



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

**PUBLIC VERSION**

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VIA EMAIL

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RE: Notice of Initiation of Investigation Taken as to Acmetex, Inc. and New Fire Co., Ltd.  
concerning Evasion of Antidumping and Countervailing Duty Orders on Amorphous Silica  
Fabric from the People's Republic of China - EAPA Consolidated Case Number 7675

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

This letter is to inform you that U.S. Customs and Border Protection ("CBP") has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act ("EAPA"), for Acmetex, Inc. ("Acmetex") and New Fire Co., Ltd. ("New Fire"). CBP is investigating whether Acmetex and/or New Fire has evaded antidumping duty ("AD") and countervailing duty ("CVD") orders

A-570-038 and C-570-039<sup>1</sup> on amorphous silica fabric (“silica fabric”) produced in the People’s Republic of China (“China”). CBP found that the evidence reasonably suggests that Acmetex and New Fire entered covered merchandise for consumption into the customs territory of the United States through evasion and as a result, CBP is issuing a formal notice of investigation.

### Period of Investigation

Pursuant to 19 C.F.R. § 165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation....” Entry is defined as an “entry, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”<sup>2</sup> CBP acknowledged receipt of the properly filed EAPA allegation against Acmetex and New Fire on December 1, 2021.<sup>3</sup> The entries covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from December 1, 2020, through the pendency of this investigation.<sup>4</sup>

### Initiation

On October 18, 2021, Auburn Manufacturing, Inc. (“AMI”), a domestic producer of silica fabric,<sup>5</sup> filed EAPA allegations through its counsel. AMI claims Acmetex evaded AD and CVD orders A-570-038 and C-570-039<sup>6</sup> on silica fabric produced in China by misclassifying covered silica fabric as “glass cloth fiber” and/or transshipping covered silica fabric from China through Canada to the United States without declaring it as covered merchandise or paying relevant AD and CVD duties.<sup>7</sup> AMI also alleges that New Fire evaded the aforementioned orders by falsely declaring covered silica fabric as “glass cloth fiber.”<sup>8</sup> Because this glass fiber cloth purportedly does not contain a minimum of 90 percent silica by nominal weight, it would not be covered by the scope.<sup>9</sup>

Among other technical criteria, according to the AD and CVD orders cited above, the covered merchandise includes the following:

The merchandise covered by these AD and CVD orders include woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO<sub>2</sub>) by nominal weight, and a nominal width in excess of 8 inches. The orders cover industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of

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<sup>1</sup> See *Certain Amorphous Silica Fabric From the People's Republic of China: Antidumping Duty Order*, 82 Fed. Reg. 14,314 (Mar. 17, 2017); *Certain Amorphous Silica Fabric From the People's Republic of China: Countervailing Duty Order*, 82 Fed. Reg. 14,316 (Mar. 17, 2017), respectively.

<sup>2</sup> See 19 U.S.C. § 1517(a)(4); see also 19 CFR 165.1.

<sup>3</sup> See email entitled, “Receipt of EAPA Allegation 7675 - Acmetex, Inc.” (Dec. 1, 2021) and “Receipt of EAPA Allegation 7676 - New Fire Co., Ltd.” (Dec. 1, 2021).

<sup>4</sup> See 19 CFR 165.2.

<sup>5</sup> As a U.S. producer, AMI meets the definition of an interested party that may file an EAPA allegation, pursuant to 19 CFR 165.1(2).

<sup>6</sup> See AMI’s EAPA allegation pertaining to Acmetex dated October 18, 2021 (Acmetex Allegation); also see AMI’s EAPA Allegation pertaining to New Fire dated October 18, 2021 (New Fire Allegation).

<sup>7</sup> See AMI’s EAPA Acmetex allegation at 1.

<sup>8</sup> See AMI’s EAPA New Fire allegation at 1.

<sup>9</sup> See Acmetex allegation and New Fire Allegation at 4.

weight, width (except as noted above), or length. The orders cover industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

### Description of the Alleged Evasion Scheme

AMI asserts that Acmetex, which is located in Canada, has been evading the AD and CVD orders by claiming that it imports non-subject fiberglass fabric (a/k/a glass fiber cloth) rather than silica fabric which is covered merchandise. AMI executed an [ Database ] search and discovered that Acmetex appeared to be importing glass fiber cloth from New Fire for many years.<sup>10</sup>

Based on [ Database ] trade data, AMI believes that New Fire is the “exporter and non-resident importer.”<sup>11</sup> AMI asserts that New Fire, which is located in China, has been evading the AD and CVD orders by claiming to import fiberglass fabric rather than covered silica fabric. [ Database ] trade data further suggests that New Fire has been importing and exporting glass fiber cloth for many years.<sup>12</sup>

AMI [ contacted ] a purchaser of silica fabric from New Fire. As shown in the declaration of Kathie Leonard, President and CEO of AMI, AMI's [ contact took action ].<sup>13</sup> The following is a summary of communications with the New Fire representative:

- New Fire offered to sell to [ AMI's Contact ] 0300S02 and 0300S04.<sup>14</sup> Both are high silica fabric products.
- During the discussions, the representative from New Fire indicated that New Fire is selling [ amount of product in place because of government action ].<sup>15</sup>
- Consequently, the New Fire representative recommended that [ purchase [ product ] ].<sup>16</sup>
- [ AMI's Contact ] then stated that they needed [ Product description ].<sup>17</sup>
- The representative from New Fire recommended, “[ source from place ]?” [ AMI's Contact ] then told the representative from New Fire that they had no idea how to do that because they do not have a facility in [ Place ]. [ Pronoun ] then told [ AMI's Contact ], “we have a corporation in [ Place ].” When pressed, [ AMI's contact ] said [ Pronoun ] would not elaborate, only saying they have an office in [ Place ]. This led both [ AMI's contact ] and AMI to believe that New Fire was advocating that [ AMI's contact ] purchase [ product ] from [ company ] in

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<sup>10</sup> See Acmetex allegation at 4 and Exhibit 1, [ Database ] data supplied by AMI.

<sup>11</sup> See New Fire Allegation at 2 and Exhibit 1, [ Database ] data supplied by AMI.

<sup>12</sup> *Id.*

<sup>13</sup> See Acmetex allegation at 5 and Exhibit 2.

<sup>14</sup> *Id.* at 5 and Exhibits 3 and 4, Product brochures New Fire supplied to [ AMI's contact ].

<sup>15</sup> *Id.* at 5 and Exhibit 5 (Attachment 9).

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

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

- [ **Place** ], which in turn would evade the Orders [ **description of evasion scheme** ].<sup>18</sup>
- In subsequent conversations, the New Fire representative offered [ **AMI's contact** ] the [ **product and pricing** ].<sup>19</sup>
  - The New Fire representative then added: [ **description of evasion scheme** ].<sup>20</sup> This indicated to [ **AMI's contact** ] and AMI that New Fire would [ **description of evasion scheme** ], in order to evade the AD and CVD orders.
  - In a subsequent communication, the New Fire representative [ **changed behavior** ]. Contrary to earlier correspondence, the New Fire representative stated the following to [ **AMI's contact** ]: “[ **business activity regarding type of product** ].” The New Fire representative [ **provided documents and described business activity** ]. She said she would [ **perform business activity** ].<sup>21</sup>

As stated above, the New Fire representative indicated that it has an office or corporation in [ **Place** ], through which [ **AMI's contact** ] could purchase [ **product** ]. Based on [ **AMI's contacts action** ], AMI believes that Acmetex is evading the AD and CVD orders by misclassifying covered silica fabric or transshipping covered silica fabric through Canada to the United States.

In addition, the New Fire representative [ **description of conversation regarding business activity** ] allegedly lower silica content fabric from a U.S. company, Techniweld USA LLC (“Techniweld”).<sup>22</sup> Because New Fire [ **description of business activity** ] of Techniweld material, AMI believes that Techniweld sells subject merchandise in the United States [ **business activity** ]. As such, AMI attempted to determine whether Techniweld actually offered a lower silica product (up to 90% silica content) for sale in the United States. But based on AMI’s research, what it learned is that Techniweld is selling what it claims to be a “fiberglass” fabric that is in fact high silica fabric. Specifically, Techniweld’s website provides further evidence of this as it describes the material for its purported lower silica product as “fiberglass,” but subsequently calls the same product “high silica.”<sup>23</sup>

The following is a summary of [ **researcher** ] findings:<sup>24</sup>

- Acmetex may be owned or controlled in part by [ **company** ]. The registration for a Chinese website, [ **website** ], has the same address as [ **company** ].<sup>25</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 5, [ ]

<sup>20</sup> *Id.* at 5 and Exhibit 5 (Attachment 10).

<sup>21</sup> See New Fire allegation at 5.

<sup>22</sup> *Id.* and Exhibit 5 (Attachment 1).

<sup>23</sup> *Id.* and Exhibit 7, [http://store.techniweldusa.com/All-Brands/WeldingBlankets/183650SIL\\_2](http://store.techniweldusa.com/All-Brands/WeldingBlankets/183650SIL_2)

<sup>24</sup> See Acmetex allegation at 5-6 and Exhibit 5 (Attachments 1-10).

<sup>25</sup> *Id.* at 5 and Exhibit 5 (Attachment 1).

- [ **Name** ] identified a Chinese entity named [ **company** ], with the same address as [ **company**]. It was incorporated on [ **date** ] and is wholly owned by another company named [ **company** ], whose majority shareholder is [ **name** ].<sup>26</sup>
- [ **Name** ] was listed as the registrant of [ **company** ] website.<sup>27</sup>
- [ **Company place** ] is linked to the [ **Company place** ]:
  - [ **Name** ], director of [ **company** ], is likely to be affiliated with a company in China called [ **company** ] that shares the same address as [ **company** ].<sup>28</sup>
- It appears that [ **company** ] provides [ **product** ] for sale as well.<sup>29</sup>
- [ **company** ] website shows a [ **picture** ]. This [ **picture** ] is identical to the [ **picture** ] shown on the Chinese [ **company** ] website and the [ **picture** ] shown on the website of [ **company** ] - a company linked to director of [ **company** ].<sup>30</sup>

In addition to higher silica content fabric, AMI also noted that New Fire’s website indicates that it sells a lower silica content fabric.<sup>31</sup> The product codes for both products start with either a 0300S02 or 0300S04. Notably, the physical characteristics, *i.e.*, thickness and weight, of the high silica products and the lower silica product appear to be very similar as described in New Fire’s catalog. As stated in Ms. Leonard’s affidavit, due to the inverse relationship of silica content and weight, a mid-silica product must weigh more than a high-silica product.<sup>32</sup> Thus, it is impossible for New Fire to have a mid-silica fabric of the same thickness weigh less than the equivalent high silica fabric. Consequently, AMI asserts that no difference exists between the two products – high silica fabric and lower silica fabric that New Fire imports. Instead, AMI believes that the allegedly lower silica product is the same as the higher silica product. However, AMI claims New Fire changed the specification sheet to indicate that the silica content and the service temperature are different.

Based on the recommendation from New Fire that [ **AMI's contact** ] purchase [ **product** ] from its [ **company place** ], coupled with Acmetex’s [ **company relationship** ], AMI believes that Acmetex is purchasing covered silica fabric from New Fire and exporting it to the United States without declaring it as covered merchandise or paying relevant AD and CVD duties. AMI also alleges that New Fire may be importing covered silica fabric directly into the United States and not paying the relevant AD and CVD duties.

The Trade Remedy Law Enforcement Directorate (TRLED) will initiate an investigation if it determines that “[t]he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United

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<sup>26</sup> *Id.* at 5-6 and Exhibit 5 (Attachments 3-6).

<sup>27</sup> *Id.* at 6 and Exhibit 5 (Attachment 4).

<sup>28</sup> *Id.* at 6 and Exhibit 5 (Attachments 5-7).

<sup>29</sup> Website: [ **website** ].

<sup>30</sup> See Acmetex allegation at 6 and Exhibit 5 (Attachment 8)

<sup>31</sup> See New Fire allegation at 5 and Exhibit 6.

<sup>32</sup> *Id.* and Exhibit 2.

States through evasion.”<sup>33</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 or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”<sup>34</sup> Thus, the allegation must reasonably suggest not only that the importer entered merchandise subject to an AD and/or CVD order into the United States, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the claims made and evidence provided in the allegations, TRLED found the allegations reasonably suggested that Acmetex has evaded AD order A-570-038 and CVD order C-570-039 by importing Chinese-origin silica fabric into the United States that was misclassified and/or transshipped through Canada and by failing to declare the merchandise was subject to the AD/CVD orders. TRLED also found the allegations reasonably suggested that New Fire has evaded the same AD/CVD orders by importing Chinese-origin silica fabric into the United States that was misclassified. Specifically, AMI submitted documentation reasonably available to it, including company-specific shipment data sourced from [ Database ], a sworn declaration from the President and CEO of AMI regarding the technical specifications of silica fabric, and a sworn declaration from a research and investigations firm containing information regarding New Fire sales and the apparent affiliations between Acmetex and New Fire.

#### CF-28 Responses

After initiation of these EAPA investigations, CBP issued Customs Form 28 (CF-28) to Acmetex for entries made during the period of investigation regarding glass fiber cloth. Acmetex emailed an inquiry on February 8, 2022, advising the Center of Excellence and Expertise that entry number [ Prefix ]7126 had an error in the Country of Origin (COO).<sup>35</sup> Acmetex reported the COO should have been reported as China rather than Canada. Acmetex indicated it would submit a post summary correction (PSC) to rectify the error.

Acmetex provided a formal response to the CF-28s on March 2, 2022, and March 4, 2022.<sup>36</sup> Among its responses and in addition to providing technical specifications for the composition of each entry, Acmetex specified that they purchased finished fiber glass cloth from New Fire, for entry number [ Prefix ]7126 and the same product from [ company ] for entry number [ Prefix ]0469<sup>37</sup>. For both entries, Acmetex acted as Importer of Record (IOR) in the sale of these products to other entities. With respect to manufacturing and production, Acmetex indicated that “it just purchase the finished fabrics from the manufacture as is, manufacture don’t give their production and financial information to us.”<sup>38</sup>

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<sup>33</sup> See 19 C.F.R. § 165.15(b); see also 19 U.S.C. § 1517(b)(1).

<sup>34</sup> See 19 C.F.R. § 165.1; see also 19 U.S.C. § 1517(a)(5)(A).

<sup>35</sup> See Email inquiry from [ Name ] (Feb. 8, 2022).

<sup>36</sup> See Acmetex’s CF-28 Responses for entry numbers [ Prefix ]0469 (Mar. 2, 2022) and [ Prefix ]7126 (Mar. 4, 2022).

<sup>37</sup> *Id.*

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

CBP also issued CF-28s to New Fire for entries made during the period of investigation regarding fiberglass cloth. New Fire responded to the CF-28s on February 8, 2022, and February 9, 2022.<sup>39</sup> New Fire's responses consisted of technical data contained in a single spreadsheet for each entry, including product name, the number of yarns per centimeter, dimensions and value.

### Consolidation of the Investigations

CBP is consolidating the investigations involving Acmetex and New Fire into a single investigation covering both importers. The new consolidated case number will be EAPA Consolidated Case 7675, and TRLED will maintain a single administrative record. At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation, pursuant to 19 C.F.R. § 165.13(b), which provides that:

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

In these investigations, Acmetex and New Fire are alleged to have entered suspected Chinese-origin silica fabric through Canada to the United States and/or have misclassified said merchandise; the merchandise is covered by the same AD/CVD orders. Their entries also fall within a common period of investigation. Moreover, the imports during the period of investigation originated from the same Chinese exporter. CBP found that the factors warranting consolidation are present in the investigations of Acmetex and New Fire, and therefore CBP is consolidating them and providing this notice pursuant to 19 C.F.R. § 165.13(c). We note that the deadlines for the consolidated investigation will be set from the date of initiation of both investigations, which is December 22, 2021.<sup>40</sup>

### Notice of Investigation

Pursuant to 19 CFR 165.15(d)(1), CBP will issue notification of its decision to initiate an investigation to all parties to the investigation no later than 95 calendar days after the decision has been made, and the actual date of initiation will be specified therein. Based on the information described herein, TRLED has initiated an investigation concerning the evasion of the AD and CVD orders on silica fabric produced in China (A-570-038 and C-570-039, respectively).

The information in the allegations and supporting evidence all reasonably suggest that Acmetex and New Fire entered covered merchandise for consumption into the customs territory of the United States through evasion, and thus, such covered merchandise should have been subject to the applicable AD and CVD duties on silica fabric from China.

For any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a business confidential version and a public version with a public

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<sup>39</sup> See New Fire's CF-28 Responses for entry numbers [Prefix] 7376 (Feb. 8, 2022) and [Prefix] 1292 (Feb. 9, 2022).

<sup>40</sup> See, e.g., 19 C.F.R. § 165.13(a).

summary<sup>41</sup> using the EAPA Case Management System (CMS), found at <https://eapallegations.cbp.gov>. All public versions will be accessible to the parties to the investigation via the CMS.<sup>42</sup>

Should you have any questions regarding this investigation, please feel free to contact us at [eapallegations@cbp.dhs.gov](mailto:eapallegations@cbp.dhs.gov). Please include “EAPA Cons. Case Number 7675” in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP’s website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

Sincerely,



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

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<sup>41</sup> See 19 C.F.R. §§ 165.4, 165.23(c), and 165.26.

<sup>42</sup> You will need a login name and password to use the CMS. The website will direct you how to obtain those.