



U.S. Customs and Border Protection

July 8, 2022

PUBLIC VERSION

EAPA Case: 7624

Little Fireflies International Co.
No F108 Ground Floor St Fortune
Phnom Penh, Cambodia

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Re: Notice of Determination as to Evasion

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) investigation 7624, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that Little Fireflies International Co. (Little Fireflies) entered merchandise covered by antidumping (AD) and countervailing (CVD) duty orders A-570-062 and C-570-063 (covered merchandise)¹ into the customs territory of the United States through evasion.² Substantial evidence demonstrates that Little Fireflies imported cast iron soil pipe fittings (fittings) from the People's Republic of China (China) into the United States by transshipment through Cambodia. Little Fireflies did not declare that the merchandise was subject to the AD/CVD Orders on entry and, as a result, no cash deposits were collected on the merchandise.

Background

On July 14, 2021, the Cast Iron Soil Pipe Institute (the Alleger), a trade association of domestic producers of fittings, submitted an allegation to CBP that Little Fireflies was evading the AD/CVD Orders on fittings from China.³ The Allegation asserted that Little Fireflies was

¹ See 19 CFR 165.1.

² See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 83 FR 44570 (August 31, 2018); see also *Cast Iron Soil Pipe Fittings from the People's Republic of China: Countervailing Duty Order*, 83 FR 44566 (August 31, 2018) (collectively, the AD/CVD Orders).

³ See Letter from the Alleger, "Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act," dated July 14, 2021 (Allegation). The Alleger, the Cast Iron Soil Pipe Institute, is a trade association of domestic producers of cast iron soil pipe fittings and, and thus, meets the definition of an interested party that is permitted to submit an EAPA allegation pursuant to 19 USC 1517(a)(6)(A)(iv), 19 CFR 165.1(4), and 19 CFR 165.11(a). See also Allegation at 3 and Exhibit 9.

importing Chinese-origin fittings into the United States that were transshipped through Cambodia.⁴ On August 13, 2021, CBP acknowledged receipt of the Allegation.⁵

CBP found the information in the Allegation reasonably suggested that Little Fireflies entered covered merchandise for consumption into the customs territory of the United States through evasion.⁶ Consequently, on September 3, 2021, CBP initiated an EAPA investigation pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.⁷ After the initiation of this investigation, CBP issued a CF-28 questionnaire to Little Fireflies concerning certain entries of fittings and requested the corresponding entry and production documentation.⁸ Little Fireflies provided a one-page entry/immediate delivery form in response, but failed to provide any other requested documentation pertaining to the two entries' production, sales, transportation, or payment.⁹ Thus, the entry/immediate delivery form, by itself, was an insufficient response to the CF-28. As a result of this inadequate submission, CBP issued a CF-29 notice of action to Little Fireflies that requested documentation regarding the entries again and stated "Failure to respond within 20 days will result in your entry/entries being changed to an '03' type and the antidumping and countervailing duties added to the case."¹⁰ Although Little Fireflies then responded with two additional entry/immediate delivery forms, two commercial invoices issued to the consignee, two packing lists, two bills of lading, and one cargo release results form,¹¹ it did not provide the following items requested in the CF-29¹² or explain why it had failed to do so:

1. Purchase orders, commercial invoices, and proof of payment for all raw materials used to produce the merchandise
2. Dated transportation documents and container load plans from the manufacturer of the raw materials
3. Foreign customs documentation (if imported) for all raw materials
4. Complete factory production records, including stamped timecards, and work orders
5. Production capabilities and packaging costs
6. Entry transaction information including the original commercial invoice(s), proof of payment(s), and purchase order
7. An explanation about whether Little Fireflies was affiliated with the seller of the merchandise
8. The names of their corporate officers

⁴ *Id.* at 1-2, 4-7.

⁵ See 19 CFR 165.12; see also Email from CBP, "Receipt of Properly Filed Allegation," dated August 13, 2021; see also Email from CBP, "Receipt of Properly Filed Allegation (Little Fireflies International Co.)," dated August 27, 2021. The August 13 and August 27 emails both concerned CBP's receipt of the same allegation. However, because the August 13 receipt email did not expressly mention Little Fireflies, CBP sent the August 27 receipt email in which it clarified that the allegation receipt pertained to Little Fireflies.

⁶ See 19 USC 1517(b)(1); see also 19 CFR 165.15.

⁷ See 19 USC 1517(b)(1); see also 19 CFR 165.15; see also CBP Memorandum, "Initiation of Investigation for EAPA Case 7624," dated September 3, 2021 (Initiation).

⁸ See Little Fireflies' CF-28 Response, dated September 22, 2021. This document concerned fittings entries [#]4294 and [#]2271.

⁹ *Id.*

¹⁰ See Little Fireflies' CF-29 Response, dated October 28, 2021.

¹¹ *Id.*

¹² *Id.*

9. The names of all forwarding agents, subcontractors, and intermediaries involved and their contact information

CBP subsequently added a memorandum to the administrative record containing screenshots of Little Fireflies' business registration and CBP's emails with Little Fireflies' customs broker.¹³

After evaluating the information on the record, CBP determined that reasonable suspicion existed that Little Fireflies imported Chinese-origin fittings into the United States that had been transshipped through Cambodia. The record information supporting this determination included the following:

- Little Fireflies did not provide most of the items CBP requested in its CF-28 and CF-29 forms and did not explain its failure to do so.
- CBP had determined in EAPA case 7455 that the U.S. importer Lino International Inc. (Lino) and the Cambodian company HiCreek Plumbing Co., Ltd (HiCreek) transshipped Chinese-origin fittings through Cambodia into the United States.¹⁴ Lino is affiliated with the Chinese company Dalian Metal I/E Co (Dalian Metal) through common ownership.¹⁵ Dalian Metal coordinated logistics in EAPA 7455's transshipped entries of fittings.¹⁶ Little Fireflies' Chairman of the Board of Directors, Yuanshou Zhang, also known as Ryan Zhang, is also an employee of Dalian Metal and has an address in China.¹⁷ Little Fireflies' customs broker likewise identified [NAME] as one of his points of contact for Little Fireflies.¹⁸
- Little Fireflies' limited responses provided no information contradicting record evidence detailed in the Allegation.

Consequently, on December 9, 2021, CBP issued a notice of initiation of investigation and interim measures to Little Fireflies and the Allegor.¹⁹ This notice informed Little Fireflies and the Allegor of the initiation of the investigation and of CBP's decision to impose interim measures based on a reasonable suspicion of evasion.²⁰ The notice also informed Little Fireflies and the Allegor that the entries covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from August 13, 2020, through the pendency of this investigation.²¹ As part of interim measures, CBP suspended the liquidation of Little Fireflies' unliquidated entries entered on or after the initiation of the investigation pursuant to its authority under 19 USC 1517(e).

¹³ See CBP Memorandum, "Adding Information to the Administrative Record," dated December 1, 2021 (December 1 Memorandum).

¹⁴ *Id.* at Attachment 4.

¹⁵ *Id.* at Attachment 4, pages 4-5, 12.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at Attachment 1.

¹⁹ See Letter from CBP, "Notice of Initiation of Investigation and Interim Measures - EAPA Case 7624," dated December 9, 2021.

²⁰ *Id.*; see also 19 USC 1517(e); see also 19 CFR 165.24.

²¹ See also 19 CFR 165.2. Entries covered by the investigation include entries up to one year prior to the date CBP officially received the Allegation.

To further investigate the claims in the Allegation, CBP issued requests for information (RFI) to Little Fireflies, Lino, HiCreek, a consignee named [COMPANY] (Consignee), and a trading company named [COMPANY] (Trading Company).²² HiCreek is a Cambodian exporter that CBP determined, in EAPA case 7455, participated in the transshipment of Chinese-origin fittings, which it subsequently exported to Lino.²³ Record evidence below describes HiCreek's and Lino's continued roles in Little Fireflies' entries. Record evidence below also describes how the Trading Company purchased fittings from Little Fireflies that it later sold to the Consignee. CBP received RFI responses from the Consignee and Trading Company but not from Little Fireflies, Lino, or HiCreek.²⁴ CBP added several additional memoranda to the case record composed of its research findings and administrative record documents from EAPA cases 7454 and 7455.²⁵ On May 19, 2022, the Allegor submitted written arguments.²⁶

Analysis as to Evasion

Under 19 USC 1517(c)(1)(A), to reach a final determination as to evasion in this case, CBP must, "make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion." Evasion is defined as "the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material and that results in any cash deposit or other security of any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise."²⁷ As discussed below, substantial evidence on the record indicates that Little Fireflies' imports were entered through evasion, resulting in the avoidance of applicable AD/CVD cash deposits or other security.

²² See Letter from CBP to Little Fireflies, "EAPA 7621 and 7624 Request for Information," dated December 14, 2021; see also Letter from CBP to Lino, "EAPA 7621 Request for Information," dated December 14, 2021; see also Letter from CBP to HiCreek, "EAPA 7621 Request for Information," dated December 14, 2021; see also Letter from CBP to Consignee, "EAPA 7621 and 7624 Request for Information," dated December 14, 2021; see also Letter from CBP to Consignee, "Supplemental Request for Information – [COMPANY]," dated February 1, 2022; see also Letter from CBP to Trading Company, "EAPA 7621 and 7624 Request for Information," dated February 2, 2022; see also Letter from CBP to Trading Company, "EAPA 7621 and 7624 Supplemental Request for Information," dated March 29, 2022.

²³ See December 1 Memorandum at Attachment 4.

²⁴ See Letter from Consignee, "Response to Request for Information," dated January 7, 2022 (Consignee RFI); see also Letter from Trading Company, "Response to request for information," dated February 16, 2022 (Trading Company RFI); see also Letter from Consignee, "Response to Request for Information," dated March 7, 2022; see also Letter from Trading Company, "Second Response to request for information," dated April 19, 2022 (Trading Company Supplemental RFI).

²⁵ See CBP Memorandum, "Adding Information to the Administrative Records of EAPA Consolidated Case 7621 and EAPA case 7624," dated April 20, 2022 (April 20 Memorandum); see also CBP Memorandum, "Adding Information to the Administrative Records of EAPA Consolidated Case 7621 and EAPA case 7624," dated April 21, 2022 (April 21 Memorandum); see also CBP Memorandum, "Adding Information to the Administrative Records of EAPA Consolidated Case 7621 and EAPA case 7624," dated April 22, 2022 (April 22 Memorandum); see also December 1 Memorandum at Attachment 3.

²⁶ See Letter from the Allegor, "EAPA Case No. 7624, Cast Iron Soil Pipe Fittings: Submission of Written Argument," dated May 19, 2022 (Written Arguments).

²⁷ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

Little Fireflies has multiple connections to China that conveniently position it to facilitate evasion. Business registration information from a Cambodian government website indicates that Yuanshou Zhang, also known as Ryan Zhang, incorporated Little Fireflies in Cambodia on October 1, 2020.²⁸ This website lists Mr. Zhang as Little Fireflies' Director and Chairman of the Board and denotes his address as Dalian City, Liaoning Province, China.²⁹ Little Fireflies' customs broker likewise indicated that [SITUATION DESCRIPTION] at Little Fireflies.³⁰ Although Mr. Zhang is Little Fireflies' Director, he is also currently an employee of the Chinese exporter Dalian Metal and located in China. Further evidence of Mr. Zhang's link to Dalian Metal in his role with Little Fireflies is the email address that he uses to conduct business on behalf of Little Fireflies, which identifies Dalian Metal, zhangyuanshou@dalianmetal.com.³¹ Also, multiple [

PROCEDURE DESCRIPTION

].³² In one of these emails, dated [DATE AND DESCRIPTION]"³³ This email pertained to merchandise purportedly exported from Little Fireflies.³⁴

The U.S. Department of Commerce (Commerce) investigated Dalian Metal in its AD/CVD proceedings, A-570-062 and C-570-063. In a September 14, 2017 response to Commerce, Dalian Metal listed its two suppliers of Chinese-origin fittings as Xinle Rishuo Casting Factory and Qinshui Shunshida Casting Co., Ltd.³⁵ As such, Mr. Zhang's employment with Dalian Metal could allow him to draw upon Chinese fittings suppliers such as these for his other company, Little Fireflies. In EAPA case 7455, CBP determined that "After Commerce's investigation, Dalian Metal ... continued to play a coordinating role in obtaining Lino's orders and in exporting merchandise."³⁶ Moreover, in that case, CBP determined that those orders contained Chinese-origin fittings.³⁷ As previously discussed, in EAPA case 7455, CBP determined that Chinese-origin fittings were transshipped through HiCreek's Cambodian facility to Lino and that Lino is affiliated with Dalian Metal through common ownership.³⁸ Similarly, in EAPA consolidated case 7454, CBP determined that a different Chinese-origin product, cast iron soil pipe (soil pipe), was also transshipped through HiCreek's Cambodian facility to Lino.³⁹

When combined with the evidence above, several bills of lading for Little Fireflies' entries indicate that Dalian Metal facilitated the transportation of merchandise for Little Fireflies from their location in Dalian City, China using the information from the sales orders.⁴⁰ The issuer of

²⁸ See December 1 Memorandum at Attachment 2; *see also* Allegation at Exhibits 3, 6-7; *see also* April 20 Memorandum at Attachments 15, 19, 30. Page 11 of attachment 15 contains a [DATE AND SITUATION DESCRIPTION].” Thus, Ryan Zhang of Dalian Metal is the same person as Yuanshou Zhang.

²⁹ *Id.*

³⁰ See December 1 Memorandum at Attachment 1, page 1.

³¹ See Letter from Granite Plumbing, “Response to RFI #1,” dated January 11, 2022 (Granite Plumbing RFI) at 1.

³² *Id.* at 19 and Exhibit App I-9, pages 155-156, 165, 168, 174-175, *etc.*

³³ *Id.* at Exhibit App I-9, page 155.

³⁴ *Id.*

³⁵ See April 20 Memorandum at Attachment 28, page 19.

³⁶ *Id.* at Attachment 38, page 13.

³⁷ *Id.* at Attachment 38, pages 13, 15.

³⁸ *Id.* at Attachment 38.

³⁹ See December 1 Memorandum at Attachment 3.

⁴⁰ See Little Fireflies CF-29 Response at 8. In this bill of lading “Dalian” is listed as the place of issue but Little Fireflies is listed as the shipper.

many of these bills of lading is the Chinese freight forwarder Tianjin Fullrich Forever International Forwarding Co., Ltd (Tianjin Fullrich).⁴¹ Tianjin Fullrich is located in Tianjin, China, which is close to Dalian Metal's Dalian City location. Further, many of these bills of lading denote that their place of issue is "Dalian."⁴² Thus, these bills of lading indicate that Dalian Metal facilitated the fittings' transportation with Tianjin Fullrich for Little Fireflies' entries from Dalian Metal's location in Dalian City, China, and communicated with customers to obtain the relevant information for the bill of lading.

In addition, the freight forwarder Tianjin Fullrich is located in Tianjin City, which has a port that Dalian Metal used to export merchandise.⁴³ Online evidence shows that Dalian Metal identifies Tianjin as one of its main ports.⁴⁴ A screenshot of Dalian Metal's profile on a vendor website lists "FOB Port: Tianjin" in the information section for one of Dalian Metal's products.⁴⁵ Another vendor website, Alibaba.com, likewise identifies Dalian Metal's nearest ports as "Nearest Port tianjin, ningbo {sic}."⁴⁶ As of October 27, 2021, this website also stated that Dalian Metal possessed fittings production: "Dalian Metal I/E Co., Ltd. is a professional enterprise mainly producing such as {sic} cast iron pipes and fittings ... Our company can output 40,000 metric tons of gray spun cast iron pipes, fittings ... We possess advanced production...."⁴⁷

Little Fireflies was identified as the importer of record on six entries of fittings during the period of investigation.⁴⁸ Little Fireflies sold the fittings from these entries to the Trading Company, which in turn sold them to the Consignee. Some of the purchase orders and invoices that the Trading Company issued to the Consignee in these transactions listed "Departure Cambodia/China" or "Departure China," which is consistent with Little Fireflies' connections to China.⁴⁹

On its entry documents, Little Fireflies claimed that these entries originated in Cambodia and listed itself as the both the importer of record and the manufacturer.⁵⁰ However, record evidence indicates that Little Fireflies was a trading company rather than a manufacturer. Specifically, Little Fireflies' business registration denotes its business objective as "Other specialized wholesale" and its main business activities as "Wholesale of construction materials & tools."⁵¹ The following record evidence also indicates that Little Fireflies sourced its merchandise from

⁴¹ See April 20 Memorandum at Attachment 38.

⁴² See Little Fireflies CF-29 Response at 8; see also Consignee RFI at 17, 19-20; see also Trading Company Supplemental RFI at 73-74, 77.

⁴³ See, e.g., Trading Company RFI at 96-97. Dalian Metal issued these invoices, which state that the merchandise departs "From: Xingang." Xingang is another name for the Port of Tianjin. See April 21 Memorandum at Attachment 16, page 2.

⁴⁴ See April 21 Memorandum at Attachment 2

⁴⁵ *Id.* at Attachment 2, page 5.

⁴⁶ *Id.* at Attachment 2, page 15.

⁴⁷ *Id.*

⁴⁸ See Little Fireflies CF-28 Response; see also Little Fireflies CF-29 Response; see also Allegation at Exhibit 1; see also DC NTAC Report.

⁴⁹ See Trading Company RFI at 54-57; see also Trading Company Supplemental RFI at 86; see also Consignee RFI at 35-36, 40-42, 44.

⁵⁰ *Id.*

⁵¹ See December 1 Memorandum at Attachment 2, page 1.

HiCreek, whom CBP previously determined acted as a transshipment point for Chinese-origin fittings: In an instant message, [COMPANIES AND NAME] stated that “[SITUATION DESCRIPTION]”⁵² In that message, the “[DESCRIPTION]” refers to HiCreek. In an email from [DATE], [NAME] stated

[

SITUATION DESCRIPTION

].⁵³

Granite Plumbing Products LLC (Granite Plumbing) is an importer of soil pipe from Little Fireflies that is under investigation in a separate EAPA case, EAPA 7621. It is noteworthy that Granite Plumbing and the Trading Company in this case both seemed unaware that they purchased merchandise from Little Fireflies. Granite Plumbing stated that it ordered soil pipe from Lino and that Lino informed Granite Plumbing that HiCreek produced the soil pipe.⁵⁴ Granite Plumbing also stated that it “did not deal with either HiCreek or Little Fireflies. Granite Plumbing purchased the goods from Lino international... Granite Plumbing purchased the goods and dealt exclusively with Lino International. Granite Plumbing does not know this company and has not dealt with it.”⁵⁵ Likewise, the Trading Company stated:

[COMPANY] has no relationship with Little Fireflies. [COMPANY] was not aware of Little Fireflies until issues occurred regarding information about an incorrect importer. [COMPANY]’s relationship with Dalian Metal is that of a purchaser. In other words, Dalian Metal is the supplier of cast iron soil pipe and cast-iron soil pipe fittings, while [COMPANY] was the purchaser. [COMPANY] purchased cast-iron soil pipes from Dalian Metal since the factory is located in Cambodia and their pipes and fittings are UPC certified. [COMPANY] purchased products directly from Dalian Metal through Dalian Metal’s salesperson Zhai Ming.⁵⁶

Thus, Granite Plumbing and the Trading Company ordered soil pipe and fittings from Lino or Dalian Metal, which in turn obtained the soil pipe and fittings from HiCreek. When this merchandise entered the United States, Little Fireflies’ name was on the U.S. entry documents rather than Lino’s, Dalian Metal’s, or HiCreek’s names. Because this arrangement began shortly before CBP’s EAPA determinations in EAPA 7454 and 7455, it would seem likely that the use of Little Fireflies’ then-unknown name as both the importer and manufacturer of the merchandise was intended to avoid CBP’s interim measures and later its EAPA determination associated with Lino, Dalian Metal, and HiCreek.

⁵² See Granite Plumbing RFI at Exhibit App I-9a, page 14.

⁵³ *Id.* at Exhibit App I-9, page 182.

⁵⁴ See Letter from CBP, “Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7621,” dated December 9, 2021, at 6; *see also* Granite Plumbing CF-28 Response, dated January 27, 2022, at 5.

⁵⁵ See Granite Plumbing RFI at 17, 19.

⁵⁶ See Trading Company RFI at 1. The “factory” that the Trading Company is referring to is HiCreek.

The reason for using a “new” name like Little Fireflies was that record documents from EAPA 7454 and 7455 investigated Lino’s, Dalian Metal’s and HiCreek’s role in transshipment.⁵⁷ Ultimately, CBP determined in EAPA 7454 and 7455 that all of the companies participated in evasion.⁵⁸ Further, those case records indicated that Ryan Zhang of Dalian Metal sourced fittings from HiCreek for Lino.⁵⁹ Documents ostensibly issued by Little Fireflies indicate that Ryan Zhang continues to source fittings from HiCreek for Little Fireflies. Specifically, the commercial invoices and packing lists that Little Fireflies issued for entries [#]4294, [#]8154, and [#]2271 all denote invoice numbers beginning with “HC.”⁶⁰ Correspondingly, invoices HiCreek issued in EAPA case 7455 also contain invoice numbers beginning with “[DESCRIPTION].”⁶¹ Thus, given that Little Fireflies did not source from any other entity of which reasonably could have been referred to as “HC” for invoice purposes, these identical invoice numbering systems indicate that Little Fireflies sourced its fittings from HiCreek.

The fact that Little Fireflies sourced its fittings from HiCreek—whom CBP previously determined acted as a transshipment point for Chinese-origin fittings—and omitted HiCreek’s name from the entry documents is consistent with continued evasion.⁶² In EAPA 7455, import and export data from [DESCRIPTION] demonstrated that HiCreek imported fittings into Cambodia from China that it then exported from Cambodia to the United States.⁶³ During that investigation, CBP traced these export data to the CBP entry records of multiple U.S. importers including Lino.⁶⁴ The result showed that the fittings shipments Lino imported from HiCreek had the same number of packages, a similar (or identical) weight, and a timeframe conducive to transshipment, which indicated that these were the same fittings HiCreek imported from China.⁶⁵ Although HiCreek had machinery that ostensibly indicated some production capacity, HiCreek imported large quantities of fittings from China.⁶⁶ In fact, HiCreek imported more fittings from China by weight than it exported to all countries during 2019-2020.⁶⁷ This indicated that HiCreek’s fittings exports to the United States drew upon its extensive inventory of Chinese-origin fittings.

Since the beginning of this case’s period of investigation, August 13, 2020, HiCreek has continued importing large quantities of fittings from China. HiCreek imported [#] entries of fittings from China into Cambodia between [DATE], 2020, and [DATE], 2022.⁶⁸ The chart below shows the combined weight of these entries from China into Cambodia. It also shows the combined weight of HiCreek’s fittings exports to the United States and to all other countries.

⁵⁷ See April 20 Memorandum at Attachments 17, 19, 21, 24, 30.

⁵⁸ *Id.* at Attachment 20; see also December 1 Memorandum at Attachment 3.

⁵⁹ See April 20 Memorandum at Attachments 17, 19, 21, 24, 30.

⁶⁰ See April 21 Memorandum at Attachment 12, pages 2, 4; see also Little Fireflies CF-29 Response at 4, 6, 11-12.

⁶¹ See April 20 Memorandum at Attachments 19 and 21, pages 596, 600, 603-604, 607, *etc.*

⁶² See Little Fireflies CF-29 Response.

⁶³ See April 20 Memorandum at Attachment 38.

⁶⁴ *Id.* at Attachment 38, page 11.

⁶⁵ *Id.* at Attachment 38.

⁶⁶ *Id.* at Attachment 38.

⁶⁷ *Id.* at Attachment 38, page 10.

⁶⁸ *Id.* at Attachment 31; see also April 22 Memorandum at Attachment 1.

HiCreek's Fittings Imports and Exports			
All Amounts are in Kilograms			
Year	Imports from China	Exports to the U.S.	Exports to All Other Countries
2019	[]	[]	[]
2020^	[]	[]	[]
2020*	[]	[]	[]
2021	[]	[]	[]
2022**	[]	[]	[]
Total	[]	[]	[]

^All of 2020. *Calculated only after August 13, 2020. **Calculated until [DATE], 2022.

A comparison of the chart's columns shows that the weight of HiCreek's fittings imported from China exceeded the weight of the fittings it exported to the United States and to all other countries in each year and in total. Because HiCreek's Chinese-origin fittings exceeded its exports, it did not need to manufacture any Cambodian-origin fittings to meet its export needs. As such, HiCreek had a large surplus inventory of Chinese-origin fittings to draw upon for its exports of fittings to the United States. Furthermore, because HiCreek did not participate in this investigation, CBP has no evidence that would show that HiCreek manufactured or exported any Cambodian-origin fittings during the period of investigation. On the other hand, CBP collected evidence, such as import data, that indicates that HiCreek was importing pipe fittings from China.

The figures in the above chart [PROCUEDURE DESCRIPTION]⁶⁹ In contrast, the Little Fireflies [DESCRIPTION] does not show any imports or exports (it says "[DESCRIPTION]"), which indicates that Little Fireflies [SITUATION DESCRIPTION]⁷⁰ Because Little Fireflies' entries sourced their fittings from HiCreek, some of HiCreek's exports of Chinese-origin fittings went to Little Fireflies.

Consequently, based on the aforementioned analysis of relevant evidence, CBP determines that substantial evidence exists demonstrating that, by means of material false statements or material omissions, Little Fireflies entered Chinese-origin fittings subject to the AD/CVD Orders and failed to pay the requisite duties.

To corroborate the allegation, on December 14, 2021; January 3, 2022; and January 10, 2022, CBP emailed an RFI to the two individuals identified by Little Fireflies' customs broker.⁷¹ In its email reminders, CBP gave Little Fireflies two deadline extensions and advised them that "{i}f Little Fireflies does not submit its RFI response, CBP's intention is to apply an inference adverse to the interests of Little Fireflies as explained in United States law at 19 U.S.C. 1517(c)(3) and in CBP's regulations at 19 C.F.R. 165.6."⁷² Nevertheless, in spite of these email reminders and deadline extensions, Little Fireflies did not contact CBP, or ever ask for an additional extension

⁶⁹ See April 22 Memorandum at Attachment 1, pages 40-51.

⁷⁰ *Id.* at Attachment 1, page 52.

⁷¹ See December 1 Memorandum at Attachment 1, pages 2-3; *see also* April 21 Memorandum at Attachment 9.

⁷² See April 21 Memorandum at Attachment 9, pages 1-2.

of time to respond to CBP's RFI. Because Little Fireflies never responded to CBP's RFI, it impeded CBP's ability to obtain information for its investigation.

To investigate its potential production capabilities, CBP emailed an RFI to HiCreek on December 14, 2021.⁷³ HiCreek did not respond to this RFI request and so, on January 4, 2022, CBP sent the RFI to HiCreek again and extended the deadline.⁷⁴ On January 7, HiCreek responded "We just saw your email today, we checked our email box and it's a pity we didn't receive your early email dd. Dec. 14."⁷⁵ HiCreek did not submit an RFI response in spite of its implicit acknowledgement that it received the RFI. Therefore, on January 19, 2022, CBP sent a final RFI reminder and extended the deadline one more time.⁷⁶ HiCreek did not respond to CBP's final email reminder. In its email reminders, CBP advised HiCreek that "If HiCreek does not submit its RFI response, CBP's intention is to apply an inference adverse to the interests of HiCreek as explained in United States law at 19 U.S.C. 1517(c)(3) and in CBP's regulations at 19 C.F.R. 165.6."⁷⁷ However, HiCreek did not submit an RFI response or ever ask for an additional extension of time to respond to CBP's RFI. Because HiCreek did not submit an RFI response, it impeded CBP's ability to obtain information, such as information regarding any production by HiCreek in Cambodia.

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...."⁷⁸ Because Little Fireflies and HiCreek failed to respond to CBP's requests for information in the multiple instances described above, CBP finds that Little Fireflies and HiCreek have not cooperated and complied with CBP's requests for information during the underlying investigation to the best of their abilities. As such, CBP is applying an adverse inference against Little Fireflies and HiCreek and relying on adverse information submitted to CBP in the allegation and other information uncovered during CBP's investigation.⁷⁹

In particular, CBP is relying on factual information and evidence provided in the allegation and memoranda to the file, which indicate that Little Fireflies and HiCreek transshipped Chinese-origin fittings to the United States.⁸⁰ This factual information includes the allegation's discussion of Little Fireflies' connections to Dalian Metal, Lino, and HiCreek, each of which CBP found in EAPA case 7455 to have participated in transshipment.⁸¹ The allegation also discussed how in EAPA case 7455, Lino set up a front company named DLNL Trading Inc. to evade CBP's interim measures.⁸² As such, the allegation stated that Little Fireflies was a new company continuing a pattern of transshipping merchandise for Dalian Metal, Lino, and HiCreek

⁷³ *Id.* at Attachment 7.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.* at Attachment 7, pages 1-2.

⁷⁸ *See also* 19 USC 1517(c)(3)(A).

⁷⁹ *See* 19 USC 1517(c)(3)(B)-(C); *see also* 19 CFR 165.6(c); *see also* Allegation.

⁸⁰ *See* Allegation.

⁸¹ *Id.* at 1-2, 4-8.

⁸² *Id.* at 7.

under a similar scheme as in EAPA case 7455.⁸³ As previously discussed, entry documents indicate that Little Fireflies exported fittings to itself in its role as an importer of record but Little Fireflies actually exported fittings from HiCreek.⁸⁴ Documentation from the [DESCRIPTION] in a CBP memorandum to the file does not list any imports to Cambodia or exports from Cambodia for Little Fireflies.⁸⁵ However, the same documentation indicates that HiCreek imported numerous shipments of fittings from China and exported numerous shipments of fittings to the United States during the period of investigation.⁸⁶ Consequently, CBP determines that all Little Fireflies entries subject to this investigation are Chinese-origin.

Determination as to Evasion

In conclusion, the previously discussed facts on the record establish that Chinese-origin fittings were transshipped through Cambodia and imported into the United States. Furthermore, evidence on the record indicates that Little Fireflies subsequently entered the Chinese-origin fittings into the United States as type 01 entries that evaded the payment of AD/CVD duties on fittings from China.⁸⁷ CBP determines that substantial evidence exists demonstrating that, by means of material false statements or material omissions, Little Fireflies entered Chinese-origin fittings that were transshipped through Cambodia into the United States. The fittings that Little Fireflies entered from HiCreek and itself during the period of investigation are subject to the AD/CVD rates on fittings from China.⁸⁸ Because Little Fireflies did not declare that the merchandise was subject to the AD/CVD Orders on entry, the requisite cash deposits were not collected on the merchandise.

⁸³ *Id.* at 1-2, 4-8.

⁸⁴ *See* DC NTAC Report.

⁸⁵ *See* April 22 Memorandum at Attachment 1, page 52.

⁸⁶ *Id.* at Attachment 1, pages 40-51.

⁸⁷ 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>.

⁸⁸ Little Fireflies was listed as both the importer of record and the [DESCRIPTION] on its entry documents. As such, Little Fireflies’ fittings entries from HiCreek and itself are subject to the “China-Wide Entity” rate of 360.30 percent for AD case A-570-062 and the “All-Others” rate of 23.28 percent for CVD case C-570-063. These two rates equal a combined rate of 383.58 percent. *See* AD/CVD Orders.

Actions Taken Pursuant to the Affirmative Determination as to Evasion

In light of CBP's determination that substantial evidence demonstrates that Little Fireflies entered covered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the entries subject to this investigation, until instructed to liquidate. For those entries previously extended in accordance with Interim Measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries.⁸⁹ Finally, CBP will continue to evaluate Little Fireflies' continuous bonds 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,



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

⁸⁹ Entry type "03" is the code that CBP requires importers use to designate a consumption – Antidumping/ Countervailing Duty entry as subject to AD and/or CVD duties. The instructions for CBP Form 7501 (Entry Summary) state that code 03 shall be used for entries subject to AD/CVD duties. *See* <https://www.cbp.gov/trade/automated/ace-transaction-details>.