and stated:

“In 2001, I formed Dalian Metal. We were a manufacturer and supplier of cast iron pipe and fittings with the export capability at 30,000 tons annually. After expanding, I moved to the US and formed the Lino International Corp. based in New York. At Lino International, we have built long term relationships with more than 30 Chinese factories

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<sup>47</sup> See Lino RFI at 15-16; see also Lino Supplemental RFI at 7-8 and Exhibit S1-5.

<sup>48</sup> See Lino RFI at 15-16.

<sup>49</sup> *Id.* at 5.

<sup>50</sup> *Id.* at 6, 14.

<sup>51</sup> *Id.* at 16.

<sup>52</sup> *Id.* at 6.

<sup>53</sup> *Id.* at 5-6; see also Lino Supplemental RFI at 5, 9, and Exhibit S1-2.

<sup>54</sup> See Lino RFI at 7.

<sup>55</sup> *Id.* at 8.

<sup>56</sup> See Blue Star RFI at Exhibit 24, pages 38-39.

<sup>57</sup> *Id.* at Exhibit 17, pages 2-3, and Exhibit 24, pages 7, 34-35, 38-39.

<sup>58</sup> See Lino Supplemental RFI at 11.

<sup>59</sup> See Letter from the Alleger, “EAPA Case Nos. 7454 & 7455, Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings: Submission of Factual Information,” dated September 8, 2020, (Alleger’s September 8 Submission) at Exhibit 6.

in plumbing supplies and construction materials.... Contact us at LinoMetal.com to see how we can help you import Chinese plumbing supplies....”<sup>60</sup>

Lino’s website further specified that Lino owned three Chinese factories and stated:

“For nearly 20 years, Lino International, Inc. has remained a trusted manufacturer of cast iron pipe, fittings, couplings, tubing, tapes, and safety equipment, with headquarters in New York and three plants in China. Our core principle is to provide complete service and support through the process of procurement, manufacturing and logistics.... We utilize the latest technology available, and only the most experienced craftsmen at our factories....”<sup>61</sup>

The Allegor provided other information corroborating Dalian Metal I/E’s link to Lino. This information included an Alibaba.com screenshot indicating that Dalian Metal I/E was founded in 2001 and that its products include soil pipes and fittings.<sup>62</sup> The webpage said “Lino” above Dalian Metal I/E’s name and listed Linghong Li in the “To:” area of the “Send message to supplier” section.<sup>63</sup> Another website also listed Lino as Dalian Metal I/E’s trade arm and listed Linghong Li as Lino’s Chairman of the Board.<sup>64</sup>

On October 30, 2020, the Allegor submitted questionnaire responses to the record that Dalian Metal I/E and Dalian Lino submitted to Commerce during its AD/CVD proceedings.<sup>65</sup> Dalian Metal I/E’s questionnaire responses affirm that it is an affiliate of Dalian Lino and that both entities are located in Dalian City, Liaoning Province, China.<sup>66</sup> Dalian Lino’s responses list Linghong Li as its legal representative and refer to its U.S. affiliates [COMPANY NAME] and [COMPANY NAME].<sup>67</sup>

In its RFI response to CBP, HiCreek asserted that it is located in Bavet City, in Cambodia’s Sunshell International Industrial Park, and is not affiliated with any another producer or with Lino.<sup>68</sup> HiCreek stated that Qian Zhang, also known as Ellen Zhang, is its general manager and provided documentation indicating that she is from [ PLACE ] and [ VERB ] HiCreek in [YEAR].<sup>69</sup> HiCreek’s documentation indicates that [ NAME ] is the [DESCRIPTION] owner of HiCreek, which contradicts Lino’s statement that [ NAME

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<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at Exhibit 8. This screenshot of Lino’s website listed a date of September 8, 2020; therefore, the website is recent.

<sup>62</sup> *Id.* at Exhibit 7.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at Exhibit 5.

<sup>65</sup> See Letter from the Allegor, “EAPA Case Nos. 7454 & 7455, Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings: Submission of Voluntary Factual Information,” dated October 30, 2020 (Allegor’s Voluntary Factual Information).

<sup>66</sup> *Id.* at Exhibit 1, page 31 and Exhibit 3, page 31.

<sup>67</sup> *Id.* at Exhibit 2, pages 9, 35, 38, and Exhibit 4, pages 10, 37. Linghong Li is listed as the legal representative on a Chinese business license and registration form; see also CBP Memorandum, “Adding Information to the Administrative Records of EAPA Cases 7454-7455,” dated October 27, 2020, (October 27 Memorandum) at Attachment 1, pages 9, 22, and Attachment 2, page 23.

<sup>68</sup> See HiCreek RFI at Cover Page and at General Information, pages 3-4.

<sup>69</sup> *Id.* at General Information, page 1; at Company Statute; and at HiCreek Patent 2020; see also Lino Allegation at Exhibits 5 and 7.

] is HiCreek's [ NOUN ].<sup>70</sup> HiCreek's organization chart indicates that [ NAME ] is the head of HiCreek's finance department, human resources department, and its warehouse.<sup>71</sup>

HiCreek asserted that it produces soil pipes and fittings and can produce [NUMBER AND UNITS] of soil pipe per month.<sup>72</sup> HiCreek stated that it produced the soil pipe from “[ DESCRIPTION ]”.<sup>73</sup> HiCreek stated that it “imported the machinery and equipment, tooling, molds from China” and submitted corresponding Cambodian Customs documents.<sup>74</sup> HiCreek stated that it had “been importing from [COMPANY NAME]”, which is a Chinese company.<sup>75</sup> HiCreek stated that its relationship with Lino began in [ DATE ] and that it “has produced and exported the subject merchandise to Lino.”<sup>76</sup> HiCreek provided invoices, bills of lading, and payment information pertaining to its exports to Lino and Blue Star.<sup>77</sup>

Because HiCreek did not fully answer several RFI questions, CBP issued a supplemental RFI to HiCreek on October 5, 2020, and asked for a response by October 19, 2020.<sup>78</sup> On October 15, HiCreek requested an extension of the deadline to respond to the supplemental RFI.<sup>79</sup> In response, CBP extended the deadline to November 2.<sup>80</sup> On October 19, HiCreek sent an additional email acknowledging the new deadline and assuring CBP that “We’ll provide the documents before the new deadline.”<sup>81</sup> However, HiCreek did not submit its supplemental RFI response by the new deadline or explain its failure to do so. Therefore, on November 3, CBP reminded HiCreek officials that they did not submit a response by the deadline and gave them an additional opportunity to submit their RFI response.<sup>82</sup> CBP then extended HiCreek’s deadline a second time to November 5.<sup>83</sup> On November 5, HiCreek stated that “we haven’t finished the documentation today, we’ll send them to you tomorrow morning.”<sup>84</sup> CBP then extended the deadline a third time to November 6.<sup>85</sup> However, HiCreek again did not submit its supplemental RFI response by November 6 or explain its failure to do so; instead, it submitted its response three days after the final November 6<sup>th</sup> deadline.<sup>86</sup> Therefore, CBP rejected its submission in accordance with 19 CFR 165.5(c)(2), which states “Rejection of untimely submissions. If a submission is untimely filed, then CBP will not consider or retain it in the administrative record{.}”<sup>87</sup>

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<sup>70</sup> See HiCreek RFI at HiCreek Company Statute, pages 10-11, and at HiCreek Patent 2020; see also Lino RFI at 6; see also Lino Supplemental RFI at 5.

<sup>71</sup> See HiCreek RFI at Company Organization Chart.

<sup>72</sup> *Id.* at Cover Page and at General Information, page 6, and at Production Equipment & Process of Pipe, page 9.

<sup>73</sup> *Id.* at General Information, page 8.

<sup>74</sup> *Id.* at General Information, page 9, and at Customs Declaration and Other Documentation, pages 1, 3, 5.

<sup>75</sup> *Id.* at General Information, page 4, and at Customs Declaration and Other Documentation, pages 6, 8.

<sup>76</sup> *Id.* at General Information, page 4.

<sup>77</sup> *Id.* at Lino Order & Shipment Documents.

<sup>78</sup> See Letter from CBP, “Re: Supplemental Request for Information – Hicreek Plumbing Co., Ltd,” dated October 5, 2020.

<sup>79</sup> See Email from HiCreek, “Re: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated October 15, 2020.

<sup>80</sup> See Email from CBP, “RE: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated October 16, 2020.

<sup>81</sup> See Email from HiCreek, “Re: RE: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated October 19, 2020.

<sup>82</sup> See Email from CBP, “RE: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated November 3, 2020.

<sup>83</sup> *Id.*

<sup>84</sup> See Email from HiCreek, “Re: RE: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated November 5, 2020.

<sup>85</sup> See Email from CBP, “RE: Re:RE: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated November 5, 2020.

<sup>86</sup> See Email from HiCreek, “Re: RE: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated November 9, 2020.

<sup>87</sup> See Email from CBP, “RE: EAPA 7454-7455: Supplemental RFI for HiCreek,” dated November 9, 2020.

On December 14, 2020, Blue Star, Lino, and the Alleger submitted written arguments.<sup>88</sup> Lino and the Alleger each submitted a response to written arguments on December 29, 2020.<sup>89</sup>

### Analysis as to Evasion

Under 19 USC 1517(c)(1)(A), to reach a final determination as to evasion in this case, 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.”<sup>90</sup> 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.”<sup>91</sup> As discussed below, the record of this investigation indicates that covered merchandise entered the United States through evasion. Further, substantial evidence indicates that Blue Star’s and Lino’s imports were entered through evasion, resulting in the avoidance of applicable AD/CVD deposits or other security.

Record evidence indicates that a Chinese company named Qingdao H.R. International Trading Co., Ltd. (Qingdao H.R.) likely established HiCreek to avoid paying AD/CVD duties on Chinese soil pipe and fittings.<sup>92</sup> In its preliminary determinations on fittings, Commerce issued a CVD all-others rate of 10.37 percent on December 19, 2017, and an AD cash deposit rate of 109.86 percent on February 20, 2018.<sup>93</sup> Concurrently, Commerce initiated AD/CVD investigations on soil pipe on February 23, 2018.<sup>94</sup> Only one month later, on March 19, 2018, Qian Zhang of

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<sup>88</sup> See Letter from Blue Star, “EAPA Cons. Case No. 7454: Blue Star Written Arguments,” dated December 14, 2020 (Blue Star Written Arguments); see also Letter from Lino, “EAPA Investigation Nos. 7454/7455– Submission of Written Comments,” dated December 14, 2020, (Lino Written Arguments); see also Letter from the Alleger, “EAPA Case Nos. Consl. 7454 & 7455, Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings: Submission of Written Argument,” dated December 14, 2020.

<sup>89</sup> See Letter from Lino, “EAPA Investigation Nos. 7454/7455– Submission of Rebuttal Comments,” dated December 29, 2020; see also Letter from the Alleger, “EAPA Case Nos. Consl. 7454 & 7455, Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings: Response to Written Argument,” dated December 29, 2020.

<sup>90</sup> Substantial evidence is not defined in the statute. However, the Federal Circuit has stated that “substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” See *A.L. Patterson, Inc. v. United States*, 585 Fed. Appx. 778, 781-782 (Fed. Cir. 2014) (quoting *Consol. Edison Co. of N.Y. v. NLRB*, 305 U.S. 197, 229 (1938)).

<sup>91</sup> See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

<sup>92</sup> See e.g. Blue Star RFI at Exhibit 24, page 38. In this email from [ DATE ], 2020, one of [ PERSON ] states “[ SITUATION DESCRIPTION ].”

<sup>93</sup> See *Cast Iron Soil Pipe Fittings from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination and Extension of Provisional Measures*, 83 FR 7145 (February 20, 2018); see also *Cast Iron Soil Pipe Fittings from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 82 FR 60178 (December 19, 2017); see also Lino Allegation at 7; see also Blue Star Allegation at 7.

<sup>94</sup> See *Cast Iron Soil Pipe from the People’s Republic of China: Initiation of Less-Than-Fair Value Investigation*, 83 FR 8053 (February 23, 2018); see also *Cast Iron Soil Pipe from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 8047 (February 23, 2018).

Shandong Province, China incorporated HiCreek in Cambodia.<sup>95</sup> Though establishing operations in another country after an AD/CVD investigation is not necessarily a sign of evasion; it is, in this case, consistent with other evidence of evasion on the record.

Qian Zhang and [ NAME ], are both listed as managers at Qingdao H.R., which is a soil pipe and fitting exporter in Shandong Province of China.<sup>96</sup> Qingdao H.R. is listed online as the export arm of producers Qingdao Shinvy Valve & Fitting Co., LTD {sic} and Qingdao Shengwei Metals Co., Ltd.<sup>97</sup> In its RFI response, HiCreek did not comment on its previous connections to Qingdao H.R. but stated that it “has been importing from [COMPANY NAME]”<sup>98</sup> The fact that HiCreek shares two managers and [PROCEDURE DESCRIPTION] with Qingdao H.R. suggests that HiCreek may be an affiliate of Qingdao H.R.; therefore, it has easy access to Chinese-origin soil pipe.

The observations from DHS’s site visit to HiCreek on July 29, 2020, provide further evidence of HiCreek’s continuing relationship with Chinese suppliers. DHS officials did not observe production during their site visit or signs of recent production.<sup>99</sup> DHS officials noticed that HiCreek’s soil pipe and fitting machinery was unused, dry, and covered in spider webs.<sup>100</sup> In response to this observation, HiCreek’s production manager, [ NAME ], said that HiCreek stopped production in March 2020.<sup>101</sup> Though [ NAME ]’s statement and DHS officials’ observations indicated that HiCreek was not producing anything, HiCreek continued exporting soil pipes and fittings in the months after March 2020. Export data indicates that from March 1, 2020, to July 29, 2020, HiCreek exported [NUMBER] shipments of fittings to [COUNTRY], [NUMBER] shipments of fittings to the United States, and [NUMBER] shipments of soil pipes to the United States.<sup>102</sup> Although some of the soil pipe and fittings that HiCreek exported could have been sourced from inventory that HiCreek produced prior to March 2020, record evidence demonstrates that at least some of these exports were sourced from China.

This evidence includes DHS officials’ photographs of pallets containing boxes of fittings.<sup>103</sup> [NAME] said these boxes were shipped from China and were destined for [COUNTRY].<sup>104</sup> The photographs of the labels portray some of the fittings as made in Cambodia and others as made in China.<sup>105</sup> Though the fittings were destined for [COUNTRY], HiCreek’s acknowledgement of

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<sup>95</sup> See Lino Allegation at Exhibit 5; see also Blue Star Allegation at Exhibit 6; see also HiCreek RFI at Hicreek Company Statute; see also Letter from Blue Star, “EAPA Cons. Case No. 7454: Public and Business Proprietary Versions of Blue Star’s CF-28 Response,” dated August 7, 2020 at 23-24.

<sup>96</sup> See Lino Allegation at Exhibits 6-7; see also Blue Star Allegation at Exhibits 7-8; see also Lino Supplemental RFI at 5; see also HiCreek RFI at [ CITATION ]. This email address is [ EMAIL ADDRESS ].

<sup>97</sup> See Lino Allegation at Exhibits 6-7; see also Blue Star Allegation at Exhibits 7-8. Qingdao H.R.’s website also states that it is a “professional manufacturer of plumbing product{s}.... We invested in four factories separately manufacturing ... Cast Iron Pipes, Fittings & Flanges.”

<sup>98</sup> See HiCreek RFI at General Information, page 4, and at Customs Declaration and Other Documentation, page 7.

<sup>99</sup> See Site Visit Report at Attachment 1.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> See CBP Memorandum, “Adding Information to the Administrative Records of EAPA Cases 7454-7455,” dated November 13, 2020 (November 13 Memorandum) at Attachment 3.

<sup>103</sup> See Site Visit Report at Attachment 2.

<sup>104</sup> *Id.* at Attachments 1-2; see also November 13 Memorandum at Attachment 3.

<sup>105</sup> See Site Visit Report at Attachment 2.

its importation and subsequent exportation of Chinese-origin fittings demonstrates that HiCreek possesses Chinese sources of merchandise and supplements its products with Chinese-origin merchandise. Further, because its [ COMPANY NAME ] produces both fittings and soil pipe, HiCreek can supplement its soil pipe exports with Chinese-origin soil pipe in the same manner that it supplements its fittings exports.<sup>106</sup> Moreover, [NAME] stated unequivocally that HiCreek imported the fittings from China; however, some of these boxes were labeled as Cambodian-origin, which casts doubt upon the accuracy of HiCreek’s country-of-origin labeling practices.<sup>107</sup>

In addition to its imports of finished merchandise, HiCreek stated in its RFI response that it “has imported the machinery and equipment, tooling, {and} molds from China.”<sup>108</sup> Cambodian import data shows that Hicreek imported machinery and equipment needed to produce soil pipe from China between [ DATE ] and [ DATE ], which was after HiCreek began exporting soil pipe to the United States on [ DATE ].<sup>109</sup> These imported items included [ ITEM NAME ], [ ITEM NAME ], and [ ITEM NAME ] machines for [ PROCEDURE DESCRIPTION ].<sup>110</sup> [ ITEM NAME ] machines are essential to producing soil pipe and HiCreek obtained them by importation; however, these were the only [ ITEM NAME ] machines HiCreek imported during 2019 and 2020.<sup>111</sup> Interestingly, HiCreek exported a net weight of [NUMBER] kg of soil pipes to the United States in 2019 before it received its [ ITEM NAME ] machines on [ DATE ].<sup>112</sup> Considering HiCreek’s apparent lack of [ ITEM NAME ] machines at the time and its connection to Chinese suppliers, it is probable that these soil pipes were also sourced from China.

Furthermore, HiCreek provided Cambodian Customs documents containing specific information on HiCreek’s sourcing of Chinese merchandise. These documents show that HiCreek received [NUMBER] kg of “[DESCRIPTION]” from China from [COMPANY NAME] on [ DATE ], 2020.<sup>113</sup> This shipment is more than one month after HiCreek received its [ ITEM NAME ], [ ITEM NAME ], and [ ITEM NAME ] machines from China.<sup>114</sup> Because HiCreek already possessed the means to produce its own soil pipe, it should have been able to produce soil pipe from raw materials. Regardless, HiCreek imported Chinese-origin soil pipe, which was representative of HiCreek’s continuing import patterns. Moreover, this shipment reveals that [COMPANY NAME] is one of HiCreek’s Chinese sources of soil pipe.

Although the imported merchandise was described as “[DESCRIPTION],” it was, in fact, soil pipe.<sup>115</sup> First, there is no evidence on the record that the pipes HiCreek imported from China

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<sup>106</sup> See Lino Allegation at Exhibits 7-8; see also HiCreek RFI at General Information, page 4, and at Customs Declaration and Other Documentation, page 7.

<sup>107</sup> See Site Visit Report at Attachment 2.

<sup>108</sup> See HiCreek RFI at General Information, page 9.

<sup>109</sup> See November 13 Memorandum at Attachment 3; see also HiCreek RFI at Customs Declaration and Other Documentation.

<sup>110</sup> *Id.*; see also August 19 Memorandum at 1 and Attachment 2 for further information on the soil pipe production process.

<sup>111</sup> See November 13 Memorandum at Attachment 3.

<sup>112</sup> *Id.*; see also HiCreek RFI at Customs Declaration and Other Documentation.

<sup>113</sup> See HiCreek RFI at Customs Declaration and Other Documentation, pages 6-8.

<sup>114</sup> See November 13 Memorandum at Attachment 3.

<sup>115</sup> *Id.*

were not finished goods upon their entry into Cambodia. HiCreek imported these soil pipes from China under Harmonized Tariff Schedule (HTS) chapter headings indicating that the pipes were already manufactured from raw materials into their final pipe form.<sup>116</sup> Second, even if the “[DESCRIPTION]” from China underwent additional processing in Cambodia, they were already manufactured in China from raw materials into pipe; therefore, they did not undergo substantial transformation in Cambodia.<sup>117</sup> The scope of the AD/CVD orders state that the covered merchandise is “cast iron soil pipe, whether finished or unfinished, regardless of industry or proprietary specifications, and regardless of wall thickness, length, diameter, surface finish, end finish, or stenciling.”<sup>118</sup> Therefore, if in Cambodia HiCreek performed additional finishing, stenciling, or cutting to length on the imported “[DESCRIPTION],” those actions would not transform the merchandise from Chinese-origin pipe into Cambodian-origin pipe nor would they transform the merchandise from out-of-scope pipe into covered merchandise. Third, record evidence demonstrates that the only kind of pipe HiCreek sells is soil pipe.<sup>119</sup> Therefore, because HiCreek’s pipe imports would have been used for HiCreek’s sales and because the pipes were not substantially transformed, the imported pipes would necessarily have been soil pipes within the scope of the AD/CVD orders. Finally, HiCreek classified its imports from China in an inexact manner. As such, there are multiple instances in which HiCreek imported shipments of “[DESCRIPTION]” that it then exported to the United States only a few days later; these shipments subsequently entered the United States as soil pipe.<sup>120</sup> Thus, in light of the preceding reasons, HiCreek’s imports of “[DESCRIPTION]” were actually imports of soil pipe.

The table below demonstrates that HiCreek imported a substantial amount of soil pipe from China in 2019-2020.<sup>121</sup> Specifically, HiCreek imported [ # ] shipments of soil pipe from China in 2019, totaling [ # ] kg, and [ # ] shipments in 2020, totaling [ # ] kg. Not only were the number of shipments and their weights substantial, but these soil pipe imports from China comprised most of the soil pipe by weight that HiCreek exported to the United States. To illustrate, HiCreek’s imports of soil pipe from China in 2020 constituted [ # ] percent of the soil pipe HiCreek exported to the United States in 2020.<sup>122</sup> Further, HiCreek’s imports of soil pipe from China in 2019 exceeded its exports of soil pipe to the United States in 2019 by [ # ] kg. Because HiCreek does not appear to have domestic sales, the [ # ] kg of 2019’s imports from China entered HiCreek’s inventory and were subsequently exported to the United States in 2020. Although HiCreek exported its fittings to [COUNTRY], [COUNTRY], and the United States, it exported soil pipe [DESCRIPTION] to the United States.<sup>123</sup> Therefore, the addition of HiCreek’s 2019 and 2020 soil pipe imports from China results in [ # ] kg of soil pipe, which comprises [ # ] percent of HiCreek’s soil pipe exports to the United States in 2019 and 2020.<sup>124</sup> This demonstrates that [ # ] percent of HiCreek’s 2019-2020 soil pipe exports to the

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<sup>116</sup> *Id.* The HTS chapter headings are [ # ], [ # ], and [ # ].

<sup>117</sup> Lino claimed substantial transformation occurred. *See* Lino Written Arguments at 10.

<sup>118</sup> *See* AD/CVD Orders.

<sup>119</sup> *See* HiCreek RFI at Cover Page and at General Information, page 6; *see also* July 10 Memorandum at Attachment 2.

<sup>120</sup> *See* November 13 Memorandum at Attachment 3; *see also* October 28 Memorandum at Attachments 4-5, 7.

<sup>121</sup> *Id.*

<sup>122</sup> *I.e.*, [ # ] kg / [ # ] kg = [ # ]. [ # ] x 100 = [ # ], which is rounded to [ # ] percent.

<sup>123</sup> *See* November 13 Memorandum at Attachment 3.

<sup>124</sup> HiCreek’s total soil pipe exports to the United States in 2019-2020 were [ # ] kg, which was calculated using Cambodian export amounts. If CBP’s entry figures are used, HiCreek’s soil pipe imports from China in 2019-

United States were in fact Chinese in origin and, therefore, transshipped. The information on the record suggests that HiCreek’s production of Cambodian-origin soil pipe accounts for the remaining [ # ] percent.

Product	HiCreek’s Total Imports from China in Kg <sup>125</sup>		HiCreek’s Total Exports to the U.S. in Kg (by Departure Date) <sup>126</sup>		HiCreek’s Total Exports to the U.S. in Kg (by Arrival Date) <sup>127</sup>	
	2019	2020	2019	2020	2019	2020
Soil Pipe	[					]

Not only does HiCreek’s aggregate trade data indicate transshipment, but its individual shipment data indicates transshipment as well. Most significantly, the weights and package amounts of several HiCreek imports from China correspond exactly, or almost exactly, to the weights and package amounts exported only a few days later to the United States.<sup>128</sup> For example, on [ DATE ], 2020, HiCreek received [ # ] packages of “[DESCRIPTION]” from China, totaling [ # ] kg, and only three days later HiCreek exported [ # ] packages of “[DESCRIPTION]” totaling [ # ] kg to the United States.<sup>129</sup> This export then corresponds to Lino’s entry of soil pipe on [ DATE ], 2020, [ # ] days after departing Cambodia, which also weighed [ # ] kg.<sup>130</sup> The table below contains multiple other instances in which HiCreek imported the exact same number of packages from China that it then exported to the United States only a few days later. The accompanying import and export weights were all identical or very similar. In some instances, slightly fewer kilograms were exported than imported. In these situations the weight listed in the import documentation may have been inexact or HiCreek may have retained in its inventory a small amount of the soil pipe it imported from China. Likewise, in other instances, where the amount exported slightly exceeded the amount imported, HiCreek may have drawn upon its existing inventory of Chinese soil pipe to cover the difference. Moreover, many of the import and export shipments in the table below correspond exactly to Lino’s and Blue Star’s entries from HiCreek during the period of investigation. These entries and their corresponding transit times from Cambodia are footnoted on the right side of the Net Weight Exported (KG) column.

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2020 ([ # ] kg) would comprise [ # ] percent of their soil pipe exports to the United States in 2019-2020, which totaled [ # ] kg.

<sup>125</sup> See November 13 Memorandum at Attachment 3.

<sup>126</sup> *Id.* These figures are tabulated according to the departure date from Cambodia.

<sup>127</sup> See October 28 Memorandum at Attachment 7. These figures are tabulated according to the U.S. arrival date.

<sup>128</sup> See November 13 Memorandum at Attachment 3.

<sup>129</sup> *Id.*

<sup>130</sup> See October 28 Memorandum at Attachment 5, page 2. This is Lino entry [ # ]1278.

Selected Import Shipments from China <sup>131</sup>				Corresponding Export Shipments to U.S. <sup>132</sup>			
Arrival Date from China	Import Description	Packages Imported	Net Weight Imported (KG)	Export Date from Cambodia to U.S.	Export Description	Packages Exported	Net Weight Exported (KG)
[ ]							]133
[ ]							]134
[ ]							]135
[ ]							]136
[ ]							]137
[ ]							]138
[ ]							]139
[ ]							]140
[ ]							]141
[ ]							]142
[ ]							]143
[ ]							]144

The two preceding tables contain evidence supporting a scheme of evasion but there is additional corroborating evidence. In its RFI response, HiCreek also provided two tables of Lino’s payment information that contained further explicit evidence of transshipment.<sup>145</sup> These tables listed multiple invoice numbers that tied to Blue Star’s and Lino’s entries of soil pipe.<sup>146</sup> To the right of these invoice numbers, the table listed the following columns: “[ COLUMN HEADINGS ]. These column names and the dates in their corresponding cells indicate that Blue Star’s and Lino’s soil pipes were

<sup>131</sup> See November 13 Memorandum at Attachment 3.

<sup>132</sup> *Id.*

<sup>133</sup> This is Lino entry [ # ]0578, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>134</sup> This is Lino entry [ # ]6716, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>135</sup> This is Lino entry [ # ]6210, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>136</sup> This is Lino entry [ # ]6724, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>137</sup> This is Lino entry [ # ]3984, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>138</sup> Blue Star entry [ # ]3826, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>139</sup> This is Lino entry [ # ]0339, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>140</sup> This is Lino entry [ # ]1278, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>141</sup> Blue Star entry [ # ]8378, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>142</sup> This is Lino entry [ # ]7512, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia.

<sup>143</sup> [COMPANY] entry [ # ]9261, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia. [COMPANY] was the importer of this entry. See October 28 Memorandum at Attachment 7.

<sup>144</sup> [COMPANY] entry [ # ]9758, which entered the U.S. on [ DATE ], [ # ] days after departing Cambodia. [COMPANY] was the importer of this entry. See October 28 Memorandum at Attachment 7.

<sup>145</sup> See HiCreek RFI at Payment Record Lino 2019-2020, pages 2-3.

<sup>146</sup> *Id.* These are the invoice numbers and their corresponding entry numbers: invoice [ # ] = Lino entry [ # ]5627, invoice [ # ] = Blue Star entry [ # ]2430, invoice [ # ] = Lino entry [ # ]8746, invoice [ # ] = Blue Star entry [ # ]3826, and invoice [ # ] = Blue Star entry [ # ]0920. See Blue Star RFI at 34; Exhibit 17, pages 1-3; Exhibit 18, pages 1-3; and Exhibit 19, pages 1-3; see also Lino RFI at Exhibit 5, pages 1-12; Exhibit 6; Exhibit 9; Exhibit 14, pages 98-108; and Exhibit 15, pages 6, 36.

produced in China, then shipped to Cambodia, and finally shipped from Cambodia. The information in Blue Star’s and Lino’s RFI responses ties these invoices to their entries, which arrived in the United States after transit from Cambodia.<sup>147</sup> Because these entries originated in China, pertained to soil pipes covered by the scope of the AD/CVD orders, and were declared as Cambodian origin, the record demonstrates that Blue Star and Lino engaged in evasion.

Soil pipes entering the United States should be declared under Harmonized Tariff Schedule of the United States (HTSUS) number 7303.00.0030.<sup>148</sup> However, Lino and Blue Star declared pipes under HTSUS number [ # ] on four entries they imported from HiCreek.<sup>149</sup> This HTSUS number covers cast iron pipe other than soil pipe; however, record evidence demonstrates that these entries were, nonetheless, composed of soil pipe. Firstly, invoices in three of the four entries – [ # ]0920, [ # ]8378, and [ # ]4611 – describe the merchandise as cast iron soil pipe.<sup>150</sup> Secondly, although the sales documents in the fourth entry ([ # ]2736) only refer to “[DESCRIPTION],” the documents in this investigation’s other entries at issue indicate that Blue Star, Lino, and HiCreek use the terms “cast iron soil pipe,” “no-hub pipe,” and “pipe” interchangeably, regardless of whether the soil pipes entered under [ # ] or 7303.00.0030.<sup>151</sup> Finally, HiCreek does not sell any kind of pipe other than soil pipe.<sup>152</sup> In light of these facts, CBP determines that these four entries are composed of soil pipes covered by the AD/CVD orders and ought to have been entered under 7303.00.0030.

Additionally, Blue Star argues that it did not engage in evasion because there was no evidence at the time of purchase that the merchandise was not Cambodian origin; thus, it did not enter merchandise by means of materially false statements or omissions.<sup>153</sup> However, CBP notes that EAPA does not have a knowledge requirement for evasion as defined under 19 CFR 165.1, nor is there any requirement that an importer know of the material or false statement. Therefore, CBP does not need to determine any level of culpability, only that evasion occurred with entry. Additionally, although evidence on the record indicates that Lino and Sibio each made misleading statements to Blue Star regarding the merchandise, the existence of those statements does not excuse Blue Star from its responsibility to conduct further inquiry with due diligence.<sup>154</sup>

Lino’s misleading statements to Blue Star comprise only one piece of evidence among many that, when considered together, indicate that Lino was an active agent of transshipment rather than a passive recipient of transshipped merchandise. Although Lino stated that it did not own or operate any production facilities, the “[DESCRIPTION]” category of Lino’s two most recent income tax returns indicates that Lino paid an \$[ # ] “[DESCRIPTION].”<sup>155</sup> This payment amount is mirrored in Lino’s general ledger and transactions by account, although each payment

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<sup>147</sup> *Id.*

<sup>148</sup> *See* AD/CVD Orders.

<sup>149</sup> These four entries are composed of three Blue Star entries – [ # ]0920, [ # ]2736, and [ # ]8378 – and one Lino entry, [ # ]4611.

<sup>150</sup> *See* Blue Star RFI at Exhibit 19, pages 2-3, and Exhibit 20, pages 2-3; *see also* Lino RFI at Exhibit 15, page 57.

<sup>151</sup> *See* Blue Star RFI at Exhibits 17-21, 23-28, 30; *see also* Lino RFI at Exhibits 14-15.

<sup>152</sup> *See* HiCreek RFI at General Information, page 6; *see also* July 10 Memorandum at Attachment 2.

<sup>153</sup> *See* Blue Star Written Arguments at 3.

<sup>154</sup> *See* Blue Star RFI at 5-6, Exhibit 3, and Exhibit 28, page 9.

<sup>155</sup> *See* Lino RFI at 10 and Exhibit 12, pages 11, 25.

description is conspicuously blank.<sup>156</sup> Furthermore, Lino never addressed Linghong Li's previous statements of ownership of Chinese factories.<sup>157</sup> In contrast, Lino reiterated that "[ NAME ] has never owned any production facilities in China."<sup>158</sup> The fact remains that on the record of this investigation, Lino made contradicting statements concerning its ownership of factories. The resulting possibilities are that Ms. Li owned or still owns Chinese production facilities and was not truthful with CBP on several instances or that she never owned Chinese production facilities and yet falsely claimed ownership of them. Regardless, evidence on the record indicates that Lino has direct access to Chinese factories through Linghong Li and its Chinese affiliates.<sup>159</sup>

During its AD proceeding, Commerce selected Lino's Chinese affiliates Dalian Metal I/E and Dalian Lino as mandatory respondents and issued each a questionnaire.<sup>160</sup> In response, Dalian Metal I/E indicated that its exports to the United States were supplied by Chinese producers Qinshui Shunshida Casting Co., Ltd., Zezhou Golden Autumn Foundry Co., Ltd, and Wu'an Yongtian Casting Co., Ltd.<sup>161</sup> Dalian Lino also listed [ COMPANY NAME ] supplier.<sup>162</sup> Regarding Lino's relationship to Chinese suppliers connected to HiCreek, Lino stated in its supplemental RFI response that "Neither Lino, [COMPANY NAME], [COMPANY NAME], [COMPANY NAME], nor [COMPANY NAME] has a current relationship with Qingdao Shengwei Metals Co., Ltd, Qingdao Shinvy Valve & Fitting Co. Ltd., KLC Metals, or KLC Hardware."<sup>163</sup> The fact that Lino stated that it does not have a current relationship with these suppliers suggests that Lino and its affiliates have previously done business with these suppliers. At the conclusion of its investigation, Commerce assigned Lino affiliates Dalian Metal I/E and Dalian Lino a 235.93 percent AD rate.<sup>164</sup>

After Commerce's investigation, Dalian Metal I/E, [COMPANY NAME], and Dalian Lino continued to play a coordinating role in obtaining Lino's and [COMPANY NAME]'s orders and in exporting merchandise.<sup>165</sup> Extensive correspondence between [ NAME AND COMPANY NAMES ] is on the record. This correspondence includes the previously discussed instance in which [

#### EVENT DESCRIPTION

[ ]<sup>166</sup>  
Several bills of lading issued to Lino and [ COMPANY NAMES ]" as their [DESCRIPTION],

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<sup>156</sup> *Id.* at Exhibit 9, page 5, and Exhibit 13, page 1.

<sup>157</sup> *See* Lino Supplemental RFI at 6-7.

<sup>158</sup> *Id.*

<sup>159</sup> *See* Alleger's September 8 Submission at Exhibits 6, 8; *see also* October 28 Memorandum at Attachment 5; *see also* Lino Supplemental RFI at Exhibit S1-10.

<sup>160</sup> *See* Alleger's Voluntary Factual Information at VFI Exhibits 3-4.

<sup>161</sup> *Id.* at VFI Exhibit 3, page 17.

<sup>162</sup> *See* October 27 Memorandum at Attachment 2, page 34.

<sup>163</sup> *See* Lino Supplemental RFI at 10.

<sup>164</sup> *See* AD/CVD Orders.

<sup>165</sup> *See* Blue Star RFI at 5-6, 32, and Exhibits 4, 24-27; *see also* Lino RFI at Exhibit 9 and Exhibit 14, pages 133, 145, 157, 166, 178, and 189 in which the bills of lading list "[PLACE]" for their place of issue; *see also* Lino Supplemental RFI at 8 and Exhibit S1-5; *see also* October 28 Memorandum at Attachment 5.

<sup>166</sup> *See* Blue Star RFI at Exhibits 17, pages 2-3, and Exhibit 24, pages 7, 34-35, 38-39.

which is [DESCRIPTION] Dalian Metal I/E and Dalian Lino are [DESCRIPTION].<sup>167</sup> Further, [COMPANY NAME]’s pro forma invoices to Blue Star list the origin of the shipment as “[DESCRIPTION].”<sup>168</sup> [PLACE] is a Chinese [ DESCRIPTION ] Dalian Metal I/E and Dalian Lino.<sup>169</sup> Prior to Commerce’s AD/CVD investigations, Dalian Metal I/E and Dalian Lino used [ PROCEDURE DESCRIPTION ] for exports to the United States.<sup>170</sup> The fact that Dalian Metal I/E and Dalian Lino had their own factory or soil pipe suppliers; played a coordinating role between HiCreek, Lino, and [COMPANY NAME]; and some of the documentation for the entries at issue lists “[PLACE]” and “[PLACE]” as the [ DESCRIPTION ] suggests that some of the transshipped merchandise may have been sourced from Lino’s and its affiliates’ suppliers.

Lino’s general ledger contains further indication of its recent ties to Chinese suppliers. For example, on [ DATE ], 2019, [COMPANY NAME] paid \$[ # ] to “[COMPANY NAME],” which is [ DESCRIPTION ].<sup>171</sup> Lino claimed that the 2019 payment was a “[ EVENT DESCRIPTION ].”<sup>172</sup> However, the length of this payment lag is improbable considering that Lino’s wire payments to HiCreek either precede the shipment or come after the shipment by a few months.<sup>173</sup> In light of Lino’s normal payment practices, the unusual lag in payment, and Lino’s other questionable statements, the payment most likely reflects remuneration for one of Lino’s 2019 imports.

Lino’s bank statements could have provided further clarification on this matter and on its continuing relationship to Chinese suppliers; however, Lino claimed that it could not provide its bank statements because [ NAME ] is in China.<sup>174</sup> This explanation is suspicious because Lino was able to provide other documents electronically such as its general ledger, records of wire payments to Hicreek, and email correspondence.<sup>175</sup> Lino was also able to research the Government of Cambodia’s certificate of origin procedures online and provide CBP with the result of this research.<sup>176</sup> These facts taken together indicate that Lino withheld its banking statements from CBP.

Moreover, CBP believes that Lino recently set up a front company named DLNL Trading Inc. (DLNL) to continue importing merchandise from HiCreek and, thereby, evade CBP’s interim measures. After HiCreek’s initial RFI response, the Alleger suspected that someone set up

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<sup>167</sup> *Id.* at Exhibit 23, pages 16, 20, and Exhibit 27, pages 11, 17; *see also* Lino RFI at Exhibit 14, pages 133, 145, 157, 166, 178, and 189. According to page 10 of Blue Star’s Supplemental RFI response, “they use a general form that does not tend to undergo change”; however, the field’s information varies in other bills of lading. *See e.g.* Lino RFI at Exhibit 14; *see also* Blue Star RFI at Exhibit 23.

<sup>168</sup> *See* Blue Star RFI at Exhibit 24, pages 7, 18, 24, and Exhibit 25, pages 6, 9.

<sup>169</sup> *See* Alleger’s Voluntary Factual Information at VFI Exhibit 2, pages 26-28, and VFI Exhibit 4, pages 26-29.

<sup>170</sup> *Id.*

<sup>171</sup> *See* Lino RFI at Exhibit 9, page 12; *see* October 27 Memorandum at Attachment 1, page 32; *see also* October 28 Memorandum at Attachment 1, pages 17-18, and Attachment 3, pages 17-18. [ COMPANY NAME ] in Commerce’s AD/CVD Order and assigned an individual rate. *See* AD/CVD Order.

<sup>172</sup> *See* Lino Supplemental RFI at Exhibit S1-10.

<sup>173</sup> *See* Lino RFI at Exhibit 14; *see also* HiCreek RFI at Payment Record Lino 2019-2020.

<sup>174</sup> *See* Lino RFI at 12.

<sup>175</sup> *Id.* at Exhibits 9 and 14; *see also* Lino Supplemental RFI at Exhibit S1-2.

<sup>176</sup> *See* Lino Supplemental RFI at 5.

DLNL in response to EAPA’s investigation to import HiCreek’s soil pipes and fittings.<sup>177</sup> The Alleger noted that DLNL was registered as a business with New York State on August 21, 2020, and began receiving shipments from HiCreek in September 2020.<sup>178</sup> They further noted that the address DLNL registered with New York State is a two-bedroom condominium in Queens, New York.<sup>179</sup> After additional research, CBP discovered DLNL’s phone number.<sup>180</sup> This phone number led to another website listing the same phone number for Lino Metal.<sup>181</sup> The same website listed [ NAME ] as Lino Metal’s “Principal.”<sup>182</sup> Another website listed [ NAME ] at the address DLNL registered with New York State and listed his phone number as the same phone number tied to DLNL and Lino Metal.<sup>183</sup> CBP’s records also list the same address and phone number for DLNL on a commercial invoice, packing list, and bill of lading from one of its entries.<sup>184</sup> In its supplemental RFI response, Lino [ NAME ] is a part-time employee with [COMPANY NAME].<sup>185</sup> However, in spite of all the previously mentioned information, Lino stated that “{n}either Lino International, Inc., [COMPANY NAME] nor [ NAME ] has any relationship with [COMPANY NAME].”<sup>186</sup>

CBP entry documentation indicates that DLNL imports the same products from HiCreek that Lino imports from HiCreek.<sup>187</sup> The CBP entry documentation further indicates that DLNL shares the same customs broker as Lino, [ NAME ].<sup>188</sup> Furthermore, DLNL began importing from HiCreek only after CBP notified Lino of its EAPA investigation and imposition of interim measures on July 13, 2020.<sup>189</sup> DLNL then imported [ # ] entries of soil pipes and fittings from HiCreek and declared the entries’ merchandise to have a country of origin of [COUNTRY].<sup>190</sup> The commercial invoice and packing list from DLNL’s first entry indicated a date of [ DATE ], 2020, which was [ # ] days before DLNL registered itself as a business with New York State and only [ # ] days after CBP notified Lino of its EAPA investigation and imposition of interim measures. In addition, the bill of lading for DLNL’s first entry denoted “[PLACE]” as its place of issue, which is noteworthy because Lino’s affiliates Dalian Metal I/E and Dalian Lino are [ DESCRIPTION ].<sup>191</sup> This information suggests that Lino’s affiliates played a role coordinating DLNL’s entries from HiCreek.

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<sup>177</sup> See Letter from the Alleger, “EAPA Case Nos. Consl. 7454 & 7455, Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings: Submission of Factual Information,” dated September 28, 2020 at 4.

<sup>178</sup> *Id.* at 4 and Exhibits 1-2.

<sup>179</sup> *Id.* at 4 and Exhibit 2, page 3.

<sup>180</sup> See CBP Memorandum, “Adding Information to the Administrative Records of EAPA Cases 7454-7455,” dated December 9, 2020 (December 9 Memorandum) at Attachment 4, page 3.

<sup>181</sup> *Id.* at Attachment 5, pages 1, 3.

<sup>182</sup> *Id.* at Attachment 5, page 4.

<sup>183</sup> *Id.* at Attachment 6. Attachments 2-3 also tie [ NAME ] to the address used for DLNL.

<sup>184</sup> *Id.* at Attachment 7. The CBP Form 3461 lists the same address also.

<sup>185</sup> See Lino Supplemental RFI at 3, 9, 17; see also Lino RFI at Exhibit 15, page 8. Exhibit 15 shows correspondence in which a customer requests an order from [ NAMES ].

<sup>186</sup> *Id.* at 17.

<sup>187</sup> See CBP Memorandum, “Adding Information to the Administrative Records of EAPA Cases 7454-7455,” dated October 28, 2020 (October 28 Memorandum) at Attachments 5 and 7. The imported HTSUS numbers that Lino and DLNL have in common are [ # ], [ # ], and [ # ].

<sup>188</sup> See December 9 Memorandum at Attachment 7, page 1; see also e.g. Lino RFI at Exhibit 1; Exhibit 4, page 3; and Exhibit 5, pages 1-3, etc.

<sup>189</sup> See October 28 Memorandum at Attachment 7.

<sup>190</sup> *Id.*

<sup>191</sup> *Id.* at Attachment 7, page 4. This concerns DLNL entry [ # ]9792.

## **Determination as to Evasion**

In conclusion, multiple facts on the record establish that HiCreek transshipped Chinese-origin soil pipe through its facility in Cambodia. These facts include the circumstances of HiCreek's establishment; its connections to Chinese suppliers; the Chinese-origin merchandise DHS officials observed at HiCreek's facility and its subsequent exportation; the fact that HiCreek continued exporting soil pipe when its production had ceased and that HiCreek began exporting soil pipes before it imported soil pipe machinery; HiCreek's imports of Chinese-origin soil pipe into Cambodia; the instances that HiCreek exported Chinese-origin soil pipes to the United States that it previously imported from China; and HiCreek's payment tables listing when it imported Chinese-origin soil pipes and then when it exported them to Blue Star and Lino. Furthermore, evidence on the record indicates that Blue Star and Lino subsequently entered the transshipped soil pipes into the United States as type 01 entries that evaded the payment of AD/CVD duties on soil pipes from China.<sup>192</sup>

Consequently, based on the aforementioned analysis of relevant evidence, CBP determines that substantial evidence exists demonstrating that, by means of material false statements or omissions, Blue Star and Lino entered Chinese-origin soil pipes transshipped through Cambodia that may have been comingled with Cambodian-origin soil pipes into the United States and failed to pay AD/CVD duties on the merchandise produced in China that was subject to the AD/CVD orders. Because the covered merchandise was comingled and evidence on the record suggests the vast majority of merchandise shipped to the United States was from China and no reliable evidence exists on the record to differentiate between Cambodian-origin and Chinese-origin soil pipes, all covered merchandise that Blue Star and Lino entered from HiCreek during the period of investigation is subject to the AD/CVD rates from soil pipes from China.<sup>193</sup> Because Blue Star and Lino did not declare that the merchandise was subject to the AD/CVD orders upon entry, the requisite cash deposits were not collected on the merchandise.

## **Actions Taken Pursuant to the Affirmative Determination as to Evasion**

In light of CBP's determination that substantial evidence demonstrates that Blue Star and Lino entered covered merchandise into the customs territory of the United States through evasion,<sup>194</sup> and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the entries subject to this investigation, until instructed to liquidate. For those entries previously extended in accordance with Interim Measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries.<sup>195</sup> Finally, CBP will

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<sup>192</sup> Entry type "01" is the code that CBP requires importers use to designate a standard consumption entry that is not subject to AD/CVD duties. See <https://www.cbp.gov/trade/automated/ace-transaction-details>.

<sup>193</sup> Blue Star's and Lino's soil pipe imports from HiCreek are subject to the 235.93 percent rate for AD case A-570-079 and the 14.69 percent "All-Others" rate for CVD case C-570-080, which equals a combined rate of 250.62 percent.

<sup>194</sup> EAPA does not have a knowledge requirement for evasion as defined under 19 CFR 165.1, nor is there any requirement that an importer know of the material or false statement. Therefore, CBP does not need to determine any level of culpability, only that evasion occurred with entry.

<sup>195</sup> Entry type "03" is the code that CBP requires importers use to designate a consumption – Antidumping/Countervailing Duty entry as subject to AD and/or CVD duties. The instructions for CBP Form 7501 (Entry Summary) state that code 03 shall be used for entries subject to AD/CVD duties.

See <https://www.cbp.gov/trade/automated/ace-transaction-details>.

continue to evaluate Blue Star's and Lino's continuous bonds in accordance with CBP's policies, and will continue to require single transaction bonds as appropriate. None of the above actions preclude CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian M. Hoxie". The signature is fluid and cursive, with the first name being the most prominent.

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