



**PUBLIC VERSION**

December 20, 2022

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**Re: Notice of Determination as to Evasion – EAPA Case Number 7699**

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To the Counsel for the Above-Referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (“EAPA”) case number 7699, U.S. Customs and Border Protection (“CBP”) has determined that there is substantial evidence that C.I.S. Investments, LLC d/b/a Triangle Metals (“CIS” or “the Importer”) entered merchandise covered by the antidumping duty (“AD”) order A-570-067 and countervailing duty (“CVD”) order C-570-068 (“the Orders”) into the customs territory of the United States through evasion.<sup>1</sup> Substantial evidence demonstrates that CIS imported forged steel fittings (“FSF” or “covered merchandise”) from the People’s Republic of China (“China”) into the United States after transshipping the merchandise through Indonesia, Sri Lanka, and Thailand. The Importer did not declare that the merchandise was subject to the Orders upon entry and, as a result, no cash deposits were collected on the merchandise at time of entry.

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<sup>1</sup> See *Forged Steel Fittings from Italy and the People’s Republic of China: Antidumping Duty Orders*, 83 FR 60397 (November 26, 2018) (AD Order) and *Forged Steel Fittings from the People’s Republic of China: Countervailing Duty Order*, 83 FR 60396 (November 26, 2018) (CVD Order). We refer to these collectively as “the Orders”.

## Background

On January 24, 2021, Flatlands Holdings, LLC d/b/a RK Supply, LLC (“RK” or “the allegor”) filed an EAPA allegation<sup>2</sup> alleging that U.S. importer CIS evaded the Orders. According to RK, Kingtrans Container Line (Shenzhen) Co. Ltd. (“Kingtrans”), a Chinese logistic and shipping company, openly advertised sending Chinese-made products to third countries in South and Southeast Asia to change the country-of-origin markings without any further processing. The allegation also provided documents from Kingtrans’ website showing that Kingtrans specifically transships through Sri Lanka.<sup>3</sup> The allegation further described a transshipment scheme in which CIS imported Chinese-origin FSF from the Indonesian supplier PT Satria Tunas Persada (“Satria”); a Thai supplier, Siam Innovation Goods (“SIG”); a Sri Lankan manufacturer, Eastborn Pvt., Ltd. (“Eastborn”); and another Sri Lankan supplier, EFL Global, Ltd. (“EFL”).<sup>4</sup>

To support its allegation, RK provided trade data from [ **Company** ], a trade data subscription company, showing that CIS imported FSF from the four foreign manufacturers/suppliers listed above.<sup>5</sup> The allegation also included trade data showing imports of Chinese FSF into Sri Lanka prior to exportation from Sri Lanka to the U.S.<sup>6</sup>

To further support the allegation, the allegor also provided CBP with information indicating that Eastborn is not a legitimate FSF producer. RK provided CBP a material test report for FSF it purchased from CIS. This document was issued by Eastborn and signed by [ **Name** ], an employee of Jiangsu Forged Steel Fittings, Ltd. (“Jiangsu”), a Chinese producer subject to the Orders.<sup>7</sup> This indicates that the products listed on the mill test certificate were likely produced in China by Jiangsu, not in Sri Lanka by Eastborn, as claimed on the mill test certificate.

RK also furnished CBP with screenshots of EFL’s website showing that the company is a logistics firm, not a manufacturer. Additionally, the allegor provided information about SIG showing that this supplier’s only web presence consists of a Facebook profile that does not list FSF as a product SIG makes. RK also provided a Google Maps image of SIG’s address showing a residential building.<sup>8</sup> The allegation also included a Google Street View screenshot of Satria’s address showing a small bamboo building not large enough to house manufacturing or testing facilities.<sup>9</sup> RK’s allegation further provided CBP with screenshots of a Satria employee’s Facebook page to show that this employee’s only “friend” is Allen Fang, an account manager at Jiangsu.<sup>10</sup> This information taken together indicates that Satria does not have capacity to manufacture FSF and may have a relationship or affiliation with the same Chinese producer whose employee is listed on the apparently fraudulent Eastborn mill test certificate described above.

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<sup>2</sup> See RK’s Letter, “Enforce and Protect Act (EAPA) Allegation Letter – Alleged Evasion of AD/CVD Order A-570-067 and C-570-068” dated January 24, 2022 (“allegation”).

<sup>3</sup> *Id.* at Exhibit C and Exhibit D

<sup>4</sup> *Id.* at 2-6.

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

<sup>6</sup> *Id.* at 9 and Exhibit E.

<sup>7</sup> *Id.* at 10 and Exhibit I.

<sup>8</sup> *Id.* at 14 and Exhibit S.

<sup>9</sup> *Id.* at Exhibit Q.

<sup>10</sup> *Id.* at 13 and Exhibit O.

CBP officially received this allegation on January 26, 2022.<sup>11</sup> On February 16, 2022, CBP initiated an 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”).<sup>12</sup>

### *CF-28 Response and Analysis*

On February 23, 2022, CBP issued a CBP Form 28 Request for Information (“CF-28”) for entries [ # ]5335, [ # ]6020, [ # ]9055, [ # ]4361, [ # ]7100, and [ # ]5344, [ # ]0690, [ # ]3959, and [ # ]3616 to CIS. CBP asked CIS to provide factory profiles, business registrations, details about production capabilities, equipment, employee timecards, physical locations, mailing addresses, turnaround times on orders, the names and nationality of all senior managers, and export documentation for all its suppliers. CBP also requested purchase orders, bills of lading, invoices, and bank statements or money orders showing proof of payment for each entry. On April 5, 2022, CIS provided its CF-28 response for entries [ # ]602-0, [ # ]533-5, [ # ]361-6, and [ # ]710-0. On April 12, 2022, CIS provided its response for entry numbers [ # ]395-9, [ # ]069-0, [ # ]436-1, [ # ]905-5, and [ # ]534-4.<sup>13</sup>

### Sri Lanka

CIS provided a factory profile for Eastborn that included a photo of the exterior of Eastborn’s factory building, a production flow chart, and some photos of machinery. However, none of the photos show any of the equipment in use, except for one image of a pipe fitting being welded. (Notably, welding is not listed as a step in Eastborn’s production process on the production flow chart that CBP requested, and CIS provided). CIS also provided shipping documents for the sale and transportation of covered merchandise from Eastborn to CIS. However, CIS did not provide turnaround times on orders, capacity information, or employee timecards for Eastborn, all information that was requested in the CF-28. The factory profile shows a building that is different from the building shown in the allegation, but the CF-28 response did not indicate any address other than the one the allegor provided in the allegation, which is a small storefront. CIS provided an exporter registration, rather than a copy of Eastborn’s business registration as requested in the CF-28.<sup>14</sup>

### Thailand

CIS’ response indicated that SIG was not the manufacturer for any of the entries covered by the CF-28s. Instead, SIG purchased pipe fittings from a Thai manufacturer called [ company name ] (“the Thai Manufacturer”) and resold the covered merchandise to CIS. CIS

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<sup>11</sup> See CBP email “RE: EAPA Allegation No. 7699” dated January 26, 2022 (receipt email).

<sup>12</sup> See CBP email “EAPA 7699 (forged Steel fittings) – initiation of investigations – CONTAINS BCI” dated February 16, 2022, and CBP Memorandum “Initiation of Investigation for EAPA Case Number 7699” dated February 16, 2022 (initiation memo).

<sup>13</sup> See CIS’ Letter “RE: CBP Form 28 Request for Information (Dated April 1, 2020) Entry No. DQ1-0242]710-1 (July 10, 2019) CIS Investments, LLC” dated June 8, 2020 (CF-28 Response [ # ]710-0); CIS’ Letter “CBP Form 28 Request for Information (dated Feb. 23, 2022) C.I.S. Investments, LLC” (CF-28 Response [ # ]533-5); we refer to these collectively as (“the CF-28 responses”).

<sup>14</sup> *Id.* at Exhibit B.

provided a business registration for SIG, but it was in Thai and only a few words were translated into English.<sup>15</sup> CIS also provided shipping documents tracing its purchase of FSF from the Thai Manufacturer, and the names of key company officials at SIG.<sup>16</sup> However, CIS did not directly state what production capacity SIG has for producing FSF, if any. Nor did CIS provide production capacity for SIG’s supplier, the Thai Manufacturer. CIS did not provide a description of the Thai Manufacturer’s turnaround time, but production documents CIS provided in its CF-28 response indicate that this producer takes [ # ] to [ # ] days to complete an order. CIS did not provide employee timecards, a business registration, or any information about the Thai Manufacturer’s management.<sup>17</sup>

## Indonesia

CIS provided a factory profile including pictures of a factory building, pictures of some equipment, and a general production process flow chart for its Indonesian supplier, Satria. This factory profile also indicated that Satria’s mailing address and physical address are the same. CIS provided invoices from Satria’s supplier of pipe, [ company name ] and material test reports for the pipe from this supplier. However, CIS provided none of the other documents CBP requested (a list of company officials and their nationality, a business registration, employee timecards, turnaround time on orders). Notably, no documents CIS provided in its CF-28 response demonstrate that Satria even exists as a legally registered company in Indonesia.<sup>18</sup>

## *Other Research Conducted by CBP*

### Thailand

On February 22, 2022, CBP officials visited SIG’s address in Thailand where they discovered a residential building that was apparently unoccupied because there were no lights on inside the building and the mailbox was overflowing with unretrieved mail. These officials also obtained trade data from [ source ] on [ description of data ] of the harmonized schedule (“HS”) codes that include merchandise covered by the Orders. This trade data indicates that [ description of trade data ] into Thailand from China, [ description of data ] of merchandise classified under [ description of data ] HS codes as it imported. Most export shipments were within [ time period ] and therefore, were [ description of data ] for any manufacturing or processing that would constitute a substantial transformation to occur. For example, one shipment [ description of pattern ].<sup>19</sup>

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<sup>15</sup> See CF-28 Response [ # ]395-9 at Exhibit B1-2 and [ # ]533-5 at Exhibit B1-2.

<sup>16</sup> *Id.* at Exhibit A1-1 to Exhibit A1-9.

<sup>17</sup> *Id.* at Exhibit B1-3.

<sup>18</sup> See CF-28 Response [ # ]361-6 at Exhibit B2-1 to Exhibit D2-1 and [ # ]602-0 at Exhibit B3-1 to Exhibit D3-2.

<sup>19</sup> See TRLED Memorandum, “[source] Trade Data and Site Visit” Dated April 15, 2022 (“April 15 Memo”).

## Indonesia

On May 2, 2022, CBP officials attempted to conduct a drive-by site visit to Satria's factory in Indonesia. CBP officials drove to the village of Sukaseuri Barat, where the company claims to be located on shipping documents. (Notably, these documents do not list a street name or building number for this purported factory). CBP officials located the sub-district ("kecamatan" in Indonesian) where the factory is located but observed no factory buildings or office buildings. These officials asked several residents of the sub-district where Satria was located, but none of the residents questioned by CBP had heard of the company.<sup>20</sup> CBP was unable to conduct site visits in Sri Lanka during the period of this investigation due to particularly volatile political and economic conditions in the country.

### *Notice of Initiation of Investigation and Interim Measures*

On May 24, 2022, CBP issued a notice of investigation and interim measures to the parties to the investigation. Based upon the evidence provided in the allegation, the CF-28 responses, and the additional research described above, CBP determined that there was reasonable suspicion that CIS entered covered merchandise into the customs territory of the United States through evasion and therefore, imposed interim measures.<sup>21</sup>

### *Requests for Information*

CBP issued requests for information ("RFIs") to CIS,<sup>22</sup> Satria,<sup>23</sup> Eastborn,<sup>24</sup> and the Thai Manufacturer<sup>25</sup> on June 13, 2022. CBP also issued RFIs to EFL<sup>26</sup> and SIG<sup>27</sup> on July 1, 2022. CBP asked CIS and its suppliers about their affiliations with other companies, their company organization, company history, directors and senior managers, accounting and financial practices, and process for selling merchandise to U.S. customers. CBP asked CIS what safeguards it established to prevent unlawful transshipment of covered merchandise, its purchases of covered merchandise from U.S. suppliers, lists of foreign suppliers, and shipping and sales documents for all imports of covered merchandise. CBP asked the foreign suppliers to describe their production process, provide a list of all documents generated or used during the production process, list of inputs, employee lists, employee attendance records, proof of payment of wages, and lists of all equipment used in production.

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<sup>20</sup> See CBP Memorandum, "Site visit to PT Satria Tunas Persada" dated May 2, 2022 ("Satria Drive-by Memo").

<sup>21</sup> See CBP Letter, "Re: Notice of Initiation of Investigation and Interim Measures – EAPA Case Number 7699" dated May 24, 2022 ("NOI").

<sup>22</sup> See Letter from CBP to CIS "EAPA 7699 Request for Information" dated June 13, 2022 ("CIS RFI").

<sup>23</sup> See Letter from CBP to Satria "EAPA 7699 Request for Information" dated June 13, 2022 ("Satria RFI").

<sup>24</sup> See Letter from CBP to Eastborn "EAPA 7699 Request for Information" dated June 13, 2022 ("Eastborn RFI").

<sup>25</sup> See Letter from CBP to Thai Manufacturer "EAPA 7699 Request for Information" dated June 13, 2022 ("Thai Manufacturer RFI").

<sup>26</sup> See Letter from CBP to EFL "EAPA 7699 - Request for Information" dated July 1, 2022 ("EFL RFI")

<sup>27</sup> See Letter from CBP to SIG "EAPA 7699 - Request for Information" dated July 1, 2022 ("SIG RFI")

## CIS

CIS submitted its RFI response on July 25, 2022.<sup>28</sup> CIS' RFI response included mill test certificates, shipping documents, and country of origin certificates for the entries referenced in the RFI. CIS also provided CBP with its business registration, a description of its history and ownership structure, annual tax filings, and sales documents for CIS's domestic U.S. sales. However, CIS' RFI response did not include proof of payment from CIS to all its foreign suppliers of covered merchandise.

CBP also noted that several pieces of information on documents submitted with CIS' RFI response indicated that the documents were improperly created and possibly forged or fraudulent. This included one mill test certificate issued by Eastborn (on page 23/52 of Exhibit 20A) that had [ **description of information on mill test certificate** ] as one issued by the Thai Manufacturer (on page 15/31 of Exhibit 20C).<sup>29</sup> It is common industry knowledge in the steel manufacturing industry that it is extremely unlikely for two batches of steel [ **description of characteristics of steel** ] and extremely unusual for two producers to use the [ **description of documentation on mill test reports** ] for their products.

CBP also observed that country of origin certificates for shipments from Eastborn did not contain the name of the official issuing the certificates and were issued by the Sri Lankan International Chamber of Commerce rather than the Sri Lankan government. Also, these country-of-origin certificates were dated after the dates on packing lists,<sup>30</sup> which is abnormal. Normally, the official who issues a country-of-origin certificate signs the document and the official is usually an employee of a government agency. Also, country-of-origin certificates are typically issued on the date when an official inspects the merchandise or documentation for the merchandise, which usually takes place before the goods are packaged for shipment (the date on the packing list).

## EFL

EFL submitted its response to the RFI on July 25, 2022. EFL's RFI response indicated that it did not manufacture any covered merchandise CIS imported into the U.S., but rather that EFL acted as a freight forwarder to import Chinese FSF into Sri Lanka for re-export to the United States.<sup>31</sup> The party responsible for payment for this importation and re-exportation was Eastborn. This indicates that Eastborn imported Chinese-origin merchandise into Sri Lanka before re-exporting it to the United States. Notably, on Sri Lankan customs export declarations, EFL declared that the FSF it was exporting to the United States on behalf of Eastborn was Chinese-origin. Further,

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<sup>28</sup> See CIS' Letter, "July 25 Update to July 18, 2022, Response to June 13, 2022, Request for Information" dated July 25, 2022 ("CIS RFI Response"). CIS initially submitted its response on July 18, 2022, but had refile due to bracketing issues, See CBP email "EAPA 0 00007699" dated July 25, 2022, and CIS's Letter, "July 18, 2022, Response to June 13, 2022, Request for Information". Thus, CIS' RFI response was filed in a timely manner.

<sup>29</sup> *Id.* at Exhibit 20C, page 15/31 and Exhibit 20A, page 23/52.

<sup>30</sup> *Id.* at Exhibit 20A, page 19/52 and page 20/52.

<sup>31</sup> See EFL's Letter, "Ref: Response to Document Request {sic} EAPA 7699" submitted July 25, 2022 ("EFL RFI Response") at 1. EFL chose to make all information in its RFI response public, see EFL's email "RE: EAPA-00007699" dated July 26, 2022.

EFL’s bills of lading for shipments from China to Sri Lanka list Kingtrans as the shipper, and EFL’s commercial invoices, bills of lading, and packing lists show that Eastborn was the Notify Party for Kingtrans’ shipments from China to Sri Lanka. Therefore, EFL’s documents substantiate the allegor’s claims that Eastborn transshipped Chinese FSF from Kingtrans to the U.S. through Sri Lanka.<sup>32</sup>

### Other Foreign Manufacturers

The other foreign manufacturers named in the allegation received RFIs but did not respond. The Thai Manufacturer never acknowledged CBP’s emailed RFI,<sup>33</sup> so CBP also sent the Thai Manufacturer an RFI by FedEx on July 27, 2022, with a deadline to respond extended until August 15, 2022. FedEx tracking indicated that this RFI was delivered on August 1, 2022 but the Thai Manufacturer never contacted CBP or submitted any response.<sup>34</sup> SIG requested an extension to the deadline to submit its response on July 13, 2022, which CBP granted on July 14, 2022, but SIG did not request another extension and never submitted a response.<sup>35</sup> Satria requested an extension on June 22, 2022, and again on June 29, 2022, which CBP granted on July 1, 2022. However, Satria never submitted a response to CBP’s RFI.<sup>36</sup> On June 22, 2022, June 29, 2022, and July 20, 2022, Eastborn requested extensions to the deadline to submit its RFI response. Although CBP granted Eastborn an extension and provided Eastborn additional explanations about the process for submitting an RFI response, Eastborn never submitted one.<sup>37</sup> In summary, the email and FedEx correspondence between the foreign suppliers and CBP demonstrates that that the foreign suppliers received the RFIs and the suppliers’ decisions not to respond constitute failure to cooperate and comply to best of their ability.

### *Other CBP Research after Interim Measures*

On July 29, 2022, CBP obtained trade data on [ trading activities ] of covered merchandise from [ source ], [ source description ]. This source told CBP that it had no records [ description of missing records ].<sup>38</sup> Notably, this source is [ description of source ]. The absence of [ missing information ] means that [ description of information ], which indicates that it is not a legitimate manufacturer.

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<sup>32</sup> See EFL RFI Response at 5-9.

<sup>33</sup> See CBP Memorandum “EAPA 7699 – Thai Manufacturer’s non-response to RFI” dated August 19, 2022 (“Thai Manufacturer Memo”) at Attachment 1 and Attachment 2.

<sup>34</sup> *Id.* at Attachment 3. See also CBP’s Letter, “RE: EAPA 7699 – Request for Information” dated July 27, 2022.

<sup>35</sup> See CBP memorandum “EAPA 7699 – SIG Non-Response to CBP’s RFI” dated August 22, 2022 (“SIG non-Response Memo”).

<sup>36</sup> See CBP Memorandum, “EAPA 7699 – Satria Non-Response to CBP’s RFI” dated August 18, 2022 (“Satria non-Response Memo”).

<sup>37</sup> See CBP Memorandum “EAPA 7699 – “Eastborn Non-Response to CBP’s RFI” dated August 17, 2022 (“Eastborn non-Response Memo”).

<sup>38</sup> See CBP Memorandum “Adding Information to the Administrative Record of EAPA Case Number 7699” dated August 26, 2022 (“August 26 Memo”).

Through internet research on August 17, 2022, CBP also discovered a website for an Italian tire company with an affiliate in Sri Lanka. CBP also found a photo of the Sri Lankan tire factory that is identical to the photo purporting to show Eastborn's factory that CIS submitted with its CF-28 response, except for the name on the sign in front of the building. Notably, the clouds in the background appear in the exact same position in both photos and Sri Lankan and Italian flags appear in the same position on flag poles.<sup>39</sup> This indicates that the factory photo in Eastborn's company profile is likely an altered photo of the Italian tire factory.

### *Supplemental RFI and CIS' Response*

On August 23, 2022, CBP issued a supplemental request for information ("Supp RFI") to CIS.<sup>40</sup> The Supp RFI asked CIS to explain why its CF-28 responses included a photograph of Eastborn's factory that was identical to the photo CBP found of an Italian tire factory in Sri Lanka.<sup>41</sup> CBP also asked CIS to explain why the heat numbers and chemical composition of the steel on some of Eastborn's mill test certificate were [ description ] to those on the Thai Manufacturer's mill test certificate.<sup>42</sup> CBP followed up on the CF-28 responses by asking the Importer to obtain business registrations translated into English for all its foreign suppliers and manufacturers of FSF.<sup>43</sup> The Supp RFI also asked CIS to provide correspondence for sales negotiations between CIS and the foreign suppliers, and to explain how CIS found its foreign suppliers.<sup>44</sup>

CBP received CIS' Supplemental RFI response ("Supp RFI response") on September 23, 2022.<sup>45</sup> In the Supp RFI response, CIS claimed that all merchandise purchased from Satria consisted of pipe fittings that would fall outside the scope of the Orders, even if produced in China. However, CIS acknowledged that some of the merchandise it purchased from SIG and Eastborn would qualify as covered merchandise. Further, CIS only provided five "representative" photographs of the pipe fittings imported from Satria (out of [ # ] of pipe fittings CIS sourced from this supplier).<sup>46</sup> Of the five photographs CIS provided, only one photograph clearly showed markings that match the specifications listed under the exclusions in the scope of the Orders,<sup>47</sup> and CIS did not provide documentation (*i.e.*, mill test certificates, mill test reports, certificates of analysis, and

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<sup>39</sup> See CBP Memorandum "Adding Information to the Administrative Record of EAPA Case Number 7699" dated August 24, 2022 ("Eastborn Photo Memo").

<sup>40</sup> See Letter from CBP, "EAPA 7699 Supplemental request for Information" dated August 23, 2022 ("Supp RFI").

<sup>41</sup> *Id.* at 12.

<sup>42</sup> *Id.* at 10.

<sup>43</sup> *Id.* at 11.

<sup>44</sup> *Id.* at 10.

<sup>45</sup> See CIS' Letter "EAPA Case 7699 Request for Information Response to August 23, 2022, Request for Information" dated September 23, 2022 ("Supp RFI response"). CIS also requested an extension to the deadline to submit its Supp RFI response, which CBP granted. See also CBP email "EAPA 7699 – Granting Second Extension to Respond to Supplemental RFI" dated September 15, 2022. See also CBP email "RE: Extension Request for Supp RFI deadline EAPA 7699" dated August 31, 2022. Due to the extensions granted in CBP's August 31, 2022, and September 15, 2022, email, the deadline for CIS to submit its response was September 23, 2022, and thus it was filed on time. TRLED rejected some documents. See CBP email, "EAPA 7699 – Rejection of exhibits 36a, 36b, and 36c" dated September 26, 2022, and CIS' letter "RE: CIS Investments, LLC EAPA Case 7699 Corrected Exhibits to September 23, 2022, Response to August 23 Supplemental Request for Information" dated October 3, 2022.

<sup>46</sup> See Supp RFI response at 2. For import volumes, see CBP Memo "Adding Information to the Administrative Record of EAPA Case Number 7699" dated August 25, 2022.

<sup>47</sup> See Supp RFI response at Exhibit 2a, Exhibit 2b, Exhibit 2c, and Exhibit 2d. See also AD order at 60399 and CVD order at 60397.

packing lists) to substantiate the claim that all entries from Satria were out of scope. Notably, the scope of the Orders states “{t}o be excluded from the scope, products must have the appropriate standard or pressure markings and/or be accompanied by documentation showing product compliance to the applicable standard or pressure, e.g., ‘API 5CT’ mark and/or a mill certification report.”<sup>48</sup>

In response to CBP’s request for sales correspondence, CIS only provided a few emails which did not include the essential components of a sales negotiation such as a description of the physical characteristics of the merchandise being purchased, purchase orders, or prices. Many of these emails referred to such documents as attachments, but CIS did not include those attachments with the Supp RFI response.<sup>49</sup> In response to requests for its most recent correspondence with SIG, Satria, and Eastborn showing negotiation of purchases with them, CIS stated that they had no recent purchases from these suppliers.<sup>50</sup> However, CBP asked for correspondence documenting the negotiation of CIS’ most recent purchases, not purchases made recently within any set timeframe.<sup>51</sup>

CIS also responded to CBP’s questioning about the photos of Eastborn’s factory that appeared to be photos of the Italian-owned tire factory by stating that “Triangle Metals {CIS’ d/b/a name} was told that the photographs were used on their {Eastborn’s} website because the exterior of the factory was less presentable for print and promotion.”<sup>52</sup> This statement appears to acknowledge that CIS provided photos in its CF-28 response that were in fact, photos from a different company’s factory.

CIS asserted that the photo of Eastborn’s building provided in the allegation is the site of Eastborn’s office, but Eastborn also had a second building, a factory located at No. 248 Sedawatta Road in Wellampitiya, Sri Lanka. To substantiate this claim, CIS provided a web address for a Google Maps map and a web address for a photo of the building at this location. However, the photo does not show Eastborn’s name or give any indication that the structure is a factory building, and the map just shows a collection of streets and buildings without even showing the street name, much less Eastborn’s name on any building.<sup>53</sup> CIS also provided records of electricity bills for Eastborn, which were addressed to the company at the address 248 Sedawatta Rd., Wellampitiya, which appears to support CIS’s contention that Eastborn operated a facility at this location. However, the electricity bill does not prove that this facility was a viable factory for FSF production or even a factory at all.<sup>54</sup>

CIS also furnished employee time records for Eastborn for [ # ] months of production. These timecards were typed, with handwritten checkmarks indicating days of employee attendance and appear to show only [ # ] employees engaged in “forging”, and [ # ] more employees whose task was “cutting” and another [ # ] whose task was “drilling” (a total of only [ # ] total employees engaged in tasks that could include steps of FSF production). [ # ] other employees

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<sup>48</sup> See AD Order at 83 FR 60399 and CVD Order at 83 FR 60397.

<sup>49</sup> See Supp RFI response at Exhibit 17, Exhibit 18, Exhibit 23, Exhibit 25, and Exhibit 29.

<sup>50</sup> *Id.* at 8-10.

<sup>51</sup> See Supp RFI at 9-11.

<sup>52</sup> See Supp RFI response at 14.

<sup>53</sup> *Id.* at 14.

<sup>54</sup> *Id.* at Exhibit 42a.

worked at tasks described as “store” and [ # ] more employees’ tasks were “Finance”, “IT”, and “F/Trade Manager”, and “raw material checking” for a total of [ # ] employees engaged in trading, warehousing, and financial tasks, the same types of tasks needed to run a trading company. [ # ] production workers’ job was “threading,”<sup>55</sup> which by itself, would not remove covered merchandise from the scope of the Orders if made in China.<sup>56</sup> Another [ # ] employees worked as managers, quality control staff, or inspectors. Thus, out of [ # ] total employees, Eastborn only had [ # ] production workers whose tasks could include steps in the production of FSF, and [ # ] of its employees were engaged in trading and finance-related activities.<sup>57</sup> Further, a staff of only [ # ] workers employed in direct production activities is impracticably small for a factory that CIS claims had [ # ] kg of annual production.<sup>58</sup>

When asked for Satria’s business registration, CIS stated that “Triangle Metals was not able to obtain a copy of the PT Satria business registration but see its website: <http://satria fittings.com/index.html>.”<sup>59</sup> Notably, this website contains no business registration, although it provides a general company history. However, CIS provided business registrations for SIG and the Thai Manufacturer. The business registration for SIG shows that it currently operates out of the address identified in the allegation, the same location that appeared to be an unoccupied building, and also the same location where CBP first sent the RFI and received no response.<sup>60</sup> The business registration for the Thai Manufacturer confirms that it is registered at the address where CBP previously sent the RFI through FedEx and received no response.<sup>61</sup>

When asked why information from three different heats on a mill test report (“MTR”) issued by Eastborn have the [ description ] chemical composition, CIS explained that those heats cover pipe nipples that were all produced using the same pipe as an input.<sup>62</sup> Since the chemical composition is determined by the steelmaking firm that supplied Eastborn, this explanation is consistent with the production process.

In response to questions about why Eastborn and the Thai Manufacturer issued MTRs with [ description ] heat numbers and chemical compositions, CIS explained that it provided a sample MTR to the Thai Manufacturer so that the Thai Manufacturer could format its MTR in the same way. CIS claimed that the Thai Manufacturer accidentally [ process ] the heat numbers but provided no documentation to support this claim such as an email from the Thai manufacturer or Eastborn explaining the accidental [ process ] of heat numbers. CIS’ explanation confirms that the Thai Manufacturer issued MTRs with inaccurate information, whether through negligence or intent. Further, CIS’ explained the [ description ] chemistries on different MTRs from different manufacturers by claiming that “Triangle Metals understands that the chemical composition of

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<sup>55</sup> *Id.* at Exhibit 42a.

<sup>56</sup> The scope of the Orders states that “Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld, or other end connections.” Thus, threading of Chinese-made pipe fittings would not remove them from the scope of the Orders. *See* AD Order at 83 FR 60399 and CVD Order at 83 FR 60397.

<sup>57</sup> *See* Supp RFI Response at Exhibit 42a.

<sup>58</sup> *Id.* at 11.

<sup>59</sup> *Id.* at 11.

<sup>60</sup> *Id.* at Exhibit 36c.

<sup>61</sup> *Id.* at Exhibit 36b. *See also* Thai Manufacturer Memo at Attachment 3. The address on the FedEx receipt and the FedEx invoice matches the address in CIS’ Supp RFI response at Exhibit 36b.

<sup>62</sup> *Id.* at 4.

316 stainless steel should be the same, and variations are sometimes at decimal levels too small to note.”<sup>63</sup> However, as discussed above, it is simply not possible that two steel mills can produce steel with chemistries that are [ description ]. Therefore, CIS’ response on this issue reflects either an intentionally false explanation of this technologically almost impossible scenario, or a fundamental misunderstanding of the production of steel used in FSF. Regardless, the explanation proffered by CIS is unconvincing and fails to adequately explain why the heat numbers and chemical compositions in the MTRs issued by Eastborn and the Thai Manufacturer are [ description ].

In response to CBP’s request for documentation of CIS’ first correspondence with Satria, the Importer responded that it could not retrieve documentation of its first correspondence with Satria because of a computer server crash in [ month ].<sup>64</sup> CIS provided no record of this server crash, such as an invoice for a computer repair company, to verify that this occurred.<sup>65</sup>

CBP also observed that for entry [ # ]5334, CIS only provided an inland delivery note with no bill of lading, proof of payment to the transportation/logistics company, or any documentation even mentioning the name of the company that transported the goods from Eastborn’s purported factory to the port. CBP also noted that this delivery note was dated [ date ] even though the bill of lading from the ocean carrier was dated [ date ], indicating that these goods were loaded aboard a ship [ description ] the date they were delivered to the port.<sup>66</sup>

#### *New Voluntary Factual Information*

On September 6, 2022, CIS submitted voluntary factual information (“VFI”).<sup>67</sup> CIS furnished photos of a factory building purportedly belonging to Eastborn. Like in the Supp RFI response, CIS stated that Eastborn’s factory building was located at No. 248 Sedawatta Road in Wellampitiya, Sri Lanka, a different address than the one provided by the alleged in the allegation, which CIS asserts is Eastborn’s office building.<sup>68</sup> The photos CIS provided (Exhibit 4) show a nondescript green building with no signage indicating the address or any indication that it belongs to Eastborn. Further, the photos show only the outside of the building, with no indication that it contains any manufacturing equipment, although the building appears large enough to be a factory.<sup>69</sup>

CIS also furnished an electricity bill and a list of employees for Eastborn, with both documents listing Eastborn’s purported factory address, and a registration certificate from the Sri Lankan Export Development Board dated from 2012.<sup>70</sup> CIS also provided audits of Eastborn’s financial

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<sup>63</sup> *Id.* at 7 and Exhibit 19.

<sup>64</sup> *Id.* at 8.

<sup>65</sup> *Id.* at 8.

<sup>66</sup> *Id.* at Exhibit 8a.

<sup>67</sup> See CIS’ Letter, “C.I.S. Investments, LLC EAPA Case 7699 Request for Information Submission of Voluntary Factual Information” dated September 6, 2022 (“VFI”). CBP extended the deadline to submit voluntary factual information until September 6, 2022, and therefore, CIS’ submission was timely filed. See CBP’s email “RE: EAPA 7699 Deadlines for New Factual Information and Written arguments” dated August 11, 2022.

<sup>68</sup> See VFI at 1 and Exhibit 4.

<sup>69</sup> *Id.* at Exhibit 4.

<sup>70</sup> *Id.* at Exhibit 5.

positions from [year], [year], and [year] showing that it possessed \$[ # ]; \$[ # ]; and \$[ # ] in plant equipment in [year], [year], and [year], respectively. However, none of these audit reports provided any description of what type of machinery this included.<sup>71</sup>

CIS also provided CBP a video of interviews with [ # ] former Eastborn employees who stated their names and positions, matching those on the list of employees CIS provided in Exhibit 5 of the VFI. However, none of these employees stated that Eastborn had ever produced FSF and none of these employees claimed to have been production workers responsible for any stage of FSF production. All the employees interviewed in the video are office workers, except for one employee who claims to have worked on a [ description ] machine. Notably, [ process ] is not part of the FSF production flow chart Eastborn submitted in its CF-28 response.<sup>72</sup> Therefore, this video merely supports the assertion that Eastborn had employees, but provides no information about its capacity for FSF production. Further, the Trade Manager in the video confirmed that even after Eastborn ceased production, they “continued the trading activities” which implies that Eastborn acted as a trading company for products made by other companies.<sup>73</sup>

Exhibit 7 contains a video of two individuals standing outside a building that appears to be the same one shown in Exhibit 4 stating that the building is Eastborn’s. However, the video does not show the interior of the building or give any indication what manufacturing activities, if any, took place there.<sup>74</sup> CIS’ VFI submission also contains the same two web addresses submitted with the Supp RFI response purporting to show Google Maps photographs of Eastborn’s factory and its location on the map, but neither website shows any building labeled as Eastborn, any address, or any photos of the building in Exhibit 4.<sup>75</sup>

CIS’ VFI also included the response to the CF-28 issued by CBP concerning entry number [ # ]395-9,<sup>76</sup> even though this CF-28 response was already on the administrative record of this investigation.<sup>77</sup> CIS also provided photos of the exterior of the Thai Manufacturer’s building as well as a montage of screenshot from websites showing production of what appear to be pipe fittings inside factory buildings. However, based on the web address, only one of the photos in this assemblage came from the Thai manufacturer’s website, while another cites the web address of the Thai Manufacturer’s Facebook page. Neither of these photos show workers using any equipment.<sup>78</sup> Another exhibit from the VFI shows a video of a robotic arm but there are no indications (*e.g.*, signage on the walls or images of pipe fittings) from this video indicating that the robotic arm is being used in FSF production.<sup>79</sup> CIS also furnished data on the alleged’s imports of non-covered merchandise, though none of that information pertains to the veracity of the allegation against CIS.<sup>80</sup>

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<sup>71</sup> See VFI at Exhibit 1, page 4/9; Exhibit 3, page 4/9; and Exhibit 2, page 4/9.

<sup>72</sup> *Id.* at Exhibit 6 and CF-28 response for Entry [ # ]710-0 at Exhibit B-1.

<sup>73</sup> See VFI at Exhibit 6.

<sup>74</sup> *Id.* at Exhibit 7.

<sup>75</sup> *Id.* at 2.

<sup>76</sup> *Id.* at 2, Exhibit 8 and Exhibit 9.

<sup>77</sup> See CF-28 Response [ # ]395-9.

<sup>78</sup> See VFI at Exhibit 11 and Exhibit 10.

<sup>79</sup> *Id.* at Exhibit 12.

<sup>80</sup> *Id.* at Exhibit 13 and Exhibit 14.

## *Second Supplemental RFI*

In response to the missing or incomplete information in the CIS' Supp RFI response, CBP issued a second supplemental RFI on October 4, 2022 ("2<sup>nd</sup> Supp RFI").<sup>81</sup> CBP asked CIS to list every entry CIS imported from SIG, Satria, or Eastborn that contained merchandise not covered by the Orders, even if made in China. The 2<sup>nd</sup> Supp RFI further requested documentation including mill test reports or photos of markings on pipe fittings to prove that any merchandise imported from these suppliers included out-of-scope merchandise.<sup>82</sup>

CBP also asked CIS to provide copies of purchase orders and portions of its correspondence with SIG, Satria, and Eastborn describing the merchandise purchases, volumes, and the prices negotiated through this correspondence.<sup>83</sup> In the 2<sup>nd</sup> Supp RFI, CIS was also given an opportunity to explain why the delivery note for entry [ # ]5334 was dated [ description ] the date on the bill of lading for that shipment. CBP also asked CIS to explain why the amounts it paid to its suppliers, according to proof of payments did not match the declared customs value for the associated goods at time of entry. CIS was also asked to provide screenshots showing these payments entered into its accounting system.<sup>84</sup> The 2<sup>nd</sup> Supp RFI also requested that CIS furnish documentation such as invoices from a computer repair company or receipts for a new server to prove that its server crashed in [ month ], as CIS claimed.<sup>85</sup> CIS was also asked to provide the most recent sales correspondence with its suppliers negotiating sales.<sup>86</sup> CBP requested proof of payment to the Thai Manufacturer, packing lists, and invoices from the Thai Manufacturer for the covered merchandise. This question also asked CIS to provide documents showing invoices issued by the Thai Manufacturer to SIG, for any merchandise CIS purchased indirectly from The Thai Manufacturer through SIG.<sup>87</sup>

On October 13, 2022, CIS submitted its response to the 2<sup>nd</sup> Supp RFI.<sup>88</sup> The Importer stated that no further correspondence documenting sales negotiation exists for entry number [ # ]1416 other than the purchase order already submitted as Exhibit 20B of CIS' RFI response. CIS also furnished the other requested documentation of sales correspondence or referred CBP to RFI exhibits where such documents were previously placed on the record of the investigation.<sup>89</sup> The Importer also provided Satria's business identification number, which according to the document is "proof of investment / Business Registration." The document shows that the company was registered in December 2014. However, this document does not contain Satria's address, the type

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<sup>81</sup> See CBP's letter "2<sup>nd</sup> Supplemental RFI" dated October 4, 2022 (2<sup>nd</sup> Supp RFI").

<sup>82</sup> *Id.* at 10-11.

<sup>83</sup> *Id.* at 11-12.

<sup>84</sup> *Id.* at 13.

<sup>85</sup> *Id.* at 12.

<sup>86</sup> *Id.* at 13.

<sup>87</sup> *Id.* at 11.

<sup>88</sup> See CIS' Letter "EAPA Case 7699 Response to October 4<sup>th</sup> 2<sup>nd</sup> Supplemental Request for Information" dated October 13, 2022 ("2<sup>nd</sup> Supp RFI Response"). On October 6, 2022, CIS requested an extension to the original deadline of October 11, 2022; See CIS' Letter "C.I.S Investments, LLC Extension Request" dated October 6, 2022. CBP gave CIS and extension until October 14, 2022; See CBP Email "RE EAPA 7699-CIS' request for an extension for the 2<sup>nd</sup> Supplemental RFI" dated October 6, 2022. Therefore, CIS' 2<sup>nd</sup> Supplemental RFI Response was filed on time.

<sup>89</sup> *Id.* at 1-3.

of business activity Satria engages in (*i.e.*, manufacturing, trading, etc.) or names of any company officials. Therefore, this document merely supports that Satria at one time was legally registered, which does not substantiate CIS's claims that Satria produced the covered merchandise CIS imported from Indonesia.<sup>90</sup>

CIS provided an invoice from a computer repair company showing purchase of a [ **product** ] in [ **month** ], which is consistent with the company's claims about the server crash.<sup>91</sup> CIS explained that it has never purchased covered merchandise from Kingtrans but has negotiated with Kingtrans for freight brokerage services. CIS further provided correspondence between CIS and SIG including instructions for SIG to ship covered merchandise to CIS using Kingtrans as the freight broker.<sup>92</sup>

In response to CBP's request for mill test certificates for entry numbers [ **#** ]3616 and [ **#** ]6020, CIS referred CBP to CIS' CF-28 responses.<sup>93</sup> These responses include inspection certificates issued by Satria that describe the chemical and physical specifications of the merchandise included in these entries.

When asked for documentation to substantiate its claim that its imports from Satria were not FSF as described in the scope of the Orders, CIS stated that "Triangle Metals previously provided records for Entry Nos. [ **#** ]3616 and [ **#** ]6020 under a reply letter submitted to U.S. Customs {...} on April 5, 2022 in response to a CBPF 28 Request for Information."<sup>94</sup> However, there is nothing in these inspection certificates that refers to any specification or chemical composition listed in the exclusions to the Orders. In fact, several mill test reports actually show that some of the products associated with these entries were manufactured to the [ **specification name** ] specification.<sup>95</sup> According to the scope language of the Orders, FSF "are generally manufactured to specifications ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350, and ASTM A182, the scope is not limited to fittings made to these specifications"<sup>96</sup> Further, the commercial invoices and packing lists associated with this entry include merchandise described as "forged steel fittings" and list individual pipe fittings that fall within the written dispositive description of the Orders.<sup>97</sup>

In addition to merchandise manufactured to the [ **specification** ] specification that is clearly in scope, some of the merchandise imported with these entries also includes pipe fittings made to specifications [ **specification name** ], which is not included in the list of specifications excluded from the Orders. Further, the inspection certificates show that these pipe fittings are neither stainless steel, nor have pressure ratings of 300 PSI or less, and thus, do not fall under exclusions for stainless and low-pressure pipe fittings.<sup>98</sup> The Orders also state that "{t}o be excluded from

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<sup>90</sup> *Id.* at Exhibit 8.

<sup>91</sup> *Id.* at 5-6 and Exhibit 7a.

<sup>92</sup> *Id.* at 6-7, Exhibit 9a, Exhibit 9b, and Exhibit 9c.

<sup>93</sup> *Id.* at 8. *See also* CF-28 Response for entry [ **#** ]3616 and CF-28 Response for entry [ **#** ]6020.

<sup>94</sup> *See* 2<sup>nd</sup> Supp RFI Response at 8.

<sup>95</sup> *See* CF-28 Response for entry [ **#** ]3616 at 96/100 to 100/100 and CF-28 Response [ **#** ]6020 at 77/83 to 83/82.

<sup>96</sup> *See* AD order at 60399 and CVD order at 60397.

<sup>97</sup> *See* CF-28 Response [ **#** ]3616 at 12/100 -14/100 and CF-28 Response [ **#** ]6020 at 1/83.

<sup>98</sup> *See* CF-28 Response [ **#** ]3616 at 12/100 -14/100.

the scope, products must have the appropriate standard or pressure markings and/or be accompanied by documentation *showing product compliance to the applicable standard or pressure, e.g., ‘API 5CT’ mark and/or a mill certification report {emphasis added}.*”<sup>99</sup> Since the inspection certificates, packing lists, and commercial invoices associated with these entries provide no documentation that any exclusions to the scope of the Orders apply to the pipe fittings in these entries, and because some products are [ **description** ], at least some of the merchandise in the entries is covered FSF. Notably, this contradicts CIS’ statement in the Supp RFI Response, where the Importer told CBP that it has never purchased any FSF from Indonesia, but instead purchased only stainless-steel fittings and butt-weld pipe fittings outside the scope of the Orders from Satria.<sup>100</sup>

In response to CBP’s request for packing lists showing the sale of FSF from the Thai Manufacturer to SIG, CIS told CBP that it had already submitted these documents in its CF-28 responses and voluntary factual information.<sup>101</sup> However, neither the CF-28 responses nor CIS’ voluntary factual information contain packing lists from [ **company name** ] or any other shipping documents showing transportation of FSF from the Thai Manufacturer to SIG.<sup>102</sup>

### *Written Arguments*

On November 1, 2022, CIS submitted written arguments.<sup>103</sup> CIS argued that the allegor lacks standing as an interested party to file an EAPA allegation because RK is neither an importer of covered merchandise nor a wholesaler. CIS also contended that it has fully cooperated with CBP’s investigation and provided CBP with extensive proof that Eastborn, Satria, and the Thai manufacturer produced the covered merchandise in Sri Lanka, Indonesia, and Thailand, respectively. The Importer reiterated its assertion that all pipe fittings it has imported from the Indonesian supplier, Satria, are outside the scope of the Orders, even if made in China, but that CIS has provided extensive proof that Satria made these fittings in Indonesia. The Importer also contends that it has cooperated fully in this investigation and therefore, there is no basis for the application of adverse inferences.

**Arguments:** CIS asserts that RK does not qualify as in interested party because it is neither an importer nor a wholesaler of a domestic like product. CIS supported this contention by citing to Exhibits 13 and 14 of its VFI which show a sample of the allegor’s imports and a single bill of sale by the allegor. Exhibit 13 includes [ **#** ] shipments of merchandise outside the scope of the Orders for which the allegor appears as a consignee, while Exhibit 14 shows a RK bill of sale of covered merchandise. CIS contends that this bill of sale includes sales tax and that this proves that RK is a retailer, rather than a wholesaler of covered merchandise because retailers pay sales tax in Texas while wholesalers do not.<sup>104</sup>

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<sup>99</sup> See AD Order at 83 FR 60399 and CVD Order at 83 FR 60397.

<sup>100</sup> See Supp RFI Response at 2.

<sup>101</sup> See 2<sup>nd</sup> Supp RFI Response at 4.

<sup>102</sup> See VFI, especially Exhibit 9, which contains documents pertaining to SIG and the Thai Manufacturer. See also CF-28 Response for entry [ **#** ]3959.

<sup>103</sup> CIS filed written arguments on October 26, 2022, See CIS’ Letter, “EAPA Case 7699 Written Arguments” dated October 26, 2022 (“CIS Written Argument”).

<sup>104</sup> See CIS Written Argument at 3 and VFI at Exhibit 13 and Exhibit 14.

**CBP’s Position:** In its VFI, CIS only submitted a sample of [ # ] shipments where the alleged acted as consignee for U.S.-bound shipments of merchandise. These exhibits do not include the parameters CIS used for its data query to obtain these shipments and the Importer has furnished no evidence that this trade data includes all the alleged’s imports and/or shipments from China. Therefore, this trade data does not prove that RK is not an importer of covered merchandise because there are potentially other shipments. Further, the trade data CIS provided from a subscription trade data service only shows information from bills of lading, such as the names of consignees and notify parties, not importers. It is possible to be an importer without being listed on bills of lading as consignee or notify party, and it is also possible to act as a consignee without becoming an importer. In the allegation, the alleged states that “Flatlands also imports merchandise covered under the AD/CVD Orders, most recently in December 2021.”<sup>105</sup> CBP has confirmed this statement by reviewing CBP records.<sup>106</sup>

The allegation narrative and exhibits support that the alleged has also had direct dealings with Jiangsu, a Chinese manufacturer of FSF, because the alleged was aware that [ name ] is an employee of Jiangsu.<sup>107</sup> Elsewhere in the allegation, the alleged also identified Allen Fang as a Jiangsu employee<sup>108</sup> and subsequently, CIS confirmed that its contact for Jiangsu is [ name ].<sup>109</sup> This shows that RK has extensive knowledge of the global FSF supply chain, including Chinese suppliers, and supports RK’s contention that they are an importer of covered merchandise.

The allegation also states that the importer qualifies as an interested party both as an importer of covered merchandise and as a wholesaler of domestic like product, and 19 CFR § 165.1 states that wholesalers qualify as interested parties. Further, the alleged provided a mill test certificate it obtained from CIS for a shipment of covered merchandise the alleged purchased from the importer, which supports the contention that the alleged sells FSF domestically.<sup>110</sup> This supports the allegation’s claim that RK sells covered merchandise, and RK’s extensive knowledge of the supply chain noted above indicates the alleged sells FSF in bulk and is thus a wholesaler.

Although CIS also argues that RK does not qualify as a wholesaler because CIS furnished an RK bill of sale that, according to CIS’ written arguments includes sales tax,<sup>111</sup> RK’s business consists of more than a single sale. While this bill of sale suggests that RK engages in some retail sales, it is possible for any company to be both retailer and wholesaler.<sup>112</sup> In the allegation, RK cited its own website, which clearly states that RK sells bulk quantities of a diverse array of products to a wide range of customers. This indicates that RK is a wholesaler. Further, the allegation stated that RK qualifies as an interested party as an importer and wholesaler of covered merchandise and certified that all statements in their submission were true.<sup>113</sup>

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<sup>105</sup> See allegation at 3.

<sup>106</sup> See CBP Memorandum “Adding Information to the Administrative Record of EAPA Case Number 7699” dated November 3, 2022.

<sup>107</sup> See allegation at 10 and Exhibit I.

<sup>108</sup> *Id.* at 13 and Exhibit O.

<sup>109</sup> See CIS RFI Response at 10.

<sup>110</sup> See allegation at 13 and Exhibit O.

<sup>111</sup> See CIS Written Argument at 2-3.

<sup>112</sup> See VFI at Exhibit 14.

<sup>113</sup> See allegation at 3 and Exhibit T.

Procedurally, CIS's argument is also unconvincing because the importer claims that there is a distinction between a wholesaler and a retailer based on the claim that they are treated differently in Texas state tax law, without even defining the difference between a wholesaler and retailer under federal law. RK has done so by providing CBP with information to show that it is an importer and wholesaler of covered merchandise. Even if as CIS argues RK is not a wholesaler, it qualifies as an interested party under § 165.1, because it is an importer of covered merchandise. As such, CIS's arguments are unavailing.

**Arguments:** CIS contends that it has provided extensive evidence that fittings it sourced from Sri Lanka, Indonesia, and Thailand were manufactured by Eastborn, Satria, and the Thai Manufacturer, respectively. The Importer argues that this includes production records, factory photos, and videos with former employees of Eastborn. With respect to Satria, CIS also contends that it provided extensive evidence that its imports from this supplier were exclusively outside the scope of the Orders and that the evidence CBP obtained from the attempted site visit does not constitute substantial evidence of evasion.<sup>114</sup>

**CBP's Position:** Many of the records CIS produced documenting the production capabilities of its suppliers have been shown to be fraudulent. This includes the Eastborn factory profile CIS submitted as part of its CF-28 responses that included an image of a different company's factory edited to show Eastborn's name on the sign in front of the building. Notably, CIS has subsequently conceded that this image was an altered photo of another company's factory as it stated in its 2<sup>nd</sup> Supp RFI response that "the photographs were used on their {Eastborn's} website because the exterior of the {Eastborn} factory was less presentable for print and promotion."<sup>115</sup> The record is also replete with examples of apparently fraudulent mill test certificates and reports from Eastborn. The allegor furnished an example of an Eastborn certificate signed by a Jiangsu employee in the allegation<sup>116</sup> and CIS subsequently provided test reports for both the Thai Manufacturer and Eastborn with [description] heat numbers.<sup>117</sup> CBP, with the help of U.S. domestic steel manufacturers, understands that it is exceptionally unlikely for two steel producers to make different batches of steel with [ description ] chemistries. This undermines the credibility of other documents CIS obtained from both Eastborn and the Thai manufacturer ostensibly documenting production.

Further, none of CIS' foreign manufacturers chose to participate in this investigation by responding to CBP's RFIs and most of the documents CIS provided ostensibly as proof of production are unconvincing. For example, CIS asserts that it provided "third-party Google Maps photographs of the Eastborn factory site prior to and following its closing down"<sup>118</sup> yet these maps do not even mention Eastborn's name or give any indication that there was ever a manufacturing facility at the site of Eastborn's purported factory.<sup>119</sup> The video CIS provided purporting to show Eastborn's factory shows only the exterior of a nondescript building with no signage indicating

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<sup>114</sup> See CIS Written Argument at 11-12.

<sup>115</sup> See Supp RFI Response at 14.

<sup>116</sup> See Allegation at 10 and Exhibit I.

<sup>117</sup> See CIS RFI Response at Exhibit 20A page 23/52 and Exhibit 20C, page 15/31 and Supp RFI Response at 7.

<sup>118</sup> See CIS Written Argument at 6.

<sup>119</sup> See VFI at 2-3 and Exhibits 6 and 7.

the address or that Eastborn ever owned this building. Further, there is no evidence from the video that this building ever contained any factory equipment.<sup>120</sup>

Concerning Satria, the record clearly states that CBP officials were unable to locate the purported factory and even questioned several local people who had not even heard of the company.<sup>121</sup> This casts doubt on the veracity of the Satria factory profile CIS furnished CBP because, according to CIS' import volume and its factory profile, Satria is supposedly a large, industrial-scale manufacturer of pipe fittings with a factory almost the size of an entire city block.<sup>122</sup> In order to produce on the scale claimed by CIS, Satria would need to receive frequent shipments of raw materials in large quantities, and it is highly unlikely that local residents would be unaware of frequently passing trucks. Further, it would be virtually impossible for the local residents to have not seen the large building shown in CIS' CF-28 responses, which indicates that this factory profile is likely fake. This conclusion is further supported by the fact that CIS has admitted that it furnished a fake factory photo for Eastborn in its CF-28 responses.<sup>123</sup>

Although CIS contends that its imports from Satria would not fall under the scope of the Orders, the plain language of the Orders shows that, in fact, CIS' imports from Satria are covered FSF. Specifically, CIS has submitted MTRs that describe the standard of some of its imports from Satria as “[ description ]”.<sup>124</sup> Even if the merchandise would ordinarily fall under some exclusions to the scope of the Orders, any merchandise manufactured to the [ specification ] standard is covered unless it is stainless steel or has a pressure rating less than 300 PSI. When describing exclusions, the Orders state that “{a}lso excluded are fittings certified or made to the following standards, *so long as the fittings are not also manufactured to the specifications of ASME B16.11 MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350 and ASTM A182* {... emphasis added}.” The Orders also state that “{w}hile these fittings are generally manufactured to specifications ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350 and ASTM A182, the scope is not limited to fittings made to these specifications.”<sup>125</sup> A pipe fitting made to the [ specification name ] standard can only fall outside the scope of the Orders if it is stainless steel or has a maximum pressure rating less than 300 PSI, but the MTRs for CIS' imports from Satria indicate that they are neither stainless steel nor have pressure rating less than 300 PSI.<sup>126</sup>

With respect to SIG and the Thai Manufacturer, CIS has acknowledged that SIG has no production capacity and is merely a shipping company. Although CIS claims that SIG purchased Thai-origin pipe fittings from the Thai Manufacturer, CIS has never provided any shipping documents such as bills of lading or packing lists demonstrating that any merchandise was ever shipped from the Thai

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<sup>120</sup> *Id.* at Exhibit 7.

<sup>121</sup> See Satria Drive-by Memo at 1.

<sup>122</sup> See CF-28 Response [ # ]6020 at 17/83.

<sup>123</sup> See Supp RFI Response at 14.

<sup>124</sup> See CF-28 Response for entry [ # ]3616 at 96/100 to 100/100 and CF-28 Response [ # ]6020 at 77/83 to 83/82.

<sup>125</sup> See AD Order at 83 FR 60399 and CVD Order at 83 FR 60396.

<sup>126</sup> See CF-28 Response for entry [ # ]3616 at 96/100 to 100/100 and CF-28 Response [ # ]6020 at 77/83 to 83/82. The Chromium content of these pipe fittings ranges from [ # ] percent to [ # ] percent, well below the 10.5 percent chromium content required to meet the definition of stainless steel in the HTSUS. Although the pressure rating is listed on these documents in megapascals (MPa), an SI unit for pressure rather than in the U.S. PSI units, the pressure rating exceeds 300 PSI when converted to PSI.

Manufacturer's facility to SIG.<sup>127</sup> There is also nothing on the record to substantiate the Thai Manufacturer's capacity in spite of CBP's repeated request for this information.<sup>128</sup> In response to CBP's request for proof of payment from SIG to the Thai Manufacturer, CIS only provided records for its own payments to SIG.<sup>129</sup> The Thai Manufacturer also issued MTRs with [ **description** ] chemistries and heat numbers to MTRs issued by Eastborn, which is chemically almost impossible, and therefore indicates that the Thai Manufacturer's MTR's are likely fraudulent. In fact, CIS has admitted that the Thai Manufacturer simply [ **process** ] the heat numbers from Eastborn's MTR, which proves that the Thai Manufacturer has issued MTRs that are either negligently recorded or deliberately false.<sup>130</sup>

In summary, even though CIS has provided a large volume of documentation, it is inadequate to substantiate CIS' claims that (1) the Thai Manufacturer, Eastborn, and Satria have adequate capacity to produce the volume of pipe fittings CIS imported; and (2) the Thai Manufacturer actually shipped merchandise to SIG that was ultimately purchased by CIS. In addition to being incomplete, the information CIS has provided has been shown to be unreliable because CIS has made false statements about the chemistry of steel used in its pipe fittings, has acknowledged that its MTRs from the Thai supplier [ **description** ], has acknowledged that it supplied CBP a fraudulent photo of Eastborn's facility,<sup>131</sup> and has falsely claimed that its imports from Satria were outside the scope of the Orders.<sup>132</sup>

**Argument:** CIS contends that it has fully cooperated with this EAPA investigation and therefore, CBP has no basis for applying adverse inferences in this case. Specifically, CIS cites to the administrative review of EAPA 7550 to argue that "Customs has previously rejected a failure to cooperate determination where a party actively participated and provided additional information voluntarily."<sup>133</sup>

**CBP's Position:** First, CIS misrepresents the outcome of the EAPA 7550 administrative review. In EAPA 7550, CBP made an initial affirmative determination as to evasion based on adverse inferences with respect to a foreign manufacturer that submitted requested documents and participated in a verification. This initial determination was overturned after administrative review because the foreign manufacturer cooperated with CBP's investigation by providing requested documents and allowing a CBP team access to its facilities. The situation in EAPA 7699, the current case, is entirely different because no foreign manufacturer has responded to a single request for information from CBP, even though CBP received acknowledgement from all the foreign the manufacturers that they received the RFIs, except for the Thai Manufacturer. FedEx confirmed that it delivered an RFI to the provided location of the Thai Manufacturer. Further, even though most of the foreign manufacturers and suppliers acknowledged receipt of CBP's RFIs by requesting extensions to the deadlines to submit

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<sup>127</sup> CBP specifically requested this information in the 2<sup>nd</sup> Supp RFI at 11.

<sup>128</sup> See Thai Manufacturer RFI at 13 of 40; Supp RFI at 9. For the CIS' estimate of the Thai Manufacturer's capacity, see Supp RFI Response at 11.

<sup>129</sup> CBP specifically requested this information in the 2<sup>nd</sup> Supp RFI at 11.

<sup>130</sup> See CIS RFI Response at Exhibit 20A page 23/52 and Exhibit 20C, page 15/31 and Supp RFI Response at 7.

<sup>131</sup> See Supp RFI Response at 14.

<sup>132</sup> *Id.* at 7.

<sup>133</sup> See CIS Written Argument at 16.

their response, and CBP granted these extension requests, the foreign manufacturers and suppliers never submitted any RFI responses.<sup>134</sup>

The failure of the foreign suppliers and manufacturers to respond to RFIs is central to this investigation because in this case, CBP is specifically investigating an allegation that the purported manufacturers do not have the capacity to produce the volume of FSF they supplied to CIS. Therefore, information from these manufacturers to validate their production capacity is central to the question of evasion. Further, a decision in the Court of International Trade (“CIT”) recently upheld CBP’s affirmative determination as to evasion based on adverse inferences against foreign manufacturers in EAPA investigation 7281.<sup>135</sup>

### **Analysis as to Evasion**

Under 19 U.S.C. § 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.” 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.”<sup>136</sup> In this investigation covered merchandise is:

... carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Such fittings are made in a variety of shapes including, but not limited to, elbows, tees, crosses, laterals, couplings, reducers, caps, plugs, bushings, unions, and outlets. Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld or other end connections. While these fittings are generally manufactured to specifications ASME B16.11, MSS SP- 79, MSS SP–83, MSS SP–97, ASTM A105, ASTM A350 and ASTM A182, the scope is not limited to fittings made to these specifications. The term forged is an industry term used to describe a class of products included in applicable standards and does not reference an exclusive manufacturing process. Forged steel fittings are not manufactured from casting. Pursuant to the applicable specifications, subject fittings may also be machined from bar stock or machined from seamless pipe and tube.

All types of fittings are included in the scope regardless of nominal pipe size (which may or may not be expressed in inches of nominal pipe size), pressure rating (usually, but not necessarily expressed in pounds of pressure/PSI, *e.g.*, 2,000 or 2M; 3,000 or 3M; 6,000 or 6M; 9,000 or 9M), wall thickness, and whether or not heat treated. Excluded from this scope are all fittings entirely made of stainless steel. Also excluded are flanges, butt weld fittings, butt weld outlets, nipples, and all fittings that have a maximum pressure rating of 300 pounds of pressure/PSI or less.

Also excluded are fittings certified or made to the following standards, so long as the fittings are not also manufactured to the specifications of ASME B16.11, MSS SP–79, MSS SP–83, MSS SP–97, ASTM A105, ASTM A350 and ASTM A182:

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<sup>134</sup> See Thai Manufacturer Memo; Satria Non-Response Memo; SIG Non-Response Memo; and Eastborn Non-Response Memo.

<sup>135</sup> See *All One God Faith, et al., v. United States*, Consolidated Court No. 20-00164 (August 18, 2022, Judge Gary Katzmann); See Also U.S. Customs and Border Protection, “EAPA Cons. Case Number 7281: Notice of Final Determination as to Evasion at 18-19.

<sup>136</sup> See 19 CFR § 165.1; see also 19 U.S.C. §1517(a)(5)(A).

- American Petroleum Institute (API) 5CT, API 5L, or API 11B
- Society of Automotive Engineering (SAE) J476, SAE J514, SAE J516, SAE J517, SAE J518, SAE J1026, SAE J1231, SAE J1453, SAE J1926, J2044 or SAE AS 35411
- Underwriter’s Laboratories (UL) certified electrical conduit fittings
- ASTM A153, A536, A576, or A865
- Casing Conductor Connectors 16–42 inches in diameter made to proprietary specifications
- Military Specification (MIL) MIL–C–4109F and MIL–F–3541
- International Organization for Standardization (ISO) ISO6150–B

To be excluded from the scope, products must have the appropriate standard or pressure markings and/or be accompanied by documentation showing product compliance to the applicable standard or pressure, *e.g.*, “API 5CT” mark and/or a mill certification report.<sup>137</sup>

### *Adverse Inferences*

EAPA’s regulations at 19 CFR § 165.6(a) state that if “the importer, or the foreign producer or exporter of the covered merchandise fails to cooperate and comply to the best of its ability with a request for information made by CBP, CBP may apply an inference adverse to the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion {...}”<sup>138</sup> Because SIG, the Thai Manufacturer, Eastborn, and Satria failed to respond to CBP’s RFI despite the multiple opportunities to respond described above, these companies have not cooperated with this investigation to the best of their ability.<sup>139</sup> Due the foreign manufacturers’ and suppliers’ non-responses, CBP was unable to question Eastborn and the Thai Manufacturer directly about their [description] MTRs, CBP did not receive information from these foreign companies about their production capacity, CBP never received a complete list of plant equipment used in FSF production at each factory, and CBP officials were not able to verify the information CIS provided through on-site verifications. Therefore, CBP is relying on adverse facts available from the allegation and from CBP’s own research to make a determination as to evasion.

CBP is specifically relying on information from the attempted site visit to Satria as well as the information from [ source ] stating that the [ source ] has no [ description of records ] by Satria and [ description of records ].<sup>140</sup> This means that Satria has never [ description of process for record creation ] with the [ source ], which indicates that Satria is not a legitimate exporter. This is further supported by the photo of Satria’s purported address in the allegation, showing a building too small for a factory,<sup>141</sup> CBP’s site visit to Satria, where CBP officials could not find Satria, and the fact that no local residents had even heard of the company.<sup>142</sup> Further, the allegation provided a Facebook profile showing that Peter Setyawan, a Satria employee has only one Facebook “friend”, Allen Fang, an employee of Jiangsu.<sup>143</sup>

<sup>137</sup> See the Orders.

<sup>138</sup> See 19 CFR § 165.6(a). See also 19 USC § 1517(c)(3)(A).

<sup>139</sup> See Thai Manufacturer Memo; Satria Non-Response Memo; SIG Non-Response Memo; and Eastborn Non-Response Memo.

<sup>140</sup> See August 26 Memo.

<sup>141</sup> See allegation at Exhibit Q.

<sup>142</sup> See Satria Drive-by Memo.

<sup>143</sup> See allegation at 13 and Exhibit O.

Although CIS has claimed that all pipe fittings it imported from Indonesia were outside the scope of the Orders, even if made in China, the plain scope language states that “{t}o be excluded from the scope, products must have the appropriate standard or pressure markings and/or be accompanied by documentation showing product compliance to the applicable standard or pressure, *e.g.*, ‘API 5CT’ mark and/or a mill certification report.”<sup>144</sup> CIS has never furnished such documentation for every item imported from SIG and in fact, many kilograms of merchandise CIS imported from Satria were described in test certificates, packing lists, and purchase Orders as manufactured to the “[**specification name**] specification” which is listed as a specification of FSF in the scope language. Further, MTRs show that these products did not fall under exclusions for stainless steel or pipe fittings with pressure ratings less than 300 PSI.<sup>145</sup> This indicates that CIS likely made a false statement to CBP by claiming that the entirety of the merchandise CIS purchased from Satria was outside the scope of the Orders.

With respect to Eastborn, CBP is relying on information from EFL’s RFI response indicating that Eastborn is a trading company with no capacity to manufacture FSF. Specifically, EFL’s RFI response indicates that EFL facilitated Eastborn’s importation of Chinese FSF into Sri Lanka and their re-export to the United States. The documents in EFL’s RFI response specifically demonstrate that Eastborn was the notify party on bills of lading, packing lists, and commercial invoices for shipment of FSF from Kingtrans in China to Eastborn in Sri Lanka. Further, EFL also provided bills of lading for transportation of the same merchandise from Sri Lanka to the U.S. on behalf of Eastborn, and EFL declared the FSF it transported to the U.S. as Chinese-origin in Sri Lankan export declarations associated with these shipments. In summary, this validates every aspect of the allegation: (1) that Eastborn is an intermediary for Kingtrans; (2) Eastborn imported Chinese-origin FSF into Sri Lanka from Kingtrans, and (3) Eastborn re-exported this covered merchandise to the U.S.<sup>146</sup> Further, Eastborn itself has admitted that it continued to act as a trading company even after production ceased.<sup>147</sup>

Further, there is substantial evidence on the record indicating that the documents CIS provided supposedly showing Eastborn’s production are fraudulent. CBP notes that the photo of the factory CIS provided in its CF-28 response is an edited photo taken from the website of an Italian tire factory and CIS has acknowledged this. Although CIS claims that Eastborn used this photo simply because it was “more presentable” than a photo of Eastborn’s factory, CIS furnished this image to CBP as evidence in support of its response to a CF-28, a document that requires importers to answer truthfully.<sup>148</sup>

CBP also notes that there have been repeated indications that Eastborn’s mill test certificates are fraudulent over the course of this investigation. In the allegation, the allegor furnished a mill test certificate from Eastborn signed by [ **name** ], an employee of Jiangsu.<sup>149</sup> In the RFI response, CIS provided a mill test certificate issued by Eastborn with [ **description** ] heat numbers

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<sup>144</sup> See the Orders.

<sup>145</sup> See CF-28 Response for entry [ # ]3616 at 96/100 to 100/100 and CF-28 Response [ # ]6020 at 77/83 to 83/82.

<sup>146</sup> See EFL RFI Response at 18/24 to 23/24.

<sup>147</sup> See VFI at Exhibit 6.

<sup>148</sup> See Eastborn Photo Memo.

<sup>149</sup> See allegation at 10 and Exhibit I.

and chemistries to one issued by the Thai Manufacturer.<sup>150</sup> It is very unusual for two different producers to use the [ description ] number system for their heat numbers and it is almost impossible to produce steel with the [ description ] chemistry in two different heats, even at the same mill. CIS has claimed that the Thai Manufacturer and Eastborn purchased their steel from different mills (one in Thailand and one in Sri Lanka, respectively), so it is extremely unlikely the steel could have had [ description of steel characteristics ].<sup>151</sup> Therefore, these mill test certificates are likely fraudulent. The provision of fraudulent or misleading information is clearly noncompliant with CBP's EAPA investigation and further supports application of adverse inferences against CIS and the other entities.

With respect to SIG and the Thai Manufacturer, CBP is considering trade data from [ source ] indicating that SIG purchased covered merchandise from China and re-exported the merchandise within [ timeframe ] after the merchandise entered Thailand.<sup>152</sup> The very fact that SIG imported FSF from China undermines CIS' contention that SIG only purchases FSF from the Thai Manufacturer and the [ description of data ] constitute substantial evidence of evasion. Further, CBP is also considering the fact that when CBP officials visited SIG's purported address in Thailand, they found a residential building with unretrieved mail overflowing from the mailbox and no lights on inside the building, indicating that it was unoccupied.<sup>153</sup> Thus, even if this address was simply an office location and SIG was merely a trading company, as CIS contends, the trading company did not operate out of this address at the time CBP officials visited. CBP has also found the MTR's issued by the Thai manufacturer were likely fraudulent because they show [ description ] chemistries and heat numbers as MTR's issued by Eastborn.<sup>154</sup>

### **Determination as to Evasion**

Based on the facts described above, CBP determines that substantial evidence exists that the forged steel fittings imported by CIS from Sri Lanka, Indonesia, and Thailand were in fact Chinese-origin and subject to the Orders on FSF from China A-570-067 and C-570-068. Furthermore, evidence on the record indicates that CIS entered the Chinese-origin FSF into the customs territory of the United States as type 01 entries, thereby evading payment of duties on FSF from China.<sup>155</sup> Because CIS did not declare that the merchandise was subject to the Orders at time of entry, the requisite cash deposits were not collected on the covered merchandise.

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

In light of CBP's determination that substantial evidence demonstrates that the importer entered covered merchandise into the customs territory of the United States through evasion, CBP will take action, as applicable, pursuant to 19 U.S.C. §§ 1517(d)(1)(D)-(E) and 19 CFR § 165.28(a).

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<sup>150</sup> See CIS RFI Response at Exhibit 20A page 23/52 and Exhibit 20C, page 15/31 and Supp RFI Response at 7.

<sup>151</sup> See CIS Written Argument at 5-6 and 8; See also VFI at Exhibit 1, Exhibit 2, Exhibit 8, and Exhibit 9; and CIS RFI at Exhibit 20A, page 23/52 of and at Exhibit 20C, page 15/31.

<sup>152</sup> See April 15 Memo at Attachment 2.

<sup>153</sup> See April 15 Memo at Attachment 1.

<sup>154</sup> See CIS RFI Response at Exhibit 20A page 23/52 and Exhibit 20C, page 15/31 and Supp RFI Response at 7.

<sup>155</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>.

Specifically, pursuant to 19 U.S.C. § 1517(d)(1)(E)(iii), CBP will require that for any imports of FSF from Sri Lanka, Thailand, and Indonesia, CIS deposit estimated duties at the time of entry. CBP will also evaluate the importer's continuous bond in accordance with CBP's policies and will 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 Hoxie". The signature is fluid and cursive, with the first name "Brian" being the most prominent.

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