



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

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PUBLIC VERSION

EAPA Cons. Case Number 7474

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Re: 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) Consolidated (Cons.) Case Number 7474, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that Ikadan System USA, Inc. (Ikadan) and Weihai Gaosai Metal

Product Co., Ltd. (Gaosai)¹ (collectively, the Importers) entered merchandise covered by antidumping (AD) and countervailing (CVD) duty orders A-570-947 and C-570-948, respectively, into the customs territory of the United States through evasion.² Substantial evidence demonstrates that the Importers entered certain steel grating (steel grating) from the People’s Republic of China (China) into the United States and failed to declare certain merchandise produced by Weihai Gaosai Metal Product Co., Ltd. (Manufacturer) as subject to the AD/CVD orders, specifically galvanized steel Tri-Bar Floor product (tribar floors), composed of rolled steel rods welded to another steel cross rod (*i.e.*, a product of two or more pieces of steel joined together by assembly). As a result, no AD/CVD, cash deposit, or other security were collected on the merchandise upon entry.

Background

On March 27, 2020, Hog Slat, Incorporated (the Alleger), a domestic producer of steel grating, filed an EAPA allegation through counsel claiming that Ikadan was evading the AD/CVD orders on steel grating from China.³ On April 29, 2020, the Alleger supplemented its Allegation and provided the name of an additional importer, Gaosai.⁴ On May 26, 2020, TRLED acknowledged receipt of the Alleger’s properly filed EAPA Allegations against the Importers.⁵ TRLED found the information provided in the Allegations reasonably suggested that the Importers entered covered merchandise into the customs territory of the United States through evasion. Consequently, on June 16, 2020, TRLED initiated a consolidated investigation, under EAPA Cons. Case Number 7474, with respect to the Importers, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.⁶

On June 30, 2020, CBP issued CBP Form 28 (CF-28) requests for information to the Importers for entry and production documentation related to entries [no.]2835 and [no.]1828.⁷ The responses were timely received by CBP on July 30, 2020.⁸ The commercial invoice for entry number [no.]2835, imported by Ikadan, described imported product as the parts for farrowing

¹ Weihai Gaosai Metal Product Co., Ltd. is a manufacturer of Tri-Bar Floor product. However, the company also served as an importer during the period of investigation (POI). As such, when referring to the company’s import activities, CBP will refer to Weihai Gaosai Metal Product Co., Ltd. as “Gaosai” or “Importers.” When referencing manufacturing activities, CBP will refer to the company as “Manufacturer.”

² See *Certain in Steel Grating from the People’s Republic of China: Antidumping Duty Order*, 75 FR 43 143 (July 23, 2010); see also *Certain Steel Grating from the People’s Republic of China: Countervailing Duty Order*, 75 FR 43 144 (July 23, 2010) (collectively, the AD/CVD orders).

³ See Letter from the Alleger, “*Certain in Steel Grating: Request for an Investigation under the Enforce and Protect Act*,” dated March 27, 2020 (Ikadan Allegation) at 2-3, which states that the Alleger is a producer of domestic like product and thus meets 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(2), and 19 CFR 165.11(a).

⁴ See Letter from the Alleger, “*Certain in Steel Grating: Request for an Investigation under the Enforce and Protect Act*,” dated April 29, 2020 (Gaosai Allegation) (collectively, the Allegations).

⁵ See May 26, 2020 Checklists: “TRLED – Receipt Checklist – 5.26.2020 – 7474-Ikadan System USA” and “TRLED- Receipt Checklist – 5.26.2020 – 7484-Weihai Gaosai Metal Products Co., Ltd.”

⁶ See 19 USC 1517(b)(1) and 19 CFR 165.15; see also CBP Memorandum “Initiation of Investigation for EAPA Consolidated Case Number 7474 — Ikadan System USA, Inc. and Weihai Gaosai Metal Product Co., Ltd.,” dated June 16, 2020. The allegations consolidated for this case were EAPA 7474 and EAPA 7484.

⁷ See CF-28 sent to Ikadan, dated June 30, 2020, for entry [no.]2835. See also CF-28 sent to Gaosai, dated June 30, 2020, for entry [no.]1828.

⁸ See Ikadan’s Response to the CF-28, dated July 30, 2020, for entry [no.]2835 (Ikadan CF-28 Response). See also Gaosai’s Response to the CF-28, dated July 30, 2020, for entry [no.]1828 (Gaosai CF-28 Response).

crates, including item number [item no. and product description].⁹ The commercial invoice for entry number [no.]1828, imported by Gaosai, described the imported product as [item no and product description].¹⁰

On July 24, 2020, CBP examined Ikadan entry number [no.]6958 containing parts for farrowing crates, including item number [no.].¹¹ On August 25, 2020, CBP examined Gaosai entry [no.]8260, which was manifested as parts for farrowing crates and included tribar floors.¹²

For Ikadan's two entries [no.]2835 and [no.]6958, CBP initially determined that the invoiced product numbers, [no.] and [no.], respectively, were misclassified and fell within the scope of the AD/CVD orders.¹³ CBP rejected the entries, corrected the entry types, and notified Ikadan that the appropriate AD/CVD cash deposits were owed. Although CBP originally believed that these two entries contained products that fell within the scope of the AD/CVD orders, after further review of all the evidence on the record, CBP reversed this initial position.¹⁴

For the entries [no.]1828 and [no.]8260,¹⁵ CBP initially refrained from determining whether the products imported by Gaosai fell within the scope of the AD/CVD orders, pending further review. After reviewing all the evidence on the record, CBP ultimately determined that entry number [no.]8260 contained tribar floor products.¹⁶ However, CBP determined that entry number [no.]1828 did not contain covered merchandise.

On September 18, 2020, after evaluating the information on the record, including the CF-28s and cargo exams, CBP issued a "Notice of Initiation of Investigation and Interim Measures for Ikadan Systems USA, Inc. and Notice of Initiation of Investigation for Weihai Gaosai Metal Produce Co., Ltd. – EAPA Consolidated Case 7474" (NOI).¹⁷ The NOI informed the Importers and the Allegor of the initiation of the investigation and of CBP's decision to impose interim measures for Ikadan based upon a reasonable suspicion of evasion.¹⁸ The NOI also informed the Importers and the Allegor that the investigation had been consolidated and that the entries

⁹ See Ikadan CF-28 Response.

¹⁰ See Gaosai CF-28 Response.

¹¹ See entry summary documents for entry [no.]6958.

¹² See entry summary documents for entry [no.]8260.

¹³ See Ikadan CF-28 Response and entry summary documents for entry [no.]6958.

¹⁴ At the time of interim measures, CBP initially determined that the products specified in these two entries fell under the scope of the AD/CVD orders. However, upon further review of the scope and of the merchandise entered, CBP ultimately determined that this particular product fell outside the scope of the AD/CVD orders. As a result, CBP has issued a refund for the cash deposits paid for these particular entries and products.

¹⁵ See Gaosai CF-28 Response and entry summary documents for entry [no.]8260.

¹⁶ See Letter from CBP "Notice of Initiation of Investigation and Interim Measures for Ikadan Systems USA, Inc. and Notice of Initiation of Investigation for Weihai Gaosai Metal Product Co., Ltd. - EAPA Consolidated Case 7474," dated September 18, 2020, at 6. Although at the time of this communication, CBP withheld its determination as to whether any products within entry [no.]8260 were subject to AD/CVD, based on further analysis of the AD/CVD orders, CBP has determined that the tribar floors within this entry fall within the scope of the AD/CVD orders.

¹⁷ *Id.*

¹⁸ *Id.*; see also 19 USC 1517(e) and 19 CFR 165.24.

covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from May 26, 2019, through the pendency of this investigation.¹⁹ On October 14, 2020, CBP issued Request for Information (RFI) questionnaires to the Importers and Manufacturer requesting information relating to the imported tribar floors, including entry summary documents, production documents and mill certificates.²⁰ On October 29, 2020, the Importers and Manufacturer requested extensions to respond to the RFIs, and CBP granted the extension.²¹ On November 13, 2020, the Importers and Manufacturer submitted timely responses.²² The documentation received included information about the manufacturing process, inspection reports, and the Importers' entry summary documents.²³

On December 22, 2020, CBP issued supplemental RFIs to the Importers and Manufacturer.²⁴ On January 13, 2021, CBP received timely responses from the Importers and Manufacturer.²⁵

On February 16, 2021, TRLED placed Gaosai's scope ruling request to the Department of Commerce (DOC) on the record of the EAPA investigation.²⁶ In the filing, Gaosai requested that DOC determine whether the imports of pig farrowing crates, which contain numerous components, including flooring that is partly made of galvanized steel bar, were outside the scope of the AD/CVD orders. Gaosai also requested that DOC issue a scope ruling determining whether imports of farrowing floor systems, which is partly made of galvanized steel bar, were outside the scope of the AD/CVD orders. Gaosai argued that the tribar floors were outside of the scope for the following reasons: (1) unlike steel grates, Gaosai's tribar has been further manufactured into a downstream product through the self-supporting truss system consisting of leg fixtures made of flat steel angles and the bottom supports made of steel flat bar; and (2) the unambiguous plain meaning of the AD/CVD orders neither apply to Gaosai's pig farrowing crates that contain a tribar galvanized steel floor nor apply to Gaosai's farrowing floor systems.

¹⁹ See 19 CFR 165.2; see also 19 USC 1517(b)(5) and 19 CFR 165.13 (concerning the consolidation of allegations); see also 19 CFR 165.2. Entries covered by the POI include entries up to one year prior to the date CBP officially received the allegations, which was May 26, 2020.

²⁰ See Letter from CBP, "Request for Information – Ikadan System USA, Inc.," dated October 14, 2020; see also Letter from CBP, "Request for Information – Weihai Gaosai Metal Product Co., Ltd.," dated October 15, 2020.

²¹ See Email from CBP, "EAPA Cons. 7474 - RFI Extension Response," dated October 30, 2020.

²² See Letter from Ikadan, "Response to October 14, 2020 Request for Information Issued to Ikadan System USA Inc.; EAPA Case Number: 7474 (Certain Steel Grating from the People's Republic of China)," dated November 13, 2020 (Ikadan RFI Response). See also Letter from Gaosai, "Response to October 15, 2020 Request for Information Issued to Weihai Gaosai Metal Product Co. Ltd.; EAPA Case Number: 7474 (Certain Steel Grating from the People's Republic of China)," dated November 13, 2020 (Gaosai RFI Response).

²³ *Id.*

²⁴ See Letter from CBP, "Supplemental Request for Information – Ikadan System USA, Inc. ("Ikadan")," dated December 22, 2020; see also Letter from CBP, "Supplemental Request for Information – Gaosai," dated December 22, 2020.

²⁵ See Letter from Ikadan: "Response to December 22, 2020 Supplemental Request for Information Issued to Ikadan System USA Inc.; EAPA Case Number: 7474 (Certain Steel Grating from the People's Republic of China)," dated January 13, 2021 (Ikadan First Supplemental Response); see also Letter from Gaosai: "Response to December 22, 2020 Supplemental Request for Information Issued to Weihai Gaosai Metal Product Co., Ltd.; EAPA Case Number: 7474 (Certain Steel Grating from the People's Republic of China)," dated January 13, 2021 (Gaosai First Supplemental Response).

²⁶ See CBP Memorandum to the File, "Amended Scope Ruling Request for Weihai Gaosai Metal Product Ltd (Gaosai)," dated February 16, 2021. On November 13, 2020, the Importers voluntarily submitted scope ruling requests to DOC to determine if the galvanized tribar floors and cast iron floors should be within the scope of the AD/CVD orders. DOC rejected the initial scope request filings, but on February 4, 2021, accepted amended scope ruling request filings.

At the same time, Gaosai stated that Ikadan separately asked DOC to issue a scope ruling confirming that imports of ductile cast iron flooring for pig farrowing crates are outside the scope of the steel grating AD/CVD orders.²⁷

On February 23, 2021, CBP issued second supplemental RFIs to the Importers and Manufacturer.²⁸ CBP requested that the parties clarify the floor descriptions in the amended scope ruling request because the Importers and Manufacturer referred to the flooring in the farrowing crate systems in several different ways throughout the course of the EAPA investigation.²⁹ For example, CBP observed that the product description differed in the scope ruling requests, with the product being described either as galvanized tribar floor or tribar truss floor. Also, some of the commercial invoices describe the product as a [[product description](#)]. On February 26, 2021, the Importers and Manufacturer submitted timely responses.³⁰ The Importers and Manufacturer confirmed that the floors described as pig floor deck system, tribar truss floors and galvanized tribar floors are all the same product.³¹ On March 4, 2021, the Alleger submitted comments on the second supplemental responses,³² and on March 11, 2021, the Importers responded to the Alleger's comments.³³

On March 5, 2021, CBP notified the Importers and Alleger that CBP would extend the time to issue its determination as to evasion by 60 days to enable to Agency to fully understand the nature of the impact that the scope ruling requests may have had, if any, on the investigation.³⁴ CBP required additional time to ask questions of the parties to the investigation, as well as to properly review and analyze these novel issues. On March 24, 2021, CBP established the deadlines for submitting written arguments and responses to written arguments.³⁵ On April 19, 2021, the Importers timely submitted their Written Arguments.³⁶ On May 7, 2021, after an extension requested by the Alleger, the Alleger timely submitted a response to the written arguments filed by the Importers.³⁷

²⁷ *Id.*

²⁸ *See also* CBP Memorandum to the File, "Supplemental Questions - Ikadan," dated February 23, 2021; *see also* CBP Memorandum to the File, "Supplemental Questions - Gaosai," dated February 23, 2021.

²⁹ *Id.*

³⁰ *See* Letter from Ikadan, "Response to February 23, 2021 Supplemental Questions for Ikadan EAPA Case Number: 7474 (Certain Steel Grating from the People's Republic of China)," dated February 26, 2021, (Ikadan Second Supplemental Response); *see also* Letter from Gaosai, "Response to February 23, 2021, Supplemental Questions for Gaosai; EAPA Case Number: 7474 (Certain Steel Grating from the People's Republic of China)," dated February 26, 2021, (Gaosai Second Supplemental Response).

³¹ *Id.*

³² *See* Letter from Alleger, "EAPA Consolidated Case No: 7474 Hog Slat Response to Gosai and Ikadan Supplemental Questionnaire Responses," dated March 4, 2021.

³³ *See* Letter from Ikadan and Gaosai, "Rebuttal to March 4, 2021 Letter by Hog Slat, Inc. EAPA Case Number: 7474 (Certain Steel Grating from the People's Republic of China)," dated March 11, 2021.

³⁴ *See* Letter from CBP, "Notice of Extension of Determination as to Evasion," dated March 5, 2021.

³⁵ *See* Email from CBP, "EAPA 7474: Extension of Written Arguments Deadline," dated March 24, 2021. CBP issued an extension of written arguments notifying interested parties to the investigations on January 7, 2021; February 1, 2021; and March 24, 2021, respectively. On April 21, 2021, CBP received from the Alleger, an "Extension Request for Submission of Rebuttal Briefs in EAPA Consolidated Case No. 7474," and from the Importers, "Opposition of Ikadan and Gaosai to Hog Slat Extension Request EAPA Case No. 7474." CBP granted a three-day extension for submitting rebuttal briefs.

³⁶ *See* Letter from the Importers, "Ikadan and Gaosai Written Comments EAPA 7474," dated April 19, 2021.

³⁷ *See* Letter from Alleger, "EAPA Consolidated Case No. 7474: Hog Slat Rebuttal Brief," dated May 7, 2021.

The Importers' written arguments outlined the reasons why CBP should proceed with a negative determination and asserted that there was no substantial evidence supporting a determination of evasion. Additionally, the Importers stated that only DOC can interpret and clarify the scope of the AD/CVD orders and that CBP does not have the authority to make its own scope ruling while a DOC scope ruling proceeding on the same merchandise is pending.³⁸

Analysis

Under 19 USC 1517(c)(1)(A), 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."³⁹ 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."⁴⁰ As discussed below, the record of this investigation, supported by substantial evidence, indicates that covered merchandise entered into the customs territory of the United States through evasion.

The entry documents provided in the Importers' responses to CBP's first RFIs indicated that the imported farrowing crates are assigned a Gaosai [[project code with layout](#)].⁴¹ Each project design has a specific number of the tribar floors along with other essential parts. One (1) set of farrowing crates consists of the [[part descriptions](#)

[[part descriptions](#)],⁴² Gaosai demonstrated that in its production process the [[parts description and making process](#)] which are cut to a certain length.⁴³ For example, the project layout for [[project code no.](#)] calls for [no.] galvanized tribar floors,⁴⁴ the project layout for [[project code no.](#)] calls for [no.] tribar floors⁴⁵ and the project layout for [[project code no.](#)] calls for [no.] tribar floors.⁴⁶

In its first supplemental RFI response, Ikadan demonstrated that monetary transactions between itself and the Manufacturer show payment amounts corresponding to the invoice numbers, which also appear to be [[project code no. with layout](#)] that Ikadan and the

³⁸ *Id.*

³⁹ 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)).

⁴⁰ *See* 19 CFR 165.1; *see also* 19 USC 1517(a)(5)(A).

⁴¹ *See* Ikadan RFI Response at Exhibit 17.24, at pages 5, 10 and 12 and Exhibit 17.23_Part2 at pages 42-43. *See also* Gaosai RFI Response at Exhibit 3.5 Entry Final_Part3, at page 91-94, and Exhibit WG-15 - Entry Documentation - Entry 2.5, pages 42 and 96-103 and Gaosai First Supplemental Response at Gaosai Supp RFI Combined Narrative Exhibits_Part1, at 3.

⁴² *See* Gaosai RFI Response at Exhibit 5.5 Entry Final_Part1, at pages 92-95.

⁴³ *See* Gaosai RFI Response at Exhibit WG-15 - Entry Documentation - Entry 8.5, at page 62.

⁴⁴ *See* Gaosai RFI Response at Exhibit WG-15 Entry Documentation - Entry 1.5, page 96.

⁴⁵ *Id.* at Exhibit WG-15 Entry Documentation - Entry 2.5, page 100

⁴⁶ *Id.* at Exhibit WG-15 - Entry Documentation - Entry 8.5, page 124.

Manufacturer agreed to when committing to the contract. For example, for invoice [no.], Ikadan paid the Manufacturer on August 9, 2019.⁴⁷ Invoice [no.] matched with a mill certificate that showed shipment entry number [no.]1304 containing materials such as [part description] to make the tribar floors. The mill certificate remarks for the production of the tribar floor stated “We (Gaosai) buy [part description] from a trading company and produce [part description with making process]. Then we use the [part description].”⁴⁸ Invoice [no.] matching the mill certificate associated with entry number [no.]7668 also indicated that [parts description] was used to make tribar floors.⁴⁹

The evidence in the product pictures and drawings provided in the RFI responses confirmed that all farrowing crate flooring produced by Gaosai consists of [part description] in the center and [part description] on both sides of the flooring.⁵⁰ The tribar flooring consists of [part description] welded together. Furthermore, Gaosai explained in its production process that the welding process is an essential step in producing the tribar floors.⁵¹

Although Ikadan claimed that no tribar floors were imported during the POI, evidence on the record shows that of [no] entry lines reviewed, [no.] of them contained either farrowing crates or tribar floors as the imported product listed on the commercial invoices.⁵² In addition, the image of a fully assembled farrowing crate unit and the [layout], along with purchase order details submitted to the Manufacturer, clearly indicate that the tribar floors are part of the crate unit.⁵³ In addition, the RFIs described the Gaosai production process as requiring [part description] that consist of the tribar floors.⁵⁴ Therefore, the [part description] must be imported to complete the project as designed, since the project designed requires [part description].

For Gaosai imports, evidence on the record shows that of [no] Gaosai entries, [no] entry lines contained either farrowing crates or tribar floors as the imported product listed on the commercial invoices classified under HTSUS 7308.90.9590.⁵⁵ In its RFI responses, Gaosai stated that, of the entries in question, only entry numbers [no.]0608 and [no.]1939 contained tribar flooring.⁵⁶ However, the commercial invoices and packing lists for both entries disclosed the descriptions as “farrowing crates,” with no indication of whether the shipments contained tribar flooring. Nevertheless, as stated earlier, the Manufacturer indicated that all

⁴⁷ See Ikadan RFI Response at Exhibit I-12.

⁴⁸ *Id.* See also, a Letter from Ikadan: “Mill Certificate Response to December 22, 2020 Supplemental Request for Information Issued to Ikadan System USA Inc.; EAPA Case Number: 7474 (Certain Steel Grating from the People’s Republic of China),” dated January 19, 2021, at Exhibit B Tribar Flooring Mill Certificates.

⁴⁹ See Ikadan First Supplemental Response at Exhibit SI-4a Tribar Flooring Mill Certificates (Part 1) and Exhibit SI-4b Tribar Flooring Mill Certificates (Part 2). See also Ikadan RFI Response at Exhibit I-12.

⁵⁰ See Gaosai RFI Response at Exhibit WG-15 - Entry Documentation - Entry 2.5, at pages 42, 96-103.

⁵¹ See Gaosai RFI Response at Exhibit WG-15 - Entry Documentation - Entry 8.5, at page 62.

⁵² See Ikadan RFI Response at Exhibits 17.2, 17.5, 17.6, 17.14, 17.15, 17.16 and 17.24.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See Gaosai RFI Response at Exhibits WG-15 1.5, WG15-2.5, WG15-3.5, 5.5 Entry Final_Part1 and WG-15 8.5.

⁵⁶ See Gaosai First Supplemental RFI Response at Gaosai Supp RFI Combined Narrative Exhibits_Part1, at page 3, for information on entry summary numbers [no.]0608 and [no.]1939.

farrowing crates which the Importers approved of and imported were [[part description](#)].⁵⁷

After reviewing all the evidence on the record, CBP found that the tribar floors portion of the imported farrowing crate systems is covered merchandise. Because CBP determined that the evidence on the record clearly demonstrated that the tribar floors properly fell within the scope of the AD/CVD orders, CBP was not required to make a scope referral to DOC in this investigation.⁵⁸ CBP determined that the galvanized tribar floors fell within the scope of the AD/CVD orders because the tribar floors are made with [[part description and the making process](#)], making it a product of two or more pieces of steel joined together by welding. The scope of the AD/CVD orders covers “certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process...;” thus, the tribar floors meet the scope definition.⁵⁹ Also, the scope does not include any exclusions that apply to the tribar floors.⁶⁰

The RFI responses show that tribar floors are an [[description](#)] of the farrowing crate systems being imported into the United States and that the Importers regularly import tribar floors, listing them under the description “parts for farrowing crates” rather than separately listing the tribar floors and declaring them as subject to the AD/CVD orders. CBP entry data confirms this as well. Thus, substantial evidence on the record indicates that the Importers entered tribar floors, which is covered merchandise, into the customs territory of the United States through evasion.

As for the allegations of transshipment from China to Korea and/or misclassification of steel grating as plastic to evade the AD/CVD orders, CBP found no evidence of either of these evasion schemes during the POI.⁶¹

⁵⁷ See Gaosai RFI Response at Exhibits WG-15 1.5, WG15-2.5, WG15-3.5, 5.5 Entry Final Part I and WG-15 8.5.

⁵⁸ CBP is not required to initiate a scope referral to the Department of Commerce. Rather, CBP will initiate a referral only if the Agency is unable to determine whether the imported merchandise properly falls within the scope of the relevant AD/CVD order. See 19 CFR 165.15(a); see also 19 CFR 165.16.

⁵⁹ See Allegations at 5-6 and Attachments 2-3.

⁶⁰ *Id.* After the record closed in this investigation, DOC issued decisions, dated May 11, 2021, and May 13, 2021, on the Importers’ scope referral requests. However, CBP did not place those decisions on the administrative record of this investigation because regulatory timeframes for considering new factual information did not allow for the regulated amount of time for comments nor would it have allowed CBP to issue its determination as to evasion in accordance with statutory deadlines.

⁶¹ See Allegations at 3-5 and Attachment 4.

Actions Taken Pursuant to the Affirmative Determination as to Evasion

In light of CBP's determination that the Importers entered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the liquidation for the entries imported by the Importers and subject to EAPA Cons. Case Number 7474, until instructed to liquidate. For those entries previously extended and for all future entries subject to EAPA Cons. Case Number 7474, CBP will rate adjust and change those entries to type 03, using the "all others" AD/CVD rates for China unless DOC determines a separate rate applies to that entry, and continue suspension until instructed to liquidate. CBP will also evaluate the Importers' continuous bonds 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.

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