



U.S. Customs and Border Protection

July 5, 2022

EAPA CASE NO. 7651

PUBLIC VERSION

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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 7651, U.S. Customs and Border Protection (CBP) has determined there is not substantial evidence that Charman Manufacturing, Inc. (Importer) entered merchandise covered by antidumping (AD) duty order A-570-0881, on Malleable Cast Iron Pipe Fittings (MCIP Fittings) from the People's Republic of China (China)¹ into the customs territory of the United States through evasion. Specifically, CBP determined that there is not substantial evidence that the Importer imported Chinese-origin MCIP Fittings through Indonesia and/or Singapore via PT Tri Sinar Purnama in Indonesia (TSP and/or ID Supplier 1), PT Growell Indo Metal Manufactures (Growell and/or ID

¹ See "EAPA Allegation by Matco-Norca, LLC", dated May 7, 2021 (the Allegation), citing sunset review determination by the U.S. International Trade Commission (ITC) on pipe fittings from China USITC Pub. 4993 at Exhibit 5 (the AD Order). See also Exhibit 10 for "Antidumping Duty Order and Amended Final Determination in the Investigation of Certain Malleable Iron Pipe Fittings from the People's Republic of China (A-570-881)," Message Number 4002201. See also "Antidumping Duty Order: Certain Iron Malleable Pipe Fittings from the People's Republic of China," 68 FR 69376 (Dept. of Commerce, December 12, 2003).

Supplier 2) and/or Global Primeline PTE, Ltd. in Singapore (Global Primeline and/or SG Supplier).

Background

On May 7, 2021, Matco-Norca, LLC (Alleger),² filed an EAPA allegation through counsel claiming that the Importer evaded the AD Order on MCIP Fittings from China.³ On June 15, 2021, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP's Office of Trade, acknowledged receipt of the properly filed Allegation against the Importer.⁴ TRLED found the information provided in the Allegation⁵ reasonably suggested that the Importer entered covered merchandise into the customs territory of the United States through evasion.

Specifically, the information on the record suggested that the Importer's suppliers in Indonesia and Singapore did not have the capacity to manufacture the volume of pipe fittings the Importer had imported. Based on the Alleger's market knowledge, along with information contained in the most recent sunset review determination by the ITC, the Alleger did not believe that any producers of pipe fittings exist in either Hong Kong or Singapore.⁶ The Alleger obtained trade data from Import Genius, showing that the Importer imported a significant amount of "banded fittings" (a type of malleable pipe fittings) from the SG Supplier.⁷ The Alleger also provided evidence obtained from The Grid⁸ to show that the SG Supplier is located at 100 Cecil Street, #08-01/02, The Globe, Singapore 069532. The screenshots of that address from a property website show that the SG Supplier's facility is an office building called "the Globe" rather than a manufacturing facility.⁹ The Globe is a 15-story office building on Cecil Street, which in the heart of the city's business center.¹⁰ This information suggested that the SG Supplier is a trading company and not a producer. Moreover, an internet search for the SG Supplier revealed no company website. The company profile the Alleger submitted also described the SG Supplier's main business as "wholesale trade of a variety of goods without a dominant product."¹¹ The Alleger maintained that both Import Genius and the website 52wmb.com indicate that the SG Supplier is a Chinese supplier.¹²

Subsequently, on July 2, 2021, TRLED initiated an investigation against the Importer, under EAPA Case Number 7651, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.¹³ CBP's preliminary investigation included, among other things, requesting entry summary documents; visiting the SG Supplier, which confirmed that SG Supplier's location is an office building and there was no evidence of manufacturing onsite; and analyzing CBP data, which indicated that some entries were filed with a claimed country of

² The Alleger is an importer of covered merchandise; therefore, it qualifies as an interested party pursuant to 19 USC 1517(a)(6) and 19 CFR 165.1.

³ See the Allegation.

⁴ See June 15, 2021, email entitled "EAPA Case 7651 Official Receipt – Charman."

⁵ See the Allegation.

⁶ See Allegation at 1. See also Exhibit 2 for the Alleger's affidavit.

⁷ *Id.* at 2 and Exhibit 3.

⁸ See <https://sgpgrid.com>.

⁹ See Allegation at Exhibit 7.

¹⁰ *Id.*

¹¹ *Id.* at Exhibit 6.

¹² *Id.* at Exhibits 8 and 9.

¹³ See 19 USC 1517(b)(1) and 19 CFR 165.15; see also CBP Memorandum, "Initiation of Investigation for EAPA Case 7651, dated July 2, 2021.

origin as [[Name, action](#)],¹⁴ and indicated that there were some [[observation](#)].¹⁵ As a result, because the evidence on the administrative record demonstrated that reasonable suspicion existed, CBP issued a “Notice of Initiation of Investigation and Interim Measures – EAPA Case 7651” (NOI) on October 7, 2021.¹⁶ The NOI informed the Importer and the Allegor of the initiation of the investigation and of CBP’s decision to impose interim measures for the Importer based on a reasonable suspicion of evasion.¹⁷

On November 3, 2021, the Importer requested that CBP ask the Allegor to release the bracketing of the Import Genius data that the Allegor placed on the record as part of the Allegation. On December 2, 2021, CBP instructed the Allegor to unbracket the Import Genius data.¹⁸

On November 4, 2021, CBP issued the RFI questionnaires to the Importer and ID Supplier 1 and ID Supplier 2.¹⁹ On December 14, 2021, and December 17, 2021, respectively, the Importer’s RFI response was received; however, CBP rejected the RFI submission because portions of its response was over bracketed and lacked adequate public summaries of business confidential information.²⁰ The revised RFI response was resubmitted on January 13, 2022,²¹ and was accepted by CBP after granting three (3) extensions of time to re-file the RFI submission to accommodate the voluminous data being submitted to CBP.²² The Importer’s RFI response disclosed that the pipe nipples imported and manufactured by ID Supplier 2 were inadvertently misclassified under HTSUS subheading 7307.19.90 and that the pipe nipples are more properly classified under HTSUS subheading 7307.99.50.²³ To rectify the entry errors, the Importer filed a prior disclosure with CBP to disclose and correct the [[errors](#)

] errors. Specifically, the Importer claimed that the incorrect country of origin, Singapore, was declared to CBP instead of declaring the correct country of origin, Indonesia, because of its customs broker’s error and that the Importer had no knowledge this would occur.²⁴ The Importer also stated that U.S. Customs law and regulations may have been violated because

¹⁴ Any claim for preferences under the [[name](#)] must be supported by a Certificate of Origin attesting to the imported product’s originating status. Pursuant to [[number](#)], which are the relevant regulations, all the data elements specified therein must still be provided upon request to CBP in connection with a claim for preferential tariff treatment. An importer may make a claim for preferential treatment under this note based on the importer’s knowledge or on information in the importer’s possession that the goods qualify for [[name](#)].

¹⁵ See CBP “Notice of Initiation of Investigation and Interim Measures – EAPA Case 7651” (NOI), dated October 7, 2021. See also, NTAC Report, dated October 14, 2021, originally received on June 17, 2021.

¹⁶ See NOL.

¹⁷ *Id.*; see also 19 USC 1517(e) and 19 CFR 165.24.

¹⁸ See TRLED email title “Public Service - Filing on EAPA 7651 Record,” dated December 2, 2021.

¹⁹ See TRLED emails title “EAPA-00007651 Importer RFI Questionnaires,” dated November 4, 2021, “EAPA-00007651 Supplier 1 RFI Questionnaires,” dated November 4, 2021, and “EAPA-00007651 Supplier 2 RFI Questionnaires,” dated November 4, 2021.

²⁰ See TRLED email title “EAPA 7651 - TRLED Rejecting the Public Versions of the RFIs Responses,” December 21, 2021.

²¹ See “EAPA Case No. 7651 — Charman Manufacturing, Inc. Questionnaire Response” (the Importer Jan. 13th RFI response), dated January 13, 2022.

²² See TRLED emails titled: “EAPA-7651 Extension of Time to Receive the RFI Responses,” dated November 18, 2021; “EAPA-7651 2nd Extension of Time to Receive the RFI Responses,” dated November 30, 2021; “EAPA 7651- CBP Granting 3rd Extension of Time to Receive the RFIs Responses,” dated December 10, 2021; “EAPA 7651 - TRLED Rejecting the Public Versions of the RFIs Responses,” dated December 21, 2021; and “EAPA 7651 - TRLED Rejecting the Public Versions of the RFIs Responses,” dated December 22, 2021.

²³ See the Importer Jan. 13th RFI response at p. 29.

²⁴ See the Importer Jan. 13th RFI response at p. 29 and 34.

the customs broker claimed a Special Program Indicator (SPI),²⁵ [action, name], when filing the entries. The Importer maintained that all of the commercial documentation related to the shipments of MCIP Fittings correctly indicated Indonesia origin.²⁶ The Importer continued to explain that SG Supplier was established in April 2015 as a selling company to handle the Importer’s MCIP Fittings orders from ID Supplier 1 due to friendlier international banking laws in Singapore.²⁷

On January 3, 2022, a portion of the ID Supplier 1 RFI response was received, and the remaining RFI response submission was received on January 4, 2022; CBP accepted the RFI response.²⁸ In its response, ID Supplier 1 asserted that it is the only producer of MCIP Fittings in Indonesia, and that ID Supplier 1 was established in 1983. ID Supplier 1 manufactures two (2) brands of MCIP fittings: TSP brand, which sold in both the export and Indonesia domestic markets, and the G brand, which is sold exclusively in the Indonesian domestic market.²⁹ Similarly, the ID Supplier 2 response was received in parts on January 3, 2022, and January 4, 2022, respectively, which CBP accepted due to the voluminous data submitted and issues with uploading the responses to the EAPA Case Management System (CMS).³⁰ In its RFI response, ID Supplier 2 explained that it started the production of black and galvanized steel pipe nipples (the products are not cast) in 2017, and that ID Supplier 2 does not produce or export MCIP Fittings. ID Supplier 2 shares common ownership with [name]; however, the companies do not have any business relationship as they are involved in the production of different products.³¹ Through its ownership by [name], ID Supplier 2 is affiliated with the [name], which is a [name] company that sells MCIP Fittings for importation into the United States.³²

On February 23, 2022, CBP exercised its authority under 19 USC 1517(c)(1)(B) to extend the deadline for a determination as to evasion by 60 days and CBP notified parties of the extension.³³

CBP was invited to visit and verify ID Supplier 1 and ID Supplier 2 production sites in Indonesia. On April 25, 2022, through April 29, 2022, CBP conducted the two (2) site verifications.³⁴ CBP toured both ID Suppliers’ manufacturing facilities, warehouses, and the foundry at ID Supplier 1. During the tours, CBP examined the manufacturing process, shipping labels, raw material sources, raw material and finished goods warehouses, the packaging process and interviewed company workers. Company officials explained to CBP that the ID Supplier 1 consisted of two (2) facilities (*i.e.*, the finished goods facility where pipe threading takes place called TSP 1 and the foundry referred to as TSP 2). CBP also toured the ID Supplier 2 facility located in a bonded Indonesian Customs manufacturing facility in the duty-free zone to validate the production of pipes imported from China that were to be cut and threaded into pipe nipples.

²⁵ *Id* at p. 34. SPI is a code used to identify a specific preferential tariff treatment program. *See also*, footnote 14, citing [number].

²⁶ *Id.*

²⁷ *Id* at p. 29.

²⁸ *See* “EAPA Case No. 7651 — PT Tri Sinar Purnama Questionnaire Response” (ID Supplier 1 RFI response),” dated January 3, 2022.

²⁹ *See* ID Supplier 1 RFI response at p. 2.

³⁰ *See* “EAPA Case No. 7651 — PT Growell Metalindo Questionnaire Response” (ID Supplier 2 RFI response,” January 3, 2022.

³¹ *See* ID Supplier 2 RFI response at p. 12.

³² *Id* at p. 13.

³³ *See* “EAPA 7651 - CBP Notice of Extension of Determination as to Evasion Deadline,” dated February 23, 2022.

³⁴ *See* CBP “ON-SITE VERIFICATION REPORT,” dated May 24, 2022.

CBP verified that no MCIP Fittings were being manufactured in ID Supplier's 2 facility during the visit. During the verification, company officials also clarified to CBP that the SG Supplier was established in Singapore to facilitate sales to [subjects and locations], and that ID Supplier 2 is not a MCIP Fittings manufacturing company.³⁵

CBP verified the ID Supplier 1 production of MCIP Fittings by reviewing/walking through selected entries and supporting documents including the purchase orders, invoices, packing lists, payment information, and production records. CBP traced selected entries of imported product back to sales, production, and accounting records by reviewing the purchase order process, receipt of raw materials, production process, and sales and export process. Because the bill of material contained numerous raw materials, CBP selected two raw materials, which comprised the main components of the products, to trace through the raw materials requisition process. The ID Supplier 1 cost accounting records supported production of the MCIP fittings, and CBP found that the source (country of origin) of ID Supplier 1's major raw materials used in the production of the MCIP fittings was [name].³⁶

Based on CBP review of the [number] selected samples/walkthrough transactions and tours of the manufacturing facilities, CBP determined that ID Supplier 1 manufactured the MCIP fittings imported by the Importer for the [number] entries. In addition, CBP did not find any indication that the MCIP fittings were not produced by the ID Supplier 1. Based on statements obtained from the ID Supplier 1 representatives and supporting documentation requested and obtained, CBP found no inconsistencies. CBP specifically determined that the ID Supplier 1 manufacturing facilities had the capability and capacity to produce the MCIP fittings from iron scrap metal purchased from Indonesia imported to the United States during the period of investigation. Additionally, its cost accounting records supported the production of the MCIP fittings by ID Supplier 1 and the production counts maintained within the tapping/threading machines at TSP 1 supported the purported production demand. CBP also observed on site that ID Supplier 1 had an appropriate number of personnel working to operate the production machines to manufacture and produce the MCIP fittings exported. Lastly, during the facilities tour, CBP observed and validated that there were no finished goods ready for shipping to the Importer, because the Importer had claimed in its RFI responses that it was no longer buying product from this supplier..³⁷

On May 31, 2022, CBP timely received the written arguments submissions by the Importer and the Alleger.³⁸ The Alleger's written arguments contended that "CBP has conducted a one-sided investigation depriving Matco-Norca of its procedural rights." Specifically, the Alleger claimed that CBP accepted untimely documents and granted untimely extensions without demonstration of good cause, let alone the regulatorily required extraordinary circumstances in accordance with 19 CFR 165.5(c)(1).³⁹ Further, Matco-Norca claimed it was denied timely service of documents and adequate public summaries of RFI responses. The Alleger claimed that not only should these procedural failures make for an undeveloped record, leaving no evidence refuting Charman's evasion through Global Primeline, but these failures further necessitate the application of adverse

³⁵ *Id.*

³⁶ See "EAPA Case No. 7651 — PT Tri Sinar Purnama Verification Visit Documentation," dated May 6, 2022.

³⁷ *Id.*

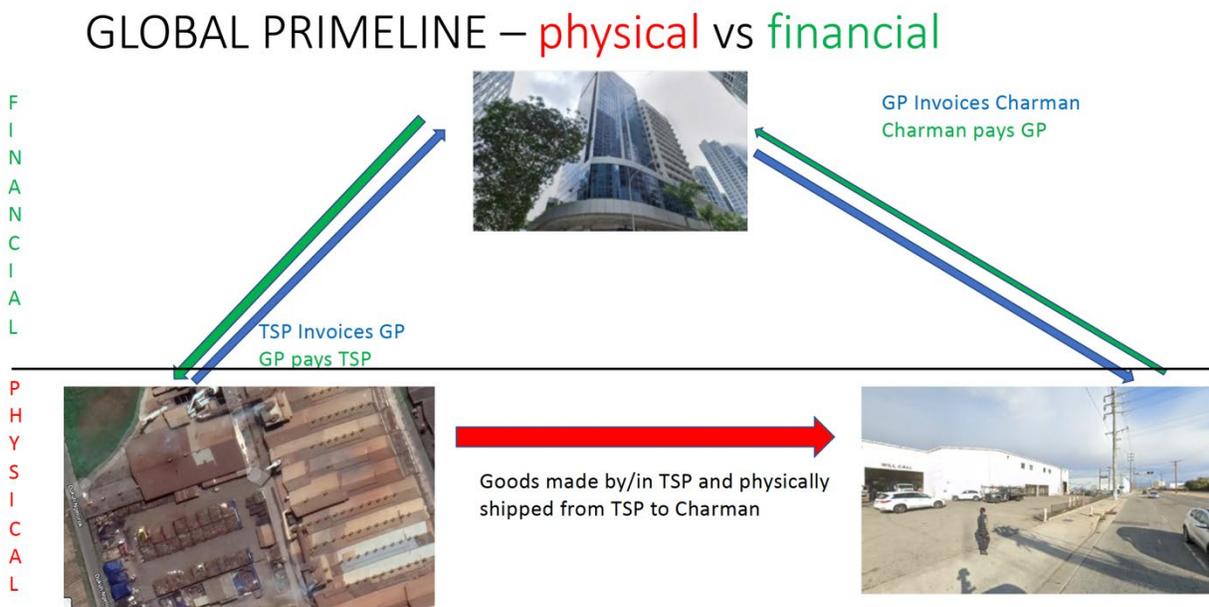
³⁸ See TRLED emails titled "EAPA 7651: Extension of Written Arguments Deadline," dated February 9, 2022, and "EAPA 7651 - Written Arguments Deadline," dated May 10, 2022.

³⁹ See "EAPA Consol. Case No. 7651 – Matco-Norca's Written Argument" (Alleger written argument), dated May 31, 2022, at p. 1.

inferences.”⁴⁰ CBP accepted the Importer’s documents under the circumstances presented in this investigation because the Importer was attempting to comply to the best of their ability, with CBP requests and there were certain failures in the CBP case system at the time.

Inversely, the Importer contended that “there is no evidence, let alone substantial evidence, in any of Matco-Norca’s filings that justifies a finding of evasion” and that the Allegation should never have been initiated because the voluminous record evidence did not present that evasion was occurring.⁴¹ The Importer maintained that the Importer is a small company and that the Importer’s owner visited the ID Supplier 1 site to confirm the legitimate manufacturing of MCIP fittings and that the SG Supplier was established as a trading company to handle ID Supplier 1 product sales to the [subjects].⁴² Also, the Importer continued to maintain that ID Supplier 2 is a producer of pipe nipples, which are different than the MCIP Fittings.

Essentially, the transactions between ID Supplier 1, SG Supplier, and the Importer are such that since 2015, the ID Supplier 1 sells MCIP Fittings to the SG Supplier and the SG Supplier, in turn, sells the Indonesian-made MCIP Fittings to the Importer.⁴³ See diagram demonstrating the transaction.⁴⁴



On June 15, 2022, the Alleger submitted rebuttal written arguments asserting that:

Matco-Norca acted well within its rights as an importer of covered merchandise to make an EAPA allegation against Charman at the start of this investigation. Moreover, Matco-Norca’s allegation contained information reasonably available to it without any material

⁴⁰ *Id.*

⁴¹ See “Eapa Case 7651 — Written Arguments of Charman Manufacturing, Inc.,” dated May 31, 2022, at p. 2.

⁴² *Id.* at p. 4, 6 and 7.

⁴³ *Id.* at p. 8, citing “2022-01-03-TSP-EAPA 7651-Questionnaire Response at 13; 2022-01-02 Charman RFI QUESTIONNAIRE ANSWERS at 28-29; 2022-03-17-TSP-EAPA-7651-Supplemental Questionnaire Response at 11-12; 2022-05-06-EAPA 7651-TSP Exhibit 4 - GLOBAL PRIMELINE.”

⁴⁴ *Id.*

omissions upon which CBP rightfully found a reasonable suspicion of evasion. CBP's finding of a reasonable suspicion of evasion was only furthered by its own independent investigation whereby Charman was given the opportunity and failed to demonstrate that the covered merchandise was Indonesian origin, thus leading to the implementation of interim measures.⁴⁵

Also, on June 15, 2022, CBP received the Importer's rebuttal brief stating that:

Matco-Norca could not be more wrong when it states that substantial record evidence demonstrates evasion by Charman via Global Primeline. To concoct its argument, Matco-Norca brazenly asserts that there should no evidence on the record whatsoever beyond Matco-Norca's "evidence." However, Matco-Norca's "evidence" is not substantial evidence of evasion. Rather, all of its "evidence" of evasion is, and has been shown to be, demonstrably false.

Matco-Norca tries to leverage its absurd position by complaining (1) that CBP did not verify Global Primeline and (2) that CBP's conclusion during verification of PT Tri Sinar Purnama ("TSP") that TSP has sufficient capacity does not mean that TSP made the products at issue. As explained below, Matco-Norca's arguments unravel at the slightest pull of a thread.

Based on Matco-Norca's misguided understanding of CBP's application of "adverse inferences," Matco-Norca also seeks to have CBP treat malleable pipe fittings ("MPF") as Chinese origin MPF when CBP verified that the MPF were actually made in Indonesia. Yet, even if CBP were to apply adverse inferences, CBP can only choose from facts otherwise available and, as explained above, Matco-Norca's petition does not contain any evidence of evasion so there are no adverse facts available for CBP to even select from.

Application of adverse inferences is a drastic step, as CBP is aware, and should be reserved for parties who utterly fail to cooperate and who choose not to provide CBP with information and documents that are responsive to CBP's requests. Here, by contrast, Charman, TSP and PT Growell Indo Metal ("Growell") have made every effort to provide CBP with information CBP requested so that CBP could make a determination as to the origin of the goods imported by Charman. They also have gone to great lengths to assist CBP in being able to travel to Indonesia to conduct a verification of the information the companies provided. By contrast, at every turn and with every one of Charman's, TSP's and Growell's filings, Matco-Norca has called for adverse inferences in rather knee-jerk fashion. There can only be one reason for this: Matco-Norca does not have, and never had, a case to begin with and there is no evidence, let alone substantial evidence, of evasion.⁴⁶

⁴⁵ See "EAPA Consol. Case No. 7651 – Matco-Norca's Rebuttal Written Arguments," dated June 15, 2022, at p. 1.

⁴⁶ See "EAPA Case No. 7651 — Charman Manufacturing, Inc. Response to Matco-Norca Written Arguments", dated June 15, 2022, at p. 1 and 2. See also; "EAPA 7651 - Rebuttal/Response Briefs - Request by Charman to Increase Page Limit," dated June 8, 2022, followed by the Allegor's email title "EAPA Consol. Case No. 7651 – Matco-Norca Objection to Charman's Request for Additional Pages," dated June 9, 2022, and TRLED email title "EAPA 7651 - Rebuttal/Response Briefs - Request by Charman to Increase Page Limit," dated June 9, 2022.

Final Determination as to Evasion

Under 19 CFR 165.27(a), CBP must “make a determination based on substantial evidence as to whether covered merchandise was entered into the customs territory of the United States through evasion.” “Covered merchandise” is defined by 19 CFR 165.1 as “merchandise that is subject to a CVD order... and/or an AD order.” “Evasion” is defined as entering covered merchandise “into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”⁴⁷ As discussed below, the record of this investigation indicates that substantial evidence does not exist to determine that the Importer was transshipping Chinese-origin merchandise through Indonesia and/or Singapore and entering such merchandise into the customs territory of the United States through evasion.

In its NOI, CBP cited record evidence indicating that the Importer had declared a number of entries of MCIP Fittings with [name] and that CBP data via [notice] showed routes indicating containers being routed through [name] and [location] before entering the United States.⁴⁸ Nevertheless, after receiving the information provided in the Importer and Supplier’s RFI responses and placing that information on the administrative record, CBP verified that the RFI responses were consistent with what CBP verified during the Indonesian ID Supplier 1 and ID Supplier 2 site verifications. Namely, CBP verified that the MCIP Fittings imported by the Importer during the period of investigation to the United States were manufactured in Indonesia by ID Supplier 1. Per the verification information discussed above, CBP did not find substantial evidence of MCIP Fittings being transshipped from China through Indonesia during the verification.

In conclusion, based on an examination of the information on the administrative record, including the results of the CBP site verifications to ID Supplier 1 and ID Supplier 2, CBP finds that substantial evidence does not exist that the Importer entered MCIP Fittings into the customs territory of the United States that were manufactured in China and then transshipped through Indonesia and Singapore during the period of this EAPA investigation. Although there is certain information on the record from the Allegation and from documents subsequently placed on the record that suggest the possibility of evasion, collectively this information does not amount to “substantial evidence” that the Importer’s imports of MCIP Fittings from Indonesia and Singapore during the period of investigation should have been entered as subject to the AD order on MCIP Fittings from China. CBP is addressing the [errors] separately, apart from this EAPA investigation.

Actions Taken Pursuant to the Negative Determination as to of Evasion

In light of CBP’s determination that there is not substantial evidence that the Importer entered covered merchandise that had been exported from ID Supplier 1, ID Supplier 2 and SG’s Supplier into the customs territory of the United States through evasion during the period of this

⁴⁷ See 19 CFR 165.1.

⁴⁸ See NOI. See also, CBP Memorandum to the File, “CBP Manifest Data,” dated September 30, 2021.

investigation, CBP will reverse any actions taken with respect to entries covered by this investigation. This does not preclude CBP or other agencies from pursuing other enforcement actions or penalties as may be appropriate.

Sincerely,

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

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