



## U.S. Customs and Border Protection

September 6, 2022

### **PUBLIC VERSION**

EAPA Consolidated Case: 7621

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### **Re: Notice of Determination as to Evasion**

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Pursuant to an examination of the record in Enforce and Protect Act (EAPA) consolidated investigation 7621, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that Granite Plumbing Products LLC (Granite Plumbing), Little Fireflies International Co. (Little Fireflies), and Phoenix Metal Co., Ltd. (Phoenix Metal) entered merchandise covered by antidumping (AD) and countervailing (CVD) duty orders A-570-079 and C-570-080 (covered merchandise)<sup>1</sup> into the customs territory of the United States through evasion.<sup>2</sup> Substantial evidence demonstrates that Granite Plumbing, Little Fireflies, and Phoenix Metal imported cast iron soil pipe (soil pipe) from the People's Republic of China (China) into

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<sup>1</sup> See 19 CFR 165.1.

<sup>2</sup> See *Cast Iron Soil Pipe from the People's Republic of China: Antidumping Duty Order*, 84 FR 19035 (May 3, 2019); see also *Cast Iron Soil Pipe from the People's Republic of China: Countervailing Duty Order*, 84 FR 19039 (May 3, 2019) (collectively, the AD/CVD Orders).

the United States by undervaluation and/or transshipment through Cambodia. Granite Plumbing, Little Fireflies, and Phoenix Metal 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 soil pipe, submitted allegations to CBP that Granite Plumbing and Little Fireflies were evading the AD/CVD Orders on soil pipe from China.<sup>3</sup> The Allegations asserted that Granite Plumbing and Little Fireflies were importing Chinese-origin soil pipe into the United States that was transshipped through Cambodia.<sup>4</sup> On August 13, 2021, CBP acknowledged receipt of the Allegations.<sup>5</sup>

CBP found the information in the Allegations reasonably suggested that Granite Plumbing and Little Fireflies entered covered merchandise for consumption into the customs territory of the United States through evasion.<sup>6</sup> Consequently, on September 3, 2021, CBP consolidated the Allegations and initiated an EAPA investigation pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.<sup>7</sup> After the initiation of this investigation, CBP issued CBP Form 28 (CF-28) questionnaires to Granite Plumbing and Little Fireflies concerning certain entries of soil pipe and requested the corresponding entry and production documentation.<sup>8</sup> Granite Plumbing responded to CBP's CF-28 questionnaire; however, Little Fireflies provided a one-page entry/immediate delivery form in response and failed to provide any other requested documentation pertaining to the entries' production, sales, transportation, or payment.<sup>9</sup> As a result of this inadequate submission, CBP issued a CBP Form 29 (CF-29) notice of action to Little Fireflies that requested documentation regarding the entries again and stated

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<sup>3</sup> See Letter from the Alleger, "Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act," dated July 14, 2021 (Granite Plumbing Allegation); see also Letter from the Alleger, "Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act," dated July 14, 2021 (Little Fireflies Allegation). The Alleger, the Cast Iron Soil Pipe Institute, is a trade association of domestic producers of cast iron soil pipe 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 Little Fireflies Allegation at 3 and Exhibit 9; see also Granite Plumbing Allegation at 3 and Exhibit 9.

<sup>4</sup> See Little Fireflies Allegation at 1, 4-5, 7-8; see also Granite Plumbing Allegation at 1, 4-5, 7-8.

<sup>5</sup> See 19 CFR 165.12; see also Email from CBP, "Receipt of Properly Filed Allegation," dated August 13, 2021 (Granite Plumbing); 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 27 email and the second August 13 email cited above both concerned CBP's official receipt of the same allegation. However, because that August 13 receipt email did not explicitly mention Little Fireflies, CBP sent the August 27 receipt email in which it expressly mentioned Little Fireflies.

<sup>6</sup> See 19 USC 1517(b)(1); see also 19 CFR 165.15. After CBP officially received the Little Fireflies and Granite Plumbing allegations, they constituted two separate cases, EAPA cases 7621 and 7623.

<sup>7</sup> See 19 USC 1517(b)(5); see also 19 CFR 165.13; see also CBP Memorandum, "Initiation of Consolidated Investigation for EAPA Case 7621," dated September 3, 2021 (Initiation). At initiation CBP consolidated EAPA cases 7621 and 7623 into one consolidated EAPA case, consolidated case 7621, in accordance with the relevant statutory and regulatory provisions. See Initiation at 4-5.

<sup>8</sup> See Granite Plumbing's CF-28 Response, dated October 29, 2021. This concerned Granite Plumbing entry [ # ]8647. See also Little Fireflies' CF-28 Response, dated September 22, 2021. This concerned Little Fireflies entries [ # ]8840, [ # ]4294, and [ # ]2271.

<sup>9</sup> *Id.*

“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.” 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, it did not provide the following items requested in the CF-29<sup>10</sup> or explain why it 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
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.<sup>11</sup>

After evaluating the information on the record, CBP determined that reasonable suspicion existed that Granite Plumbing and Little Fireflies imported Chinese-origin soil pipe into the United States that had been transshipped through Cambodia. This information 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 relied on a determination of evasion in EAPA case 7454, which was added to the record in this case, that found that the U.S. importer Lino International Inc. (Lino) and the Cambodian company HiCreek Plumbing Co., Ltd (HiCreek) transshipped Chinese-origin soil pipe through Cambodia into the United States.<sup>12</sup> Lino is affiliated with the Chinese company Dalian Metal I/E Co., Ltd. (Dalian Metal) through common ownership.<sup>13</sup> Dalian Metal coordinated logistics in EAPA case 7454’s transshipped entries of soil pipe.<sup>14</sup> CBP found that 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.<sup>15</sup> Little Fireflies’ customs broker likewise identified [

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<sup>10</sup> See Little Fireflies’ CF-29 Response, dated October 28, 2021.

<sup>11</sup> See CBP Memorandum, “Adding Information to the Administrative Record of EAPA Consolidated Case 7621,” dated December 1, 2021 (December 1 Memorandum).

<sup>12</sup> *Id.* at Attachment 3.

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

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

<sup>15</sup> *Id.*; see also CBP On-Site Verification Report, dated July 22, 2022 (Verification Report) at 11.

NAME ] as one of his points of contact for Little Fireflies.<sup>16</sup> The evidence therefore indicates that Ryan Zhang is connected to Little Fireflies, Dalian Metal, and Lino. As such, CBP concluded that Little Fireflies was connected to the evasion scheme identified in EAPA case 7454.

- Little Fireflies' limited responses provided no information contradicting the evidence detailed in the Allegations.
- Although Little Fireflies was listed as the exporter of soil pipe in Granite Plumbing's entry documents, Granite Plumbing stated in its CF-28 response that it ordered soil pipe from Lino and that HiCreek produced it.<sup>17</sup> As noted, CBP determined in EAPA case 7454 that Lino and HiCreek participated in the transshipment of soil pipe.<sup>18</sup>
- Granite Plumbing's documentation contained certain irregularities connecting it to EAPA case 7454. Specifically, Granite Plumbing's CF-28 response included raw material documents provided by the parties investigated in EAPA case 7454.<sup>19</sup> Additionally, these raw material documents were dated to 2019, well before this case's period of investigation (POI).

Consequently, on December 9, 2021, CBP issued a notice of initiation of investigation and interim measures (NOI) to Granite Plumbing, Little Fireflies, and the Alleger.<sup>20</sup> This notice informed Granite Plumbing, Little Fireflies, and the Alleger of the initiation of the investigation and of CBP's decision to impose interim measures based on a reasonable suspicion of evasion.<sup>21</sup> The notice also informed Granite Plumbing, Little Fireflies, and the Alleger 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.<sup>22</sup> As part of interim measures, CBP suspended the liquidation of Granite Plumbing's and Little Fireflies' entries entered after the initiation of the investigation pursuant to its authority under 19 USC 1517(e).

A couple months after CBP issued this NOI, the Alleger submitted a new allegation that a company named Phoenix Metal was also evading the AD/CVD Orders on soil pipe from China.<sup>23</sup> The allegation asserted that Phoenix Metal was importing Chinese-origin soil pipe into the United States that was transshipped through Cambodia.<sup>24</sup> On February 17, 2022, CBP acknowledged receipt of the Phoenix Metal Allegation.<sup>25</sup>

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<sup>16</sup> See December 1 Memorandum at Attachment 1.

<sup>17</sup> See Letter from CBP, "Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7621," dated December 9, 2021 (Interim Measures #1) at 6.

<sup>18</sup> See December 1 Memorandum at Attachment 3.

<sup>19</sup> See Granite Plumbing CF-28 Response, dated January 27, 2022, at 7-8.

<sup>20</sup> See Interim Measures #1.

<sup>21</sup> *Id.*; see also 19 USC 1517(e); see also 19 CFR 165.24.

<sup>22</sup> See 19 USC 1517(b)(5); see also 19 CFR 165.13; 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 Little Fireflies and Granite Plumbing allegations.

<sup>23</sup> See Letter from the Alleger, "Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act," dated February 15, 2022 (Phoenix Metal Allegation) (collectively with the Little Fireflies and Granite Plumbing allegations, "the Allegations").

<sup>24</sup> *Id.* at 1, 4-5, 7-8.

<sup>25</sup> See 19 CFR 165.12; see also Email from CBP, "EAPA 7708: Official Receipt – Phoenix Metal," dated February 17, 2022.

CBP found the information in the Phoenix Metal Allegation reasonably suggested that Phoenix Metal entered covered merchandise for consumption into the customs territory of the United States through evasion.<sup>26</sup> Consequently, on February 28, 2022, CBP initiated EAPA investigation 7708 pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.<sup>27</sup> After evaluating the information on the record, CBP determined that reasonable suspicion existed that Phoenix Metal imported Chinese-origin soil pipe into the United States that had been transshipped through Cambodia. This information included the following:

- In EAPA case 7454, CBP determined that HiCreek participated in transshipment using its Cambodian facility.<sup>28</sup> Likewise, Phoenix Metal listed the same shipping address as HiCreek's Cambodian facility in its August 2021 bills of lading. This common address led to a reasonable suspicion that HiCreek may have been using Phoenix Metal as a front company to continue transshipping Chinese-origin soil pipe.
- Linghong Li is Phoenix Metal's owner. Ms. Li had already formed two entities, Lino and DLNL Trading Inc. (DLNL), that were previously implicated in transshipment in EAPA case 7454.<sup>29</sup> This led to a reasonable suspicion that Linghong Li may have formed Phoenix Metal as a front company to transship Chinese-origin soil pipe through HiCreek.

Consequently, on March 28, 2022, CBP issued an NOI to Phoenix Metal and the Alleger and consolidated EAPA case 7708 on Phoenix Metal into EAPA consolidated case 7621 based on Phoenix Metal's relationship to Little Fireflies, the same covered merchandise and AD/CVD orders, and the overlap in the time periods of the entries.<sup>30</sup> This notice informed Phoenix Metal and the Alleger of the initiation of the investigation and of CBP's decision to impose interim measures based on a reasonable suspicion of evasion.<sup>31</sup> Because EAPA case 7708 was consolidated into case 7621, it adopted the same timelines as case 7621. As such, the notice informed Phoenix Metal and the Alleger that the Phoenix Metal entries covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption from the beginning of the POI identified in EAPA Case 7621, August 13, 2020, through the pendency of this investigation.<sup>32</sup> As part of interim measures, CBP suspended the liquidation of Phoenix Metal's entries entered after the initiation of the investigation pursuant to its authority under 19 USC 1517(e).

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<sup>26</sup> See 19 USC 1517(b)(1); *see also* 19 CFR 165.15.

<sup>27</sup> See 19 USC 1517(b)(5); *see also* 19 CFR 165.13; *see also* CBP Memorandum, "Initiation of Investigation for EAPA Case 7708," dated February 28, 2022. At initiation, EAPA case 7708 on Phoenix Metal had not yet been consolidated into EAPA consolidated case 7621 and so was still a separate case.

<sup>28</sup> See December 1 Memorandum at Attachment 3.

<sup>29</sup> *Id.* Ms. Li formed DLNL through her Lino employee Jisun Kim. See April 20 Memorandum at Attachment 23.

<sup>30</sup> See CBP Memorandum "Notice of Initiation of Investigation and Interim Measures – EAPA Cons. Case 7621," dated March 28, 2022 (Interim Measures #2).

<sup>31</sup> *Id.*; *see also* 19 USC 1517(e); *see also* 19 CFR 165.24. CBP also notified Little Fireflies and Granite Plumbing of Phoenix Metal's consolidation into EAPA case 7621. See CBP Email to the Parties to the Investigation, dated March 28, 2022.

<sup>32</sup> See 19 USC 1517(b)(5); *see also* 19 CFR 165.13; *see also* 19 CFR 165.2. Because this NOI consolidated EAPA case 7708 into EAPA consolidated case 7621, the Phoenix Metal entries covered by the investigation include entries up to one year prior to the date CBP officially received the first two Allegations on Little Fireflies and Granite Plumbing for EAPA consolidated case 7621.

To further investigate claims in the Allegations and CF-28 responses, CBP issued requests for information (RFI) to Granite Plumbing, Little Fireflies, Phoenix Metal, Lino, HiCreek, a consignee named [ COMPANY ] (Consignee 1), a consignee named [ COMPANY ] (Consignee 2), and a trading company named [ COMPANY ] (Trading Company).<sup>33</sup> HiCreek is a Cambodian exporter that CBP determined, in EAPA case 7454, participated in the transshipment of Chinese-origin soil pipe, which it subsequently exported to Lino.<sup>34</sup> Record evidence below describes HiCreek's and Lino's continued roles in Granite Plumbing's, Little Fireflies', and Phoenix Metal's entries. Record evidence below also describes how the Trading Company purchased soil pipe from Little Fireflies and Phoenix Metal that it later sold to Consignee 1.<sup>35</sup> Consignee 2 also purchased soil pipe from Phoenix Metal.<sup>36</sup> CBP received RFI responses from Granite Plumbing, Phoenix Metal, Consignee 1, Consignee 2, and the Trading Company but not from Little Fireflies, Lino, or HiCreek.<sup>37</sup> CBP added several additional memoranda to the case record composed of entry information, the case record of EAPA case 7454, and assorted research results such as website screenshots and documents from CBP systems concerning Lino, Dalian Metal, and Phoenix Metal.<sup>38</sup>

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<sup>33</sup> See Letter from CBP to Granite Plumbing, "EAPA 7621 Request for Information," dated December 14, 2021; *see also* 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 1, "EAPA 7621 and 7624 Request for Information," dated December 14, 2021; *see also* Letter from CBP to Consignee 1, "Supplemental Request for Information – [ COMPANY ]," dated February 1, 2022; *see also* Letter from CBP to Granite Plumbing, "EAPA 7621 Request for Information," 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; *see also* Letter from CBP to Consignee 2, "EAPA 7621 and 7624 Supplemental Request for Information," dated March 29, 2022; *see also* Letter from CBP to Granite Plumbing, "EAPA 7621 Request for Information," dated March 29, 2022; *see also* Letter from CBP to Phoenix Metal, "EAPA 7621 Request for Information," dated March 29, 2022; *see also* Letter from CBP to Phoenix Metal, "EAPA 7621 Request for Information," dated May 13, 2022.

<sup>34</sup> See December 1 Memorandum at Attachment 3.

<sup>35</sup> See Letter from Phoenix Metal, "Response to Request for Information," dated April 26, 2022 (Phoenix Metal RFI) at Exhibit V-3; *see also* Letter from Phoenix Metal, "Response to Supplemental RFI," dated June 3, 2022 (Phoenix Metal Supplemental RFI) at 3.

<sup>36</sup> See Phoenix Metal RFI at Exhibit V-3.

<sup>37</sup> See Letter from Consignee 1, "Response to Request for Information," dated January 7, 2022 (Consignee 1 RFI); *see also* Letter from Granite Plumbing, "Response to Request for Information dated December 14, 2021," dated January 11, 2022 (Granite Plumbing RFI); *see also* Letter from the Trading Company, "Response to Request for Information," dated February 16, 2022 (Trading Company RFI); *see also* Letter from Granite Plumbing, "Response to Supplemental RFI #1," dated March 4, 2022 (Granite Plumbing Supplemental RFI); *see also* Letter from Consignee 1, "Response to Request for Information," dated March 7, 2022 (Consignee 1 Supplemental RFI); *see also* Letter from Granite Plumbing, "Response to Second Supplemental RFI," dated April 19, 2022 (Granite Plumbing 2<sup>nd</sup> Supplemental RFI); *see also* Letter from the Trading Company, "Second Response to Request for Information," dated April 19, 2022 (Trading Company Supplemental RFI); *see also* Phoenix Metal RFI; *see also* Letter from Consignee 2, "RFI Response," dated May 9, 2022 (Consignee 2 RFI); *see also* Phoenix Metal Supplemental RFI.

<sup>38</sup> See CBP Memorandum, "Ex Parte Memorandum," dated December 16, 2021; *see also* CBP Memorandum, "Adding Information to the Administrative Record of EAPA Case 7708," dated March 15, 2022 (March 15 Memorandum); *see also* 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

On April 25, 2022, CBP extended the deadline to make a determination as to evasion for this case, until August 29, 2022.<sup>39</sup> On June 14-17, 2022, CBP officials conducted a verification at Phoenix Metal's two facilities in Cambodia.<sup>40</sup> On August 2, 2022, the Alleger and Phoenix Metal submitted written arguments.<sup>41</sup> Granite Plumbing submitted a response to written arguments on August 16, 2022, and Phoenix Metal and the Alleger each submitted a response to written arguments on August 19, 2022.<sup>42</sup>

### **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."<sup>43</sup> As discussed below, substantial evidence on the record indicates that Granite Plumbing's, Little Fireflies', and Phoenix Metal's imports were entered through evasion, resulting in the avoidance of applicable AD/CVD cash deposits or other security.

#### *Little Fireflies and Granite Plumbing*

Little Fireflies was incorporated in Cambodia and is affiliated with several companies in the United States and China. Business registration information from a Cambodian Ministry of Commerce website indicates that Yuanshou Zhang, also known as Ryan Zhang, incorporated Little Fireflies in Cambodia on October 1, 2020, and is its Director and Chairman of the Board.<sup>44</sup>

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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).

<sup>39</sup> *See* CBP Memorandum, "Re: Notice of Extension of Determination," dated April 25, 2022, in accordance with 19 USC 1517(c)(1)(B) and 19 CFR 165.22(c). CBP issues the determination notice five business days after the determination decision. *See* 19 CFR 165.27(b).

<sup>40</sup> *See* Verification Report; *see also* Letter from CBP to Phoenix Metal, "Phoenix Metal Engagement Letter," dated June 3, 2022; *see also* CBP Memorandum, "Site Verification Agenda," dated June 3, 2022.

<sup>41</sup> *See* Letter from the Alleger, "EAPA Consol. Case Nos. 7621, 7623, 7708, Cast Iron Soil Pipe: Submission of Written Argument," dated August 2, 2022 (Alleger Written Arguments); *see also* Letter from Phoenix Metal, "EAPA Cons. Case 7621, Cast Iron Soil Pipes: Submission of Written Argument," dated August 2, 2022.

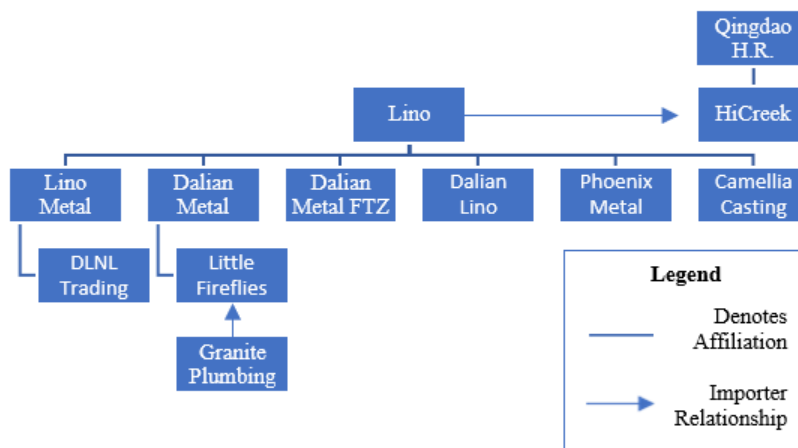
<sup>42</sup> *See* Letter from Granite Plumbing, "EAPA Consol. Case Nos. 7621, 7623, 7708, Cast Iron Soil Pipe: Response to Alleger's Written Argument," dated August 16, 2022; *see also* Letter from Phoenix Metal, "EAPA Cons. Case 7621; Cast Iron Soil Pipe; Submission of Rebuttal Brief," dated August 19, 2022 (Phoenix Metal Response to Written Arguments); *see also* Letter from the Alleger, "EAPA Consol. Case Nos. 7621, 7623, 7708, Cast Iron Soil Pipe: Response to Written Arguments," dated August 19, 2021.

<sup>43</sup> *See* 19 CFR 165.1; *see also* 19 USC 1517(a)(5)(A).

<sup>44</sup> *See* December 1 Memorandum at Attachment 2; *see also* Little Fireflies Allegation at Exhibits 3, 6-7; *see also* April 20 Memorandum at Attachments 15, 19, 30. Page 11 of attachment 15 contains a [ DATE, EMAIL, NAME ]." Thus, Ryan Zhang of Dalian Metal is the same person as Yuanshou Zhang.

Little Fireflies’ customs broker likewise indicated that [ SITUATION DESCRIPTION ] at Little Fireflies.<sup>45</sup> Although Mr. Zhang is Little Fireflies’ Director, he is also a current employee of the Chinese exporter Dalian Metal.<sup>46</sup> During CBP’s June 2022 verification of Phoenix Metal, the owner of Phoenix Metal and Dalian Metal, Linghong Li, affirmed that Mr. Zhang is a current employee of Dalian Metal.<sup>47</sup> Because Little Fireflies was founded and run by a current employee of Ms. Li at Dalian Metal, Little Fireflies is also connected with the following companies (collectively, “Lino Group”), which are owned by Ms. Li or founded by her employees or family members: Lino, Lino Metal Corp. (Lino Metal); Dalian Lino FTZ Co. Ltd. (Dalian Lino); Dalian Metal, Dalian Metal FTZ Co., Ltd. (Dalian Metal FTZ); DLNL; and Camellia Casting, Inc. (Camellia Casting).<sup>48</sup>

### Companies Mentioned in this Notice



Little Fireflies replaced DLNL as the Lino Group’s importer of record. Shortly after CBP issued its interim measures on Lino’s entries during EAPA cases 7454 and 7455, Lino began importing cast iron soil pipe fittings (fittings) and soil pipe through an importer of record named DLNL.<sup>49</sup> In EAPA 7455, CBP determined that a different Chinese-origin product (fittings) than the one under investigation in EAPA 7454 (soil pipe) was also transshipped through HiCreek’s Cambodian facility to Lino.<sup>50</sup> DLNL used the same customs broker as Lino.<sup>51</sup> The commercial invoice and packing list from DLNL’s first entry indicated a date of [ DATE ], 2020, which was only [ # ] days after CBP issued interim measures and [ # ] days before DLNL was registered.<sup>52</sup> A Lino employee named Jisun Kim registered DLNL on August 21, 2020.<sup>53</sup> Because Ms. Kim is a Lino employee, DLNL is connected to Lino.<sup>54</sup> Because of its affiliation with Lino, common

<sup>45</sup> See December 1 Memorandum at Attachment 1, page 1.

<sup>46</sup> See Verification Report at 11.

<sup>47</sup> *Id.*; see also Phoenix Metal RFI at 1.

<sup>48</sup> See Verification Report at 2; see also Phoenix Metal RFI at 1.

<sup>49</sup> See December 1 Memorandum at Attachment 3, pages 17-18.

<sup>50</sup> See April 20 Memorandum at Attachment 38.

<sup>51</sup> See December 1 Memorandum at Attachment 3, pages 17-18.

<sup>52</sup> *Id.* at Attachment 3, pages 18. DLNL’s first entry was [ # ]9800.

<sup>53</sup> *Id.*; see also April 20 Memorandum at Attachment 32; see also Verification Report at 3.

<sup>54</sup> *Id.* RFIs that CBP issues to parties request affiliated company information, which includes companies set up or run by “employers and employees{.}” See Phoenix Metal RFI at 1-4; see also Granite Plumbing RFI at 1-4.



customs broker, common merchandise, and the timing of its registration and first import, CBP stated in its 7454 determination that DLNL was set up to “continue importing merchandise from HiCreek and, thereby, evade CBP’s interim Measures.”<sup>55</sup>

DLNL continued to import soil pipe and fittings until shortly after CBP placed a memorandum publicly naming DLNL onto EAPA 7454-7455’s case records on December 9, 2020.<sup>56</sup> As a result of this memorandum, Lino became aware that CBP detected its use of DLNL and began using a new importer of record named Little Fireflies. Correspondingly, DLNL’s last entry entered on [ DATE ], and Little Fireflies’ first entry entered on January 21, 2021.<sup>57</sup> The fact that Little Fireflies superseded DLNL and that EAPA 7454-7455’s investigation was ongoing during Little Fireflies’ January 21, 2021 entry indicate that Little Fireflies was also established to evade CBP’s interim measures on Lino’s entries.

Several documents from Little Fireflies’ first entry corroborate that it was DLNL’s replacement. DLNL issued an invoice to the Trading Company for the sale that later became Little Fireflies’ first entry.<sup>58</sup> In an email, Dalian Metal requested that the Trading Company submit payment [ PROCEDURE DESCRIPTION ] for the amount listed on the DLNL invoice.<sup>59</sup> DLNL’s invoice number was listed on a bill of lading, which indicated that they pertained to the same shipment. However, the bill of lading denoted Little Fireflies as the shipper and did not list DLNL anywhere.<sup>60</sup> Thus, these documents collectively indicate that Little Fireflies’ first entry began as a DLNL sale. As noted, CBP determined that Lino used DLNL to evade CBP’s interim measures on Lino’s entries during EAPA 7454-7455. Therefore, Little Fireflies’ connection to DLNL as its replacement indicates that it was used for evasion.

Furthermore, Little Fireflies has multiple connections to China that conveniently positioned it to facilitate evasion. The Cambodian business registration for Little Fireflies indicates that Mr. Zhang’s address is Dalian City, Liaoning Province, China.<sup>61</sup> Many of the emails he has sent since Little Fireflies’ incorporation likewise contain a [ SITUATION DESCRIPTION AND LOCATION ].<sup>62</sup> Likewise, [ NAME ] told Granite Plumbing, “[ SITUATION DESCRIPTION ]” in a [ DATE ] email pertaining to soil pipe that Little Fireflies exported to Granite Plumbing.<sup>63</sup>

The U.S. Department of Commerce (Commerce) investigated Dalian Metal in its AD/CVD proceedings resulting in A-570-079 and C-570-080. In a March 29, 2018 response to Commerce during those proceedings, Dalian Metal listed its three suppliers of Chinese-origin soil pipe as Qinshui Shunshida Casting Co., Ltd.; Zezhou Golden Autumn Foundry Co., Ltd.; and Wu’an

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<sup>55</sup> See December 1 Memorandum at Attachment 3, pages 17.

<sup>56</sup> See April 20 Memorandum at Attachment 32.

<sup>57</sup> See April 21 Memorandum at Attachment 5, page 1; *see also* DC NTAC Report, “EAPA Post Receipt Report,” dated September 3, 2021 (DC NTAC Report on Little Fireflies). DLNL’s last entry was [ # ]5847. Little Fireflies’ first entry was [ # ]9641.

<sup>58</sup> See Trading Company RFI at 70.

<sup>59</sup> *Id.* at 71.

<sup>60</sup> See Consignee 1 RFI at 18. The same purchase order and number of packages, 22, are listed on both the DLNL invoice and on the bill of lading. The bill of lading’s place of issue is “Dalian,” which alludes to Dalian Metal’s role in setting up the transportation on the DLNL sale/Little Fireflies entry.

<sup>61</sup> See December 1 Memorandum at Attachment 2.

<sup>62</sup> See Granite Plumbing RFI at 19 and Exhibit APP I-9, pages 155-156, 165, 168, 174-175, *etc.*

<sup>63</sup> *Id.* at Exhibit APP I-9, page 155.

Yongtian Casting Co., Ltd.<sup>64</sup> As such, Mr. Zhang, through his employment at Dalian Metal had access to Chinese soil pipe suppliers such as these for his other company, Little Fireflies.

In EAPA 7454, CBP determined that “After Commerce’s investigation, Dalian Metal ... continued to play a coordinating role in obtaining Lino’s and [ COMPANY ]’s orders and in exporting merchandise.”<sup>65</sup> Moreover, in that case, CBP determined that those orders contained Chinese-origin soil pipe.<sup>66</sup> As previously discussed, in EAPA 7454, CBP determined that Chinese-origin soil pipe was transshipped through HiCreek’s Cambodian facility to Lino and that Lino is affiliated with Dalian Metal through common ownership.<sup>67</sup>

Since the conclusion of EAPA 7454 and 7455, Dalian Metal has continued to coordinate payment and transportation for Lino and its affiliates. For example, Mr. Zhang told Granite Plumbing, “[ DESCRIPTION OF PROCEDURE REQUEST ].”<sup>68</sup> Mr. Zhang sent another email to Granite Plumbing with the subject line “[ SUBJECT LINE DESCRIPTION ] pertaining to Granite Plumbing entry [ # ]0556.”<sup>69</sup> Finally, in another email to Granite Plumbing, Mr. Zhang stated “[ REQUEST DESCRIPTION ].”<sup>70</sup> The [ DOCUMENT DESCRIPTION ]/Granite Plumbing entry [ # ]0556 was issued by [ COMPANY, LOCATION, NAME ].<sup>71</sup>

Several other bills of lading issued by the freight forwarder Tianjin Fullrich also list Little Fireflies as the shipper and the place of issue as “Dalian.”<sup>72</sup> Thus, the above emails and the bills of lading indicate that Dalian Metal facilitated the soil pipe’s transportation to the United States 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 bills of lading.

In addition, Tianjin Fullrich’s location in Tianjin City has a port that Dalian Metal has used to export merchandise.<sup>73</sup> Online evidence shows that Dalian Metal identifies Tianjin as one of its main ports.<sup>74</sup> 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.<sup>75</sup> Another vendor website, Alibaba.com, likewise identifies Dalian Metal’s nearest ports as “Nearest Port tianjin,

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<sup>64</sup> See April 20 Memorandum at Attachment 28, page 155.

<sup>65</sup> See December 1 Memorandum at Attachment 3, page 15. [ COMPANY ] was an unaffiliated importer in EAPA case 7454.

<sup>66</sup> *Id.* at Attachment 3.

<sup>67</sup> *Id.*

<sup>68</sup> See Granite Plumbing RFI at Exhibit APP I-9, page 155.

<sup>69</sup> *Id.* at Exhibit APP I-9, page 164.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at Exhibit APP I-4, page 5.

<sup>72</sup> See Little Fireflies CF-29 Response at 8; see also Consignee 1 Supplemental RFI at 17-21; see also Trading Company Supplemental RFI at 73-74, 76-78. In these bills of lading “Dalian” is listed as the place of issue but Little Fireflies—which has a Cambodian address—is listed as the shipper.

<sup>73</sup> 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.

<sup>74</sup> See April 21 Memorandum at Attachment 2.

<sup>75</sup> *Id.* at Attachment 2, page 5.

ningbo {sic}.”<sup>76</sup> As of October 27, 2021, this website also stated that Dalian Metal possessed soil pipe 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...”<sup>77</sup> Thus, the preceding evidence indicates that Mr. Zhang’s employer, Dalian Metal, is located in China, uses a Chinese freight forwarder, has exported using Chinese ports, and has claimed to have Chinese soil pipe production.

Furthermore, Little Fireflies was identified as the importer of record on 11 entries of soil pipe during the POI.<sup>78</sup> Little Fireflies sold the soil pipe from these 11 entries to the Trading Company, which in turn sold them to Consignee 1.<sup>79</sup> Some of the purchase orders and invoices that the Trading Company issued to Consignee 1 in these transactions listed “Departure Cambodia/China” or “Departure China,” which is consistent with Little Fireflies’ connections to China.<sup>80</sup>

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.<sup>81</sup> However, record evidence indicates that Little Fireflies was a wholesaler/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.”<sup>82</sup> As a wholesaler/trading company, Little Fireflies sourced its merchandise from another company.

Record evidence indicates that Little Fireflies sourced its merchandise from HiCreek, a company that CBP previously determined acted as a transshipment point for Chinese-origin soil pipe.<sup>83</sup> For example, [ NAME ] told Granite Plumbing that “[ PROCEDURE DESCRIPTION ] { }”<sup>84</sup> Also, commercial invoices and packing lists that Little Fireflies issued for entries [ # ]4294 and [ # ]2271 denoted invoice numbers beginning with “HC.”<sup>85</sup> Some of the bills of lading denoting Little Fireflies as the shipper also list corresponding invoice numbers beginning with “HC.”<sup>86</sup> Correspondingly, invoices HiCreek issued in EAPA case 7454 also contain invoice numbers beginning with “[ DESCRIPTION ].”<sup>87</sup> Thus, given that Little Fireflies did not source from any other entity which reasonably could have been referred to as “HC” for invoice

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<sup>76</sup> *Id.* at Attachment 2, page 15.

<sup>77</sup> *Id.*

<sup>78</sup> See Little Fireflies CF-28 Response; see also Little Fireflies CF-29 Response; see also Little Fireflies Allegation at Exhibit 1; see also DC NTAC Report on Little Fireflies.

<sup>79</sup> *Id.*

<sup>80</sup> See Trading Company RFI at 54-57; see also Trading Company Supplemental RFI at 86; see also Consignee RFI at 33, 35-37, 44.

<sup>81</sup> See Little Fireflies CF-28 Response; see also Little Fireflies CF-29 Response; see also Little Fireflies Allegation at Exhibit 1; see also DC NTAC Report on Little Fireflies; see also Interim Measures #1.

<sup>82</sup> See December 1 Memorandum at Attachment 2, page 1.

<sup>83</sup> *Id.* at Attachment 3.

<sup>84</sup> See Granite Plumbing RFI at Exhibit APP I-9, page 182.

<sup>85</sup> See April 21 Memorandum at Attachment 12, pages 2, 4; see also Little Fireflies CF-29 Response at 4, 6, 11-12.

<sup>86</sup> See Consignee 1 Supplemental RFI at 24-25.

<sup>87</sup> See April 20 Memorandum at Attachments 19 and 21, pages 596, 600, 603-604, 607, etc.

purposes, these identical invoice numbering systems indicate that Little Fireflies sourced its soil pipe from HiCreek.

Granite Plumbing imported two entries of soil pipe from Little Fireflies during the POI, entries [ # ]0556 and [ # ]8647.<sup>88</sup> On entry documents, Granite Plumbing declared to CBP that the value of entry [ # ]0556 was \$[ # ] and the value of entry [ # ]8647 was \$[ # ].<sup>89</sup> These values were mirrored on two of the entries' respective commercial invoices, both of which were issued by Little Fireflies and indicated that they had [ DESCRIPTION ].<sup>90</sup> However, these entries were double-invoiced and each entry also contained a commercial invoice issued by Lino.<sup>91</sup> These Lino invoices were different in that they indicated that each entry had [ DESCRIPTION ] and had a higher value.<sup>92</sup> As such, the Lino invoice (Invoice [ # ]) for entry [ # ]0556 listed a value of \$[ # ] and the Lino invoice (Invoice [ # ]) for entry [ # ]8647 listed a value of \$[ # ].<sup>93</sup>

Email evidence corroborates that the Lino invoices indicate the correct entry values. In a [ DATE ] email, [ EVENT DESCRIPTION AND AMOUNTS ].<sup>94</sup> These payments equal \$[ # ], which matches Lino invoice [ # ]'s value above and is further corroborated in Granite Plumbing's checks and bank statements.<sup>95</sup>

In a [ DATE ] email, [ EVENT DESCRIPTION AND AMOUNTS ].<sup>96</sup> These payments equal \$[ # ], which matches Lino invoice [ # ]'s value above and is further corroborated in Granite Plumbing's checks and bank statements.<sup>97</sup>

Granite Plumbing Entries from Little Fireflies							
Entry #	Invoice #	Declared Value	Lino Inv Value	Deposit	Balance	Total of Payments	Undervaluation Amount
[ # ]0556	[ # ]	[ # ]	[ # ]	[ # ]	[ # ]	[ # ]	[ # ]
[ # ]8647	[ # ]	[ # ]	[ # ]	[ # ]	[ # ]	[ # ]	[ # ]

Sources: Granite Plumbing CF-28 Response, Granite Plumbing RFI, Granite Plumbing 2<sup>nd</sup> Supplemental RFI

In response to CBP's investigation, Granite Plumbing provided two raw material documents purportedly pertaining to these two entries.<sup>98</sup> Specifically, Granite Plumbing provided a sales contract between HiCreek and a Cambodian supplier for pig iron and a mill test certificate.<sup>99</sup> The sales contract was dated August 20, 2019, and the mill test certificate was dated September

<sup>88</sup> See Granite Plumbing CF-28 Response; see also Interim Measures #1 at 6.

<sup>89</sup> See Granite Plumbing RFI at Exhibits APP I-4 and APP I-5.

<sup>90</sup> *Id.*

<sup>91</sup> See Granite Plumbing 2<sup>nd</sup> Supplemental RFI at Exhibits V-5, VI-8.

<sup>92</sup> See Granite Plumbing RFI at Exhibits APP I-4 and APP I-5.

<sup>93</sup> See Granite Plumbing 2<sup>nd</sup> Supplemental RFI at 8-9 and Exhibits V-5 and VI-8.

<sup>94</sup> See Granite Plumbing RFI at APP I-9, page 164.

<sup>95</sup> See Granite Plumbing 2<sup>nd</sup> Supplemental RFI at 3-4 and Exhibits V-3, V-4, V-6, and VI-6.

<sup>96</sup> See Granite Plumbing RFI at APP I-9, page 105.

<sup>97</sup> See Granite Plumbing 2<sup>nd</sup> Supplemental RFI at 8-9 and Exhibits VI-7, VI-8, and VI-9.

<sup>98</sup> See Granite Plumbing CF-28 Response at 7-8; see also Interim Measures #1 at 6-7.

<sup>99</sup> *Id.*

20, 2019.<sup>100</sup> As such, these documents were dated well before the beginning of this case’s POI, starting on August 13, 2020, and occurred during EAPA 7454’s POI.<sup>101</sup> Notably, HiCreek provided these same two documents to CBP in EAPA 7454.<sup>102</sup> Regardless of HiCreek’s purported raw material documents, more reliable record evidence in EAPA 7454, such as the [ DESCRIPTION ], as explained further below, indicated that HiCreek transshipped almost all of the soil pipe it exported to the United States.<sup>103</sup> Moreover, Linghong Li stated that “HiCreek did not have competent skills to produce pipes as it lacked a technician.”<sup>104</sup> Consequently, the two raw material documents that Granite Plumbing provided do not provide reliable support for its assertion that HiCreek produced the soil pipe that Little Fireflies exported to them.

In a [ DATE ] 2021 email to Granite Plumbing, Lino referenced [ EVENT DESCRIPTION ].<sup>105</sup> Specifically, Lino stated “[ EVENT DESCRIPTION ].”<sup>106</sup> Although the email pertained to a [ DESCRIPTION ], it indicated Lino’s intended transshipment of a product subject to AD/CVD orders [ AD/CVD ORDER NUMBERS ] through Cambodia during the POI.

As previously noted, Granite Plumbing’s two entries contained double invoicing, which is another indicator of evasion. In other words, for each of Granite Plumbing’s entries, Lino issued an invoice and packing list to Granite Plumbing and Little Fireflies issued a corresponding invoice and packing list to CBP.<sup>107</sup> In one email pertaining to Granite Plumbing entry [ # ]8647, Lino apparently tried to keep the [ SITUATION DESCRIPTION AND QUOTE ].<sup>108</sup> This double invoicing was likely intended to keep Lino’s name out of documents submitted to CBP due to CBP’s investigation of Lino in EAPA 7454 and 7455.

As a result, Granite Plumbing said that it was unaware that it purchased soil pipe from Little Fireflies before CBP initiated this investigation. Correspondingly, Granite Plumbing told CBP 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.”<sup>109</sup> However, after CBP issued the CF-28 questionnaire to Granite Plumbing about its Little Fireflies entries, [ NAME ] informed Granite Plumbing that:

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#### PROCEDURE DESCRIPTION

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<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *See* April 20 Memorandum at Attachment 21, pages 46, 48.

<sup>103</sup> *See* December 1 Memorandum at Attachment 3, page 13. It indicated that HiCreek only produced [ # ] percent of its soil pipe.

<sup>104</sup> *See* Verification Report at 3.

<sup>105</sup> *See* Granite Plumbing RFI at Exhibit APP I-9, page 124.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.* at Exhibit APP I-4, pages 3-4, 10-11 and Exhibit APP I-5, pages 3-4, 9-10.

<sup>108</sup> *Id.* at Exhibit APP I-9, page 107.

<sup>109</sup> *Id.* at 17, 19.

].<sup>110</sup>

Likewise, [ COMPANY AND NAME ], also told Granite Plumbing that “[ SITUATION DESCRIPTION ].”<sup>111</sup> Consequently, Granite Plumbing stated in its CF-28 response that Lino informed it that HiCreek produced the soil pipe.<sup>112</sup>

Similarly, the Trading Company was also initially unaware that it purchased merchandise imported by Little Fireflies and noted:

[ 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.<sup>113</sup>

Thus, Granite Plumbing and the Trading Company ordered soil pipe from Lino or Dalian Metal, which in turn said they obtained the soil pipe from HiCreek. Lino and/or Dalian Metal then arranged so that when the soil pipe 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 7454 and 7455 determinations, it appears likely that the use of Little Fireflies’ then-unknown name as the importer and/or manufacturer of the merchandise was intended to avoid CBP’s interim measures and later its EAPA determination associated with Lino, Dalian Metal, and 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.<sup>114</sup> Ultimately, CBP determined in EAPA 7454 and 7455 that all the companies evaded the AD/CVD Orders.<sup>115</sup> Further, those case records indicated that Ryan Zhang of Dalian Metal sourced soil pipe from HiCreek for Lino.<sup>116</sup>

The fact that Little Fireflies sourced its soil pipe from HiCreek—whom CBP previously determined acted as a transshipment point for Chinese-origin soil pipe—and omitted HiCreek’s name from the documents for its entries and Granite Plumbing’s entries is consistent with continued evasion.<sup>117</sup> In EAPA 7454, import and export data from [ DESCRIPTION ] demonstrated that HiCreek imported soil pipe into Cambodia from China that it then exported

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<sup>110</sup> *Id.* at Exhibit APP I-9, page 182.

<sup>111</sup> *Id.* at Exhibit APP I-9a, page 14. In that message, the “[ DESCRIPTION ]” refers to HiCreek.

<sup>112</sup> *See* Interim Measures #1 at 6; *see also* Granite Plumbing CF-28 Response at 5.

<sup>113</sup> *See* Trading Company RFI at 1. The “factory” that the Trading Company is referring to is HiCreek.

<sup>114</sup> *See* April 20 Memorandum at Attachments 17, 19, 21, 24, 30.

<sup>115</sup> *Id.* at Attachment 38; *see also* December 1 Memorandum at Attachment 3.

<sup>116</sup> *See* April 20 Memorandum at Attachments 17, 19, 21, 24, 30.

<sup>117</sup> *See* Little Fireflies CF-29 Response.

from Cambodia to the United States.<sup>118</sup> During that investigation, CBP traced these export data to the CBP entry records of multiple U.S. importers including Lino.<sup>119</sup> The result showed that the soil pipe shipments Lino imported from HiCreek contained the same number of packages and a similar (or identical) weight as the soil pipe shipments HiCreek imported from China.<sup>120</sup> Furthermore, the reported date that the merchandise arrived in Cambodia from China to the reported export date from Cambodia to the United States varied between [ TWO NUMBERS ] days.<sup>121</sup> As such, the shipments' export dates to the United States were a little later than the corresponding import dates from China, and so a timeframe conducive to transshipment existed.<sup>122</sup> Although HiCreek had machinery that ostensibly indicated some production capacity, HiCreek imported large quantities of soil pipe from China.<sup>123</sup> In fact, during EAPA 7454's POI, HiCreek imported more soil pipe by weight from China than it exported in 2019, and the weight of its soil pipe imports from China in 2020 were [ # ] percent of the export weight to the United States.<sup>124</sup> This indicated that HiCreek's soil pipe exports to the United States drew upon its extensive inventory of Chinese-origin soil pipe.

Since the beginning of this case's POI, August 13, 2020, HiCreek has continued importing large quantities of soil pipe from China. HiCreek imported soil pipe totaling [ # ] kg from China into Cambodia between [ DATE ], 2020, and [ DATE ], 2021.<sup>125</sup> Only [ # ] days before the start of the POI, HiCreek also imported soil pipe from China totaling [ # ] kg, which would have also arrived in the United States within the POI if immediately exported from Cambodia.<sup>126</sup> The chart below shows the combined weight of HiCreek's entries of soil pipe from China into Cambodia and the combined weight of HiCreek's soil pipe exports to the United States.

<b>HiCreek's Soil Pipe Imports and Exports</b>		
All Amounts are in Kilograms		
Year	Imports from China	Exports to the U.S.
2019	[ ]	[ ]
2020*	[ ]	[ ]
2020**	[ ]	[ ]
2021	[ ]	[ ]
2022	[ ]	[ ]
Total	[ ]	[ ]

\*All of 2020. \*\*Calculated only after August 13, 2020.

<sup>118</sup> See December 1 Memorandum at Attachment 3.

<sup>119</sup> *Id.* at Attachment 3, page 14.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* at Attachment 3, page 13. The percentage was calculated as follows using figures from the EAPA 7454 determination notice: [ # ] / [ # ] = [ # ] = [ # ] percent.

<sup>125</sup> See April 22 Memorandum at Attachment 1.

<sup>126</sup> *Id.*

The chart shows that the combined weight of HiCreek’s soil pipe imported from China was [ # ] percent of the soil pipe weight exported to the United States. HiCreek’s soil pipe weight imported from China was [ # ] percent of the soil pipe weight exported to the United States during the POI; however, the percentage rises to [ # ] percent if the [ # ] kg of soil pipe imported [ # ] days before the start of the POI are also included.<sup>127</sup> Thus, HiCreek accumulated a large inventory of Chinese-origin soil pipe. In EAPA 7454, CBP noted that “HiCreek does not appear to have domestic sales;” further, it has exported soil pipe [ DESCRIPTION ] to the United States.<sup>128</sup> Consequently, HiCreek’s inventory of Chinese-origin soil pipe went into its exports of soil pipe to the United States. Furthermore, HiCreek did not participate in this investigation, and so CBP has no documentation to distinguish between soil pipe that HiCreek may have manufactured and the soil pipe it obtained from China.

The figures in the above chart [ PROCEDURE DESCRIPTION ].<sup>129</sup> In contrast, the Little Fireflies [ DESCRIPTION ] does not show any imports or exports (it says “[ DESCRIPTION ]”), which indicates that Little Fireflies [ EVENT DESCRIPTION ].<sup>130</sup> Because Little Fireflies sourced from HiCreek, this absence of data indicates that Little Fireflies’ export data are included in HiCreek’s [ DESCRIPTION ]. This further ties Little Fireflies’ exports to HiCreek and indicates that Little Fireflies name was intended to remove HiCreek’s name from entry documents submitted to CBP on entry. Because Little Fireflies and HiCreek did not participate in this investigation, CBP has no documentation that could potentially distinguish between entries sourced from soil pipe HiCreek may have manufactured or entries sourced from soil pipe that HiCreek obtained from China.

To corroborate the Granite Plumbing and Little Fireflies allegations, CBP emailed an RFI on December 14, 2021; January 3, 2022; and January 10, 2022, to the two individuals identified by Little Fireflies’ customs broker as Little Fireflies’ contacts.<sup>131</sup> 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.”<sup>132</sup> Nevertheless, in spite of these email reminders and deadline extensions, Little Fireflies did not contact CBP, or ever ask for an additional extension 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, such as correspondence, sales, production, and transportation documents.

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<sup>127</sup> The percentages were calculated in the following manner:  $[\#] / ([\#] + [\#]) = [\#] = [\#] \text{ percent}$ .  $([\#] + [\#]) / ([\#] + [\#]) = [\#] = [\#] \text{ percent}$ . The total 2020 figures in the above chart are a little higher than the 2020 figures in the EAPA 7454 determination notice because the 2020 figures in the EAPA 7454 determination notice were as of November 2020 and did not include later 2020 shipments. The percentage was calculated in the following manner:  $([\#] + [\#] + [\#]) / ([\#] + [\#]) = [\#] = [\#] \text{ percent}$ .

<sup>128</sup> See December 1 Memorandum at Attachment 3, page 12; see also April 22 Memorandum at Attachment 1, pages 40-51.

<sup>129</sup> See April 22 Memorandum at Attachment 1, pages 40-51.

<sup>130</sup> *Id.* at Attachment 1, page 52; see also CBP Memorandum, “Adding Information to the Administrative Record of EAPA Consolidated Case 7621,” dated July 6, 2022 (July 6 Memorandum) at Attachment 3.

<sup>131</sup> See December 1 Memorandum at Attachment 1, pages 2-3; see also April 21 Memorandum at Attachment 9.

<sup>132</sup> See April 21 Memorandum at Attachment 9, pages 1-2.



To investigate its potential production capabilities, CBP emailed an RFI to HiCreek on December 14, 2021.<sup>133</sup> 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.<sup>134</sup> 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.”<sup>135</sup> HiCreek did not submit an RFI response in spite of its acknowledgement that it received the RFI. Therefore, on January 19, 2022, CBP sent a final RFI reminder and extended the deadline one more time.<sup>136</sup> 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.”<sup>137</sup> 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....”<sup>138</sup> 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. Consequently, CBP is applying an adverse inference against Little Fireflies and HiCreek and drawing inferences based on information submitted to CBP in the Allegations and other information uncovered during CBP’s investigation that are adverse to Little Fireflies and HiCreek.<sup>139</sup>

In particular, CBP is relying on factual information and evidence provided in the Granite Plumbing and Little Fireflies Allegations and memoranda to the file, which indicate that Little Fireflies and HiCreek transshipped Chinese-origin soil pipe to the United States.<sup>140</sup> This factual information includes the allegations’ discussion of Little Fireflies’ connections to Dalian Metal, Lino, and HiCreek, each of which CBP found in EAPA case 7454 to have participated in transshipment.<sup>141</sup> The Allegations also discussed how in EAPA case 7454, Lino set up a front company named DLNL to evade CBP’s interim measures.<sup>142</sup> As such, the allegation stated that Little Fireflies was a new company continuing a pattern of transshipping merchandise for Dalian Metal, Lino, and HiCreek under a similar scheme as in EAPA case 7454.<sup>143</sup>

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<sup>133</sup> *Id.* at Attachment 7.

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.* at Attachment 7, pages 1-2.

<sup>138</sup> *See also* 19 USC 1517(c)(3)(A).

<sup>139</sup> *See* 19 USC 1517(c)(3)(B)-(C); *see also* 19 CFR 165.6(c); *see also* Allegations.

<sup>140</sup> *See* Granite Plumbing Allegation; *see also* Little Fireflies Allegation.

<sup>141</sup> *See* Granite Plumbing Allegation at 4-9; *see also* Little Fireflies Allegation at 1-2, 4-8.

<sup>142</sup> *See* Granite Plumbing Allegation at 8-9; *see also* Little Fireflies Allegation at 7.

<sup>143</sup> *See* Granite Plumbing Allegation at 4-9; *see also* Little Fireflies Allegation at 1-2, 4-8.

As previously discussed, entry documents indicate that Little Fireflies exported soil pipe to itself, serving as both the declared importer of record and exporter on its entries, but Little Fireflies actually exported soil pipe from HiCreek.<sup>144</sup> 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.<sup>145</sup> However, the same documentation indicates that HiCreek imported multiple shipments of soil pipe from China and exported multiple shipments of soil pipe to the United States during the POI.<sup>146</sup> Because HiCreek and Little Fireflies did not cooperate with the investigation, there is no documentation on the record distinguishing which U.S. imports may have contained Cambodian-produced pipes and which may have contained Chinese-origin pipes. Consequently, CBP is relying on adverse inferences to determine that all Little Fireflies entries and all Granite Plumbing entries imported from Little Fireflies and that are subject to this investigation are Chinese-origin.

Therefore, 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 and Granite Plumbing entered Chinese-origin soil pipe subject to the AD/CVD Orders and failed to pay the requisite duties.

#### *Phoenix Metal*

Linghong Li founded Phoenix Metal in Cambodia on May 4, 2021.<sup>147</sup> Phoenix Metal stated that it produced soil pipe and a “small quantity of fittings” starting in July 2021.<sup>148</sup> Phoenix Metal claimed that it “did not establish {a} new facility during the POI” but it “rented {a} workshop from HiCreek and brought {sic} existing machines from HiCreek{.}”<sup>149</sup> Phoenix Metal later leased a new facility in Cambodia’s [ LOCATION ] that is not yet set up for production.<sup>150</sup>

Phoenix Metal stated that it “did not sell any soil pipe ... domestically in Cambodia or in Vietnam{.}”<sup>151</sup> As such, Phoenix Metal’s sales of soil pipe were all exported. In addition to its role as an exporter, Phoenix Metal acted as the importer of record on 11 entries of soil pipe into the United States from November 2021 to [ DATE ] 2022.<sup>152</sup>

Record evidence indicates Phoenix Metal replaced Little Fireflies as the Lino Group’s importer of record. As support, Phoenix Metal stated that Little Fireflies was initially the importer of record on what later became Phoenix Metal’s first entry.<sup>153</sup> Phoenix Metal further stated Little

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<sup>144</sup> See DC NTAC Report on Little Fireflies.

<sup>145</sup> See April 22 Memorandum at Attachment 1, page 52; see also July 6 Memorandum at Attachment 3.

<sup>146</sup> See April 22 Memorandum at Attachment 1, pages 40-51.

<sup>147</sup> See Phoenix Metal RFI at 1; see also Phoenix Metal Allegation at Exhibit 4.

<sup>148</sup> See Phoenix Metal RFI at 1, 8, 12, 19. Phoenix Metal claimed that it did not sell any of these fittings.

<sup>149</sup> *Id.* at 9. Phoenix Metal noted that it “bought those machines on July 17, 2021” from HiCreek, however, no payments for those machines are on the record. Therefore, the purchase is unsubstantiated. See Verification Report at 4.

<sup>150</sup> See Phoenix Metal Supplemental RFI at 6; see also Verification Report at 50-51, 59.

<sup>151</sup> See Phoenix Metal Supplemental RFI at 7.

<sup>152</sup> See July 6 Memorandum at Attachment 1; see also DC NTAC Report, “EAPA Post Receipt Report,” dated February 25, 2022, at 15; see also Phoenix Metal RFI at Exhibit III-2; see also Phoenix Metal Allegation at 4.

<sup>153</sup> See Verification Report at 11. This is Phoenix Metal entry [ # ]2643.

Fireflies was the shipper when the “factory loaded the pipes on [ DATE ].”<sup>154</sup> Phoenix Metal noted that the shipment was then delayed in the port for two months due to congestion of containers, after which time, Phoenix Metal became the importer of record in [ DATE ].<sup>155</sup> Substantiating this scenario, the entry’s draft bill of lading listed Little Fireflies as the shipper; whereas the final bill of lading listed Phoenix Metal as the shipper.<sup>156</sup> Also, one pair of the entry’s commercial invoices and packing lists denoted Little Fireflies as the exporter and another pair denoted Phoenix Metal as the exporter.<sup>157</sup>

While the shipment was delayed, CBP issued a CF-28 questionnaire to Little Fireflies on September 21, 2021.<sup>158</sup> At this time, the Lino Group changed the importer of record it used in its shipments from Little Fireflies to Phoenix Metal in [ DATE ].<sup>159</sup> Correspondingly, Little Fireflies’ last entry was exported on August 30, 2021, before the CF-28 was issued, and entered the United States on [ DATE ], 2021, shortly after the CF-28 was issued.<sup>160</sup>

CBP previously issued CF-28s to Lino and to the unaffiliated importer [ COMPANY ] before it announced to them that they were under investigation in EAPA 7454.<sup>161</sup> Mr. Zhang was aware of the CF-28 issued to [ COMPANY ] because [ EVENT DESCRIPTION ].<sup>162</sup> Consequently, because of their experience with CF-28s, the Lino Group may have known that a CF-28 could precede an EAPA investigation. As a result, the Lino Group stopped using Little Fireflies shortly after it received the CF-28 and began using Phoenix Metal’s then-unknown name as its declared manufacturer and importer of record. The Lino Group’s history of changing importers after a significant CBP action and the timing of these events indicate that the Lino Group’s use of Phoenix Metal was also intended to evade CBP revenue collection measures.

As previously discussed, the Lino Group used DLNL and Little Fireflies to evade CBP’s interim measures on Lino’s entries during EAPA 7454-7455.<sup>163</sup> Similarly, during this investigation, the Lino Group used a company called Camellia Casting to evade CBP’s interim measures on Phoenix Metal. Linghong Li’s relative and former intern, [ NAME ], incorporated Camellia Casting in New York on December 2, 2021, and it remained dormant until CBP issued its interim measures on Phoenix Metal’s entries on March 28, 2022.<sup>164</sup> After CBP issued interim measures,

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<sup>154</sup> See Phoenix Metal Supplemental RFI at 9.

<sup>155</sup> *Id.*; see also Verification Report at 11.

<sup>156</sup> See Phoenix Metal RFI at Exhibit III-2-1, page 12; see also Consignee 1 Supplemental RFI at 22. The final bill of lading listed Phoenix Metal as the shipper and was backdated to the same date as the draft bill of lading, August 24, 2021. However, this exportation date is not the same exportation date that Phoenix Metal declared to CBP, which was [ DATE ], 2021. Further, the exportation date declared to CBP does not align with Phoenix Metal’s statement about the entry’s two-month port delay, which would indicate an exportation date in [ DATE ] 2021.

<sup>157</sup> See Phoenix Metal RFI at Exhibit III-2-1, pages 8, 11.

<sup>158</sup> See Little Fireflies’ CF-28 Response at 1.

<sup>159</sup> See Phoenix Metal Supplemental RFI at 9; see also Verification Report at 11.

<sup>160</sup> See DC NTAC Report on Little Fireflies; see also Consignee 1 Supplemental RFI at 23. This was Little Fireflies entry [ # ]7973. Although its bill of lading listed Phoenix Metal as the shipper, Little Fireflies was still declared to CBP as the entry’s importer of record and manufacturer when it entered the United States on [ DATE ], 2021.

<sup>161</sup> See April 20 Memorandum at Attachments 14-15.

<sup>162</sup> *Id.* at Attachment 15, page 11.

<sup>163</sup> See December 1 Memorandum at Attachment 3, pages 17-18.

<sup>164</sup> See July 6 Memorandum at Attachments 4, 7; see also Interim Measures #2. Linghong Li has also resided in New York. [ NAME ]’s LinkedIn profile indicates that she interned for Lino in New York for two years.

the Lino Group stopped using Phoenix Metal as its importer of record and began using Camellia Casting instead. Correspondingly, Phoenix Metal's last three entries entered the United States on [ DATE ], 2022, before CBP's interim measures, and Camellia Casting's first two entries entered the United States on [ DATE ], 2022, after CBP's interim measures.<sup>165</sup>

Furthermore, Camellia Casting's first six entries were originally Phoenix Metal entries and were changed after CBP's interim measures, which demonstrates that the entries were intended to evade CBP's interim measures on Phoenix Metal.<sup>166</sup> The six entry values that Camellia Casting declared to CBP (see table below) were also recorded in Phoenix Metal's general ledger.<sup>167</sup> They were classified under general ledger account "[ # ]," which noted that they concerned [ ACCOUNT DESCRIPTION ].<sup>168</sup> Further, Phoenix Metal denoted the same values, gross weights, and/or net weights in the export declarations, commercial invoices, and packings lists it submitted to Cambodia's Ministry of Commerce as the values, gross weights, and/or net weights that Camellia Casting declared to CBP in the documents for its fourth, fifth, and sixth entries.<sup>169</sup> Additionally, for its fifth entry, Camellia Casting submitted a commercial invoice and packing list to CBP that denoted the same purchase order, invoice, container, and voyage numbers as those contained in a commercial invoice and packing list that Phoenix Metal submitted to Cambodia's Ministry of Commerce.<sup>170</sup> Also corresponding to Camellia Casting's fifth entry, Phoenix Metal submitted a bill of lading to Cambodia's Ministry of Commerce listing [ SITUATION DESCRIPTION ].<sup>171</sup> Notably, Phoenix Metal also listed [ SITUATION DESCRIPTION ] in the aforementioned export declarations, commercial invoices, and packing lists it submitted to Cambodia's Ministry of Commerce.<sup>172</sup> Considered together, these documents and the entries in Phoenix Metal's general ledger indicate that Camellia Casting's first six entries began as Phoenix Metal entries but were subsequently changed, which indicates Phoenix Metal's attempt to conceal its involvement in these entries from CBP.

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<sup>165</sup> See July 6 Memorandum at Attachments 1, 4. The first two Camellia Casting entries were [ # ]0548 and [ # ]0555.

<sup>166</sup> See Verification Exhibits at Exhibit 6; see also Phoenix Metal Supplemental RFI at Exhibit S-IV-4, page 9. The verification exhibit and Phoenix Metal's general ledger show that the entries began as Phoenix Metal entries. Whereas the attachments in the following cited document show that these entries were ultimately declared to CBP as Camellia Casting entries. See July 6 Memorandum at Attachments 4-6.

<sup>167</sup> See July 6 Memorandum at Attachment 4; see also Phoenix Metal Supplemental RFI at Exhibit S-IV-4, page 9.

<sup>168</sup> See Phoenix Metal Supplemental RFI at Exhibit S-IV-4, page 9. The general ledger indicates that the six invoice numbers were [ SIX INVOICE NUMBERS ].

<sup>169</sup> See July 6 Memorandum at Attachment 4; see also Verification Exhibits at Exhibit 6. Phoenix Metal previously submitted the verification exhibits on June 24, 2022; however, some pages were illegible and so they resubmitted a more legible version on June 30, 2022, at CBP's request. Pages 50-56 of Verification Exhibit 6 contain the Phoenix Metal documents corresponding to Camellia Casting's fourth entry. The gross weight, but not the net weight, appears to be incorrect on the U.S. entry declaration for Camellia Casting's fourth entry. Pages 32-39, 42 correspond to Camellia Casting's sixth entry. There is one Camellia Casting bill of lading among these documents, but the export still appears to have been declared to Cambodia's Ministry of Commerce as exported by Phoenix Metal. The entry's foreign port of lading, and U.S. port of unloading also correspond to Phoenix Metal's documents. Pages 8-18 correspond to Camellia Casting's fifth entry. This corresponds to Invoice Number [ # ] and purchase order [ # ]. See also Consignee 2 RFI at 30.

<sup>170</sup> See July 6 Memorandum at Attachment 5, pages 3-4; see also Verification Exhibit at Exhibit 6, pages 11-12. Those numbers are as follows: invoice number [ # ], purchase order [ # ], container number [ # ], and voyage number [ # ]. See Consignee 2 RFI at 30.

<sup>171</sup> See Verification Exhibits at Exhibit 6, pages 8-18. This corresponds to Invoice Number [ # ] and purchase order [ # ]. See also Consignee 2 RFI at 30.

<sup>172</sup> See Verification Exhibits at Exhibit 6.

Camellia Casting's First Six Entries				
Entry	Entry Date	Value	Gross Weight (kg)	Net Weight (kg)
[ # ]0548	[ ]	[ ]	[ ]	[ ]
[ # ]0555	[ ]	[ ]	[ ]	[ ]
[ # ]1868	[ ]	[ ]	[ ]	[ ]
[ # ]6735	[ ]	[ ]	[ ]	[ ]
[ # ]7576	[ ]	[ ]	[ ]	[ ]
[ # ]7261	[ ]	[ ]	[ ]	[ ]

Source: July 6 Memorandum at Attachment 4. \*The gross weight for entry [ # ]6735 appears to be incorrect.

In addition to changing the importer of record, the Lino Group changed the exporter/manufacturer it declared on its entries from Phoenix Metal to Guang Dong Xiong Sheng Hardware Stainless Steel Building Materials (Cambodia) Co., Ltd. (GDX).<sup>173</sup> GDX appears to be unaffiliated to the Lino Group. The Cambodian Ministry of Commerce website indicates that Juming Zhao of Zhejiang Province, China, set up GDX in Cambodia in 2019.<sup>174</sup> Although Phoenix Metal submitted a bill of lading listing [ COMPANY ] as the shipper to Cambodia's Ministry of Commerce, GDX does not appear to be the actual shipper or exporter of Camellia Casting's entries.<sup>175</sup> Phoenix Metal listed [ DESCRIPTION ] as the shipper, exporter, or manufacturer in the other documents it submitted to Cambodia's Ministry of Commerce, including other bills of lading, for what later became Camellia Casting entries.<sup>176</sup> In light of the general ledger entries and documents listing [ COMPANY ] as the shipper, exporter, or manufacturer, Phoenix Metal, and not GDX, exported Camellia Casting's first six entries. As such, GDX's only role appears to be as Phoenix Metal's last-minute placeholder name on documents submitted to CBP. Thus, based on this evidence, Phoenix Metal attempted to conceal its involvement with these entries from CBP and falsely declared a Cambodian company that was unrelated to the transaction to avoid CBP's interim measures on entries to/from Phoenix Metal.

In addition to using Camellia Casting's and GDX's names to disguise Phoenix Metal's entries from CBP, record evidence indicates that Phoenix Metal made a material omission by withholding Camellia Casting's name from its RFI responses and during verification. In its RFI, CBP asked Phoenix Metal to list all of its affiliated companies, including those set up by family members and employees.<sup>177</sup> Although Camellia Casting already entered soil pipe by the time of Phoenix Metal's April 26, 2022 RFI response, Phoenix Metal did not mention Camellia Casting.<sup>178</sup> Later, during the June 2022 verification, Phoenix Metal discussed several of its affiliates, such as Lino, Lino Metal, Dalian Metal, and Little Fireflies; however, Phoenix Metal did not mention its affiliation with Camellia Casting.<sup>179</sup>

<sup>173</sup> See July 6 Memorandum at Attachments 1, 4.

<sup>174</sup> *Id.* at Attachment 8.

<sup>175</sup> See Verification Exhibits at Exhibit 6.

<sup>176</sup> *Id.*

<sup>177</sup> See Phoenix Metal RFI at 1-4.

<sup>178</sup> *Id.*

<sup>179</sup> See Verification Report at 2, 11; see also July 6 Memorandum at Attachments 4-7. CBP was not aware of Camellia Casting until it saw Camellia Casting's name on a [ DESCRIPTION ] that was ostensibly for a Phoenix Metal entry. Although Camellia Casting was listed on this particular [ DESCRIPTION ], Phoenix Metal declared

Phoenix Metal withholding the name of an affiliate from CBP is part of an ongoing pattern of non-cooperative behavior dating back to EAPA 7454. In EAPA 7454's determination, CBP noted that Lino withheld its bank statements from CBP.<sup>180</sup> In EAPA 7454's determination, CBP also stated that Lino never addressed the contradictory statements on the record concerning whether it had ever owned Chinese factories.<sup>181</sup>

Since EAPA 7454, conflicting information has developed concerning Phoenix Metal's claim that it purchased HiCreek's soil pipe machinery. Phoenix Metal provided a machine transfer agreement with HiCreek and the amounts Phoenix Metal claimed that it paid HiCreek for the machines are contained in the balance sheet and in its general ledger.<sup>182</sup> However, Phoenix Metal's payment for the machinery is not contained in the bank statements it provided to CBP.<sup>183</sup> Bank statements provide third-party corroboration and are, therefore, more reliable than the general ledger and balance sheet Phoenix Metal filled out. Thus, the transfer of HiCreek's machinery to Phoenix Metal is unsubstantiated, and evidence indicates machinery may not have been transferred.

Furthermore, there is some indication that Linghong Li may have owned HiCreek's machinery all along. In 2020, Ms. Li's LinkedIn profile stated, "In 2001, I formed Dalian Metal. We were a manufacturer and supplier of cast iron pipe and fittings with the export capability at 30,000 tons annually."<sup>184</sup> This indicates that she potentially owned machinery in China because she claimed that her company, Dalian Metal, was a manufacturer of soil pipe and manufacturers generally own their own machinery. Likewise, in 2020, Lino's website stated:

For nearly 20 years, Lino International, Inc. has remained a trusted manufacturer of cast iron pipe, fittings, couplings, tubing, tapes, and safety equipment, with headquarters in New York and three plants in China. Our core principle is to provide complete service and support through the process of procurement, manufacturing and logistics.... We utilize the latest technology available, and only the most experienced craftsmen at our factories....<sup>185</sup>

In three March/April 2019 emails, Lino told its [ EVENT DESCRIPTION ].<sup>186</sup> In an email from [ DATE ] 2020, [ COMPANY ] stated "[ SITUATION DESCRIPTION ]."<sup>187</sup> Furthermore, EAPA 7454's determination, which is dated to February 8, 2021, noted that "the '[ CATEGORY DESCRIPTION ]' category of Lino's two most recent income tax returns indicates that Lino paid an \$[ # ] '[ DESCRIPTION ].'"<sup>188</sup> Thus, according to Lino's own website and emails,

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itself as the exporter to Cambodia's Ministry of Commerce. See Verification Exhibits at Exhibit 6, pages 32-34, 39-42.

<sup>180</sup> See December 1 Memorandum at Attachment 3, page 17.

<sup>181</sup> *Id.* at Attachment 3, pages 5-7, 9, 15-16.

<sup>182</sup> See Verification Report at 4; see also Phoenix Metal RFI at Exhibits II-1-2, II-1-3, and II-3-2.

<sup>183</sup> See Verification Report at 4.

<sup>184</sup> See December 1 Memorandum at Attachment 3, page 7.

<sup>185</sup> *Id.*

<sup>186</sup> *Id.* at Attachment 3, pages 5, 9, 15-16; see also April 20 Memorandum at Attachments 19, 30.

<sup>187</sup> See December 1 Memorandum at Attachment 3, page 9.

<sup>188</sup> *Id.* at Attachment 3, page 15.

Lino appeared to have had factories and machinery in China that it then [ EVENT DESCRIPTION ] in 2019. Although Lino stated that it “has never owned any portion of HiCreek,” Lino’s tax return may allude to Lino’s [ EVENT DESCRIPTION ].<sup>189</sup> Additionally, in contrast to the above statements, Lino stated to CBP during EAPA 7454 that it never owned any factories in China or Cambodia.<sup>190</sup>

Further, in EAPA 7454, CBP requested, through multiple questions, that Lino provide each of the following items:

- Lino’s correspondence with HiCreek
- Photographs HiCreek provided to Lino
- Additional information on [ NAME ]<sup>191</sup>
- An explanation about the verification process undertaken by the Cambodian government to verify that the goods were actually manufactured in Cambodia
- Email correspondence between [ NAME ] and [ COMPANY ] that pertained to and preceded [ DESCRIPTION ] visit to the factory
- Documentation supporting HiCreek’s claimed production capacity
- Documents on inland transportation from Cambodia, and foreign customs declarations.<sup>192</sup>

In each of its seven responses to CBP regarding the above points, Lino claimed that it requested the respective items from HiCreek and that HiCreek did not reply.<sup>193</sup> During EAPA 7454, CBP did not have evidence contradicting Lino’s claim that HiCreek was non-responsive; however, CBP has since obtained additional evidence indicating that Lino’s claim was a pretext to avoid providing those items to CBP. Lino’s responses to these seven CBP questions were submitted to CBP on November 3, 2020.<sup>194</sup> However, HiCreek exported a shipment to Lino affiliate Little Fireflies on [ DATE ], which implies HiCreek had communications concerning payment, logistical coordination and notification with Lino, or its affiliates, that preceded this date.<sup>195</sup> Likewise, only [ DESCRIPTION ] before Lino claimed HiCreek was not replying, HiCreek exported a shipment to Lino affiliate DLNL [ DATE ], which likewise implies communication.<sup>196</sup> Moreover, during the June 2022 verification, “Ms. Li explained that she came to Cambodia in November 2020, {and} visited the HiCreek facility{.}”<sup>197</sup> As such, it is highly doubtful that Ms. Li flew from New York to Cambodia and showed up at HiCreek’s facility without communicating with them beforehand. Considered collectively, these events contradict Lino’s claims and indicate that HiCreek was communicating with Lino, both shortly

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<sup>189</sup> See April 20 Memorandum at Attachment 30, page 7.

<sup>190</sup> *Id.*; see also December 1 Memorandum at Attachment 3, page 16.

<sup>191</sup> Lino erroneously claimed that [ NAME AND DESCRIPTION ] of HiCreek, whereas HiCreek claimed that he was the [ POSITIONS ]. In contrast, HiCreek documentation indicated that Qian Zhang aka “Ellen” was the [ DESCRIPTION ] of HiCreek. See April 20 Memorandum at Attachment 19, page 6; Attachment 21, pages 4, 15, 26; and Attachment 30, pages 8-9.

<sup>192</sup> See April 20 Memorandum at Attachment 30.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> See March 15 Memorandum at Attachment; see also Consignee 1 Supplemental RFI at 18. This was Little Fireflies entry [ # ]9641.

<sup>196</sup> See April 21 Memorandum at Attachment 5, pages 1, 3-5. This was DLNL entry [ # ]5847.

<sup>197</sup> See Verification Report at 2.

before Lino's claim and afterwards, about export logistics, the logistics of the in-person meeting, and during the in-person meeting itself. Thus, Lino's repeated claim that it contacted HiCreek and HiCreek did not reply was false and was a pretext to withhold material documents that CBP requested.

Moreover, Lino made a material false statement to CBP with regard to DLNL. Specifically, Lino told CBP that "{n} either Lino International, Inc., [ COMPANY ] nor [ NAME ] has any relationship with [ COMPANY ]" during EAPA 7454-7455.<sup>198</sup> In its 7454-7455 determinations, CBP discussed various evidence concerning DLNL, including evidence connecting Lino employee Jisun Kim and Lino's customs broker to DLNL and a DLNL bill of lading alluding to Dalian Metal's involvement in DLNL's transportation logistics.<sup>199</sup> Since then, CBP has obtained additional evidence directly contradicting Lino's statement concerning DLNL and indicating that Lino knowingly provided CBP with a false statement. Among this evidence, Consignee 2 provided a bill of lading listing the company "[ COMPANY, LOCATION ] below it in the consignee space."<sup>200</sup> Notably, there is a blank indentation preceding "[ COMPANY AND DESCRIPTION ]."<sup>201</sup> Thus, these combined facts indicate that "DLNL" was deleted from the bill of lading provided to CBP. Consignee 2 also provided a packing list that Lino issued to it.<sup>202</sup> This packing list denotes the same departure port, arrival port, shipment date, gross weight, package number, and cubic meter number as the bill of lading.<sup>203</sup> These common variables indicate that the invoice issued by Lino corresponds to the bill of lading. As such, Lino issued an invoice for a shipment to DLNL. Thus, these corresponding documents contradict Lino's claim by indicating its involvement in the entry and its relationship with DLNL.

Furthermore, the Trading Company provided an invoice that DLNL issued to it.<sup>204</sup> The Trading Company also provided a corresponding email in which Dalian Metal requested the Trading Company's payment [ PROCEDURE DESCRIPTION ] for the amount listed on the DLNL invoice.<sup>205</sup> In this email, Dalian Metal also said "Thank you for talk {sic} with our boss deeply today" to the Trading Company.<sup>206</sup> CBP asked the Trading Company who Dalian Metal meant by "our boss" and the Trading Company stated that it referred to Linghong Li.<sup>207</sup> Consequently, Ms. Li is the "boss" and owner of Dalian Metal, which requested payment on behalf of and [ PROCEDURE DESCRIPTION ] of its affiliate DLNL and, therefore, has a relationship with DLNL. Moreover, regarding DLNL's affiliation, the Trading Company stated that "[ COMPANY ]'s understanding was that DLNL, Lino Metal, {and} Dalian Metal are within the same group/owner."<sup>208</sup> Thus, on the basis of this collective evidence, CBP determines that Lino

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<sup>198</sup> See December 1 Memorandum at Attachment 3, page 18.

<sup>199</sup> *Id.*

<sup>200</sup> See Consignee 2 RFI at 24.

<sup>201</sup> *Id.* [ COMPANY ] issued the bill of lading, which is a freight forwarder that the Lino Group commonly used. Also, the bill of lading's place of issue was "[ DESCRIPTION ]," which connects it to Dalian Metal.

<sup>202</sup> *Id.* at 23. There is also a corresponding invoice issued by Lino on page 22.

<sup>203</sup> *Id.*

<sup>204</sup> See Trading Company RFI at 70.

<sup>205</sup> *Id.* at 71.

<sup>206</sup> *Id.*

<sup>207</sup> See Trading Company Supplemental RFI at 50.

<sup>208</sup> *Id.* at 88.



made a false statement to CBP when it stated that “{n} either Lino International, Inc., [ COMPANY ] nor [ NAME ] has any relationship with [ COMPANY ]”<sup>209</sup>

In a more recent example of the Lino Group’s questionable statements, Ms. Li stated during the June 2022 verification that she started Phoenix Metal with \$[ # ] and was looking for investors.<sup>210</sup> She further stated that she did not have any investors but had an unofficial, verbal agreement with [ NAME AND COMPANY ], for [ # ] percent of the company value.<sup>211</sup> However, when Ms. Li made this statement in June 2022, Phoenix Metal’s accounting records showed that it had already received a \$[ # ] investment payment from [ NAME ] in September 2021.<sup>212</sup> This payment was just a little less than the referenced [ # ] percent company value and indicates that Ms. Li’s statement concerning the “pending” nature of her investor’s investment was false.

In another example, during verification, Phoenix Metal obstructed CBP’s attempts to interview two factory workers. In the first instance, CBP attempted to select a [ MACHINE TYPE ] machine worker for an interview, but Ms. Li told CBP personnel that they could not interview that worker.<sup>213</sup> In another instance, CBP attempted to interview a worker sweeping the production area.<sup>214</sup> Ms. Li again told CBP personnel that they could not interview that worker because the workers were busy.<sup>215</sup> The reason for both refusals was ostensibly because CBP’s interviews “messed up” production.<sup>216</sup> However, the second worker was sweeping and not engaged in production, so the stated refusal reason appears to be a pretext. Furthermore, although CBP was later able to interview two other workers, it was not able to interview the worker who was sweeping.<sup>217</sup>

More significantly, in this EAPA investigation, CBP requested that Phoenix Metal provide the bank accounts and statements it used to send and/or receive funds related to the purchase and sales of covered merchandise.<sup>218</sup> Phoenix Metal provided the bank statements for the two bank accounts that were in Phoenix Metal’s name.<sup>219</sup> However, Phoenix Metal did not provide the bank statements for Lino Metal’s bank account, which it admittedly and repeatedly used to receive payment from its customers.<sup>220</sup> The fact that Phoenix Metal withheld this bank account inhibited CBP’s ability to track payments relevant to the purchase of Phoenix Metal’s merchandise. Furthermore, Lino withheld its bank statements from CBP in EAPA 7454, so this is the second time a Lino Group company has withheld bank statements from CBP during an EAPA investigation.<sup>221</sup> Finally, while at verification, Phoenix Metal indicated that it used a

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<sup>209</sup> See December 1 Memorandum at Attachment 3, page 18.

<sup>210</sup> See Verification Report at 3.

<sup>211</sup> *Id.*

<sup>212</sup> *Id.*; see also Phoenix Metal RFI at Exhibit II-2, page 4.

<sup>213</sup> See Verification Report at 6.

<sup>214</sup> *Id.*

<sup>215</sup> *Id.*

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> See Phoenix Metal RFI at 9, 17.

<sup>219</sup> *Id.* at 9, 17, and Exhibit II-2.

<sup>220</sup> See Verification Report at 12-14; see also Phoenix Metal Supplemental RFI at 5 and Exhibit S-II-1, pages 1-2, 4-9; see also Consignee 2 RFI at 5-21.

<sup>221</sup> See December 1 Memorandum at Attachment 3, page 17.

fourth bank account (Dalian Metal's [ DESCRIPTION ] bank account) and a fifth bank account (Linghong Li's [ DESCRIPTION ]) to purchase raw materials for Phoenix Metal as well.<sup>222</sup>

So, as the previous examples from the current investigation and from EAPA 7454 evince, Lino Group companies have engaged in a documented pattern of deceptive, non-cooperative behavior going back to at least 2019.

While at verification, Phoenix Metal gave CBP personnel a tour of the facility it rented from HiCreek.<sup>223</sup> While at this facility, CBP personnel observed Phoenix Metal producing soil pipe using the machinery it purportedly purchased from HiCreek.<sup>224</sup> Phoenix Metal claimed that it used this machinery to produce the soil pipe in its entries.<sup>225</sup> Even though CBP personnel observed Phoenix Metal's machinery functioning, potential soil pipe production or even some degree of actual soil pipe production does not exclude the possibility of concurrent transshipment or other kinds of evasion. In other words, a company like Phoenix Metal could produce Cambodian-origin merchandise that is comingled with transshipped Chinese-origin merchandise. This exact scenario occurred during EAPA 7454 with HiCreek and the same machinery.<sup>226</sup>

During EAPA 7454, HiCreek had the machinery to produce soil pipe, which appears to have had the potential to produce soil pipe.<sup>227</sup> At that time, HiCreek provided CBP with documents ostensibly pertaining to its purchase of raw materials and daily production records.<sup>228</sup> In spite of these documents, [ DESCRIPTION ] indicated that HiCreek only produced [ # ] percent of the soil pipe by weight it exported to the United States.<sup>229</sup> The other [ # ] percent of its exports were composed of transshipped Chinese-origin soil pipe.<sup>230</sup> These percentages, in conjunction with other evidence outlined in the determination, indicate the unreliability and fraudulent nature of the raw material and production documents that HiCreek provided to CBP.<sup>231</sup>

Considering this history, the fact that Phoenix Metal has functioning soil pipe machinery does not, in and of itself, exclude the possibility of it simultaneously engaging in transshipment or

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<sup>222</sup> See Verification Report at 8-9.

<sup>223</sup> *Id.* at 5.

<sup>224</sup> *Id.* at 4-5. Phoenix Metal provided the machinery transfer agreement that indicates that Phoenix Metal purchased the machinery from HiCreek on [ DATE ], for \$[ # ]. Amounts pertaining to the machine transfer were listed on Phoenix Metal's balance sheet for the period ending March 31, 2022, and in its general ledger. However, the amount(s) was not listed in the statements of the two bank accounts CBP was provided; thus, it was not substantiated. See Phoenix Metal RFI at Exhibit II-3-2, page 5; see also Verification Exhibits at Exhibit 1, page 33.

<sup>225</sup> See Phoenix Metal RFI at 6.

<sup>226</sup> See December 1 Memorandum at Attachment 3, pages 12-13.

<sup>227</sup> *Id.* at Attachment 3, pages 11-13; see also April 20 Memorandum at Attachment 21.

<sup>228</sup> See April 20 Memorandum at Attachment 21, pages 45-53, 252-580.

<sup>229</sup> See December 1 Memorandum at Attachment 3, pages 12-13. The [ DESCRIPTION ] indicated that HiCreek imported [ # ] kg of soil pipe from China during 2019-2020. Whereas it indicated that HiCreek exported [ # ] kg of soil pipe to the United States in 2019-2020. Thus, [ # ] / [ # ] = [ # ] = [ # ] percent. Because HiCreek did not appear to have domestic sales and exported soil pipe [ DESCRIPTION ] to the United States, this indicates that [ # ] percent of HiCreek's soil pipe exports by weight to the United States were composed of Chinese-origin soil pipe. Furthermore, the remaining [ # ] percent appears to possibly originate from HiCreek's soil pipe production in Cambodia.

<sup>230</sup> *Id.* at Attachment 3, pages 12-13. HiCreek produced a lower amount ([ # ] percent) of its exports by weight using an alternate calculation. See December 1 Memorandum at Attachment 3, page 12, footnote 124.

<sup>231</sup> See December 1 Memorandum at Attachment 3.

other evasive behavior such as undervaluation and misclassification. Like HiCreek in EAPA 7454-7455, Phoenix Metal provided documents pertaining to its purported purchase of raw materials and production; however, numerous material irregularities surrounding these documents indicate that Phoenix Metal overstated its raw material purchases, overstated its production, and did not produce all the soil pipe it exported, but rather, comingled Cambodian-origin and Chinese-origin soil pipe in its entries.

First, Phoenix Metal entered “[ DESCRIPTION ]” from China into Cambodia under HTS [ # ] and claimed to CBP that it was a raw material.<sup>232</sup> During verification, Phoenix Metal showed CBP personnel little pieces of [ DESCRIPTION ], which Ms. Li suggested was this raw material.<sup>233</sup> However, the following facts indicate the [ DESCRIPTION ] Phoenix Metal imported was likely not a raw material. “[ DESCRIPTION ]” is a description that appeared in EAPA 7454’s [ DESCRIPTION ].<sup>234</sup> In the English translation of this document from Khmer, “[ DESCRIPTION ]” is used to denote “finished soil pipe.”<sup>235</sup> Accordingly, HiCreek’s articles of association translated from Khmer state that “The activity of the company is Investment on: Steel Pipe and Plumbing Factory” and a tax document from Cambodia’s Ministry of Economy and Finance described HiCreek as a “Steel pipe and plastic plumbing factory {,}”<sup>236</sup> Likewise, Phoenix Metal’s articles of association translated from Khmer state its business purpose as follows: “[ BUSINESS PURPOSE QUOTATION ].”<sup>237</sup> Thus, steel pipe can refer to finished merchandise.

During EAPA case 7454, HiCreek also imported merchandise described as “[ DESCRIPTION ]” from China using the same HTS number that Phoenix Metal used to import its [ DESCRIPTION ].<sup>238</sup> CBP traced several of these HiCreek import shipments of [ DESCRIPTION ] from China to HiCreek’s corresponding export shipments which, in turn, linked to U.S. soil pipe entries, such as Lino entry [ # ]1278.<sup>239</sup> Thus, these product traces during EAPA 7454 indicate that HiCreek’s [ DESCRIPTION ] was finished soil pipe. Furthermore, the amount that HiCreek paid for these imports of [ DESCRIPTION ] varied, but it paid \$[ # ] per metric ton for the [ DESCRIPTION ]/soil pipe it transshipped in Lino entry [ # ]1278.<sup>240</sup> Likewise, in this case, Phoenix Metal paid \$[ # ] per metric ton for all of its purchases of [ DESCRIPTION ], which is a very similar amount.<sup>241</sup> Thus, this payment amount corroborates that Phoenix Metal’s [ DESCRIPTION ] was finished soil pipe. Furthermore, Phoenix Metal and its predecessor Lino have a demonstrated pattern of deceptive, non-cooperative behavior and false statements. Although Phoenix Metal employees showed CBP personnel little pieces of pipe during verification, Phoenix Metal’s convenient and unsubstantiated statement that its imports of

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<sup>232</sup> See April 22 Memorandum at Attachment 1, page 53; see also Phoenix Metal RFI at 22 and Exhibit II-4, page 4; Exhibit III-1, page 11; Exhibit IV-3, pages 1, 11, 18-19, 28, 40; and Exhibit V-4, page 4.

<sup>233</sup> See Verification Report at 5.

<sup>234</sup> See December 1 Memorandum at Attachment 3.

<sup>235</sup> See Phoenix Metal RFI at Exhibit I-2, page 8.

<sup>236</sup> See April 20 Memorandum at Attachment 21, pages 17-25, 31-32.

<sup>237</sup> See Phoenix Metal RFI at Exhibit I-2, pages 1-8.

<sup>238</sup> See April 20 Memorandum at Attachment 21, pages 40, 42, and Attachment 31, pages 31-33, 35-37.

<sup>239</sup> See December 1 Memorandum at Attachment 3, pages 13-14.

<sup>240</sup> See April 20 Memorandum at Attachment 31, page 35. \$[ # ]/[ # ] = \$[ # ] per metric ton

<sup>241</sup> See Phoenix Metal RFI at Exhibit IV-3, pages 12, 18, 20, 29, 33, 40.

Chinese-origin [DESCRIPTION ] were raw materials is highly doubtful; it is more likely that those imports were mostly finished soil pipe.

Offering additional corroboration, a similar situation occurred with a different product subject to AD/CVD orders. In its first RFI response, Phoenix Metal noted that it produced a “small quantity of fittings.”<sup>242</sup> However, Phoenix Metal imported “[ DESCRIPTION ]” from China into Cambodia under HTS [ # ] and claimed that it was also a raw material.<sup>243</sup> During EAPA 7455, HiCreek imported fittings that were described in the [ EVENT DESCRIPTION ]” from China under the same HTS number.<sup>244</sup> CBP traced several of these HiCreek import shipments of [ DESCRIPTION ]/fittings from China to HiCreek’s corresponding export shipments, which, in turn, linked to U.S. fittings entries, such as Lino entry [ # ]0578.<sup>245</sup> Thus, because of this situation’s similarity, Phoenix Metal appeared to import fittings that were described as [ DESCRIPTION ] and later claimed that these [ DESCRIPTION ] were raw materials in the same way it later claimed the [ DESCRIPTION ] was a raw material rather than soil pipe. However, HiCreek used the same descriptions that Phoenix Metal used to import the fittings and soil pipe it transhipped to the United States.

According to Phoenix Metal’s records, it bought [ DESCRIPTION ] solely from [ COMPANY AND LOCATION ].<sup>246</sup> Phoenix Metal claimed it purchased what it purports are raw materials from [ COMPANIES ].<sup>247</sup> Phoenix Metal claimed that [ COMPANY ] and [ COMPANY ] in turn sourced from the [ DESCRIPTION ] companies [ COMPANIES ].<sup>248</sup> Phoenix Metal provided multiple invoices for its raw material purchases from [ COMPANIES ].<sup>249</sup> Notably, most of Phoenix Metal’s purported payments for the raw materials in these invoices are not corroborated on their bank statements. For example, Phoenix Metal claimed that it purchased \$[ # ] in pig iron from [ COMPANY ]; however, Phoenix Metal’s bank statements only show that Phoenix Metal paid [ COMPANY ] a total of \$[ # ].<sup>250</sup> Moreover, none of Phoenix Metal’s purported payments to [ COMPANY ] for raw materials were listed in the bank statements from the two bank accounts that Phoenix Metal provided to CBP.<sup>251</sup>

In response to CBP’s inquiry on this situation, Phoenix Metal stated that it paid Dalian Metal for these raw materials and Dalian Metal paid [ COMPANY ].<sup>252</sup> This is potentially partially corroborated, in that Phoenix Metal’s bank statements indicate payments to Dalian Metal and Dalian Metal FTZ totaling \$[ # ] for raw materials; however, CBP was shown no evidence that these payments through Dalian Metal and Dalian Metal FTZ were ultimately made to [ COMPANY ].<sup>253</sup> Nevertheless, this combined payment amount is much less than the total value

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<sup>242</sup> *Id.* at 12. Also, Phoenix Metal claimed that it did not sell any of these fittings.

<sup>243</sup> *Id.* at 17-18, 20, and Exhibit III-1, page 11, and Exhibit IV-3, pages 1-3; *see also* April 22 Memorandum at Attachment 1, page 53.

<sup>244</sup> *See* April 20 Memorandum at Attachment 38.

<sup>245</sup> *Id.* at Attachment 38, pages 10-11. Lino’s entry was indicated in footnote 103 of that document.

<sup>246</sup> *See* Phoenix Metal RFI at 22 and Exhibit IV-3, pages 1-2.

<sup>247</sup> *Id.*; *see also* Phoenix Metal Supplemental RFI at 4.

<sup>248</sup> *See* Phoenix Metal Supplemental RFI at 24-25.

<sup>249</sup> *See* Phoenix Metal RFI at Exhibit IV-3.

<sup>250</sup> *Id.* at Exhibits II-2, pages 5, 7; IV-3; and V-4.

<sup>251</sup> *See* Verification Report at 8.

<sup>252</sup> *Id.*

<sup>253</sup> *Id.* at 8; *see also* Phoenix Metal RFI at Exhibit II-2, pages 5-6.

of Phoenix Metal's purported raw material purchases from [ COMPANY ] (\$[ # ]), [ COMPANY ] (\$[ # ]) and [ COMPANY ] (\$[ # ]).<sup>254</sup> Phoenix Metal also stated that it paid [ COMPANY ] for raw materials using [ PROCEDURE DESCRIPTION ].<sup>255</sup> Ms. Li said [ SITUATION DESCRIPTION ] but [ DESCRIPTION ], that begs the question why Phoenix Metal did not instead use Dalian Metal's [ DESCRIPTION ], which is also [ DESCRIPTION ].<sup>256</sup> Although Phoenix Metal entered the purported payment amounts in its general ledger, CBP did not see any bank statements for the majority of these transactions at verification or via RFI responses. Bank statements are a much more reliable form of corroborating evidence because they are prepared by a third-party and not by the company under investigation. Furthermore, it is noteworthy that Ms. Li passed along to her accountants the raw material invoices for them to enter into the general ledger; thus, Ms. Li was in control of what was entered in the general ledger.<sup>257</sup> Because most of Phoenix Metal's raw material purchases are unsubstantiated and uncorroborated, most of Phoenix Metal's claims regarding raw material purchases appear to be unreliable. Furthermore, the total of the substantiated payments for raw materials are much less than the total of the payments Phoenix Metal claimed to have made.

Additionally, Phoenix Metal submitted these raw material invoices along with its other Cambodian import declaration forms to Cambodia's Ministry of Commerce.<sup>258</sup> These import declaration forms listed the corresponding raw material invoice number, import description, and quantity.<sup>259</sup> Some of the invoices had [ DESCRIPTION ] indicating receipt by Cambodia's Ministry of Commerce.<sup>260</sup> As noted, most of Phoenix Metal's payments for the raw materials in the invoices are unsubstantiated and likely overstated. Because the quantities and raw material types in the invoices correspond to the quantity and raw material types in the import declarations, the quantity and raw material types that Phoenix Metal declared to Cambodia are likely overstated and unreliable. Moreover, the unsubstantiated nature of these raw material invoices casts doubt upon the classification of the raw materials that Phoenix Metal claimed to have imported into Cambodia. For example, an invoice that was ostensibly from [ COMPANY ] indicates that Phoenix Metal purchased [ PRODUCT AND AMOUNT ], which would be \$[ # ] per pair.<sup>261</sup> During verification, Phoenix Metal provided what it claimed was a corrected invoice for this purchase.<sup>262</sup> However, the corresponding import declaration form matched the previous invoice and indicated that Phoenix Metal declared to Cambodia's Ministry of Commerce that it imported [ PRODUCT AND AMOUNT ].<sup>263</sup> Because Phoenix Metal clearly did not pay \$[ # ] for [ PRODUCT ] in total or \$[ # ] per pair, this potentially indicates that Phoenix Metal misclassified this merchandise upon its importation into Cambodia. As such, the [ PRODUCT ] example, along with the unsubstantiated raw material purchases, indicate that Phoenix Metal may be misclassifying its raw material imports into Cambodia.

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<sup>254</sup> See Verification Report at 8, 10; see also Verification Exhibits at Exhibit 7, page 23; see also Phoenix Metal RFI at Exhibit IV-3, page 1.

<sup>255</sup> See Verification Report at 9.

<sup>256</sup> See, e.g., PSA RFI at 76, 90-91. These documents demonstrate that Dalian Metal's [ DESCRIPTION ].

<sup>257</sup> See Verification Report at 8.

<sup>258</sup> See Phoenix Metal RFI at Exhibit IV-3.

<sup>259</sup> *Id.*

<sup>260</sup> *Id.* at Exhibit IV-3, pages 3, 29, 33.

<sup>261</sup> See Verification Report at 8, 66; see also Phoenix Metal RFI at Exhibit IV-3, pages 24, 26.

<sup>262</sup> See Verification Report at 8.

<sup>263</sup> See Phoenix Metal RFI at Exhibit IV-3, pages 24, 26.

Other record evidence corresponds to Phoenix Metal's potential misclassification of its purported raw material imports into Cambodia. Phoenix Metal's [ # ] purported sources of raw materials can be organized into [ # ] categories: [ DESCRIPTION OF CATEGORIES ]. Although these [ # ] categories of suppliers have different [ SITUATION DESCRIPTIONS ], many of the commercial invoices that Phoenix Metal provided to Cambodia's Ministry of Commerce had the exact same format, layout, and fonts, which indicates that these invoices originated from a common source, *viz.* Phoenix Metal/Lino Group.<sup>264</sup> Thus, the invoices that Cambodia's Ministry of Commerce and CBP received do not appear to be the original raw material invoices. The raw material sellers would have issued raw material invoices to Phoenix Metal, or its affiliates Dalian Metal or Dalian Metal FTZ, and would have had listed the payment amount, raw material descriptions, and raw material quantities. Because of the greater potential for later disagreement and payment issues, it is highly unlikely that a supplier unaffiliated with the Lino Group, such as [ COMPANIES ], would have substituted a verbal agreement for a written commercial invoice. As such, the original suppliers would have submitted their commercial invoices to Phoenix Metal to document the required payment amount and increase the likelihood of payment in full. Although it would be more accurate and time efficient for Phoenix Metal to submit the original raw material invoices, Phoenix Metal took the time to create the commercial invoices for the purported raw materials that it submitted to Cambodia's Ministry of Commerce. Considering the unsubstantiated payments for the raw materials and the potential misclassification of the raw materials, the fact that Phoenix Metal spent the time creating and submitting these invoices indicates that the invoices are concealing information. Collectively, this casts doubt upon the accuracy of the payment amounts and product descriptions on the invoices and packing lists, which may indicate misclassification of merchandise imported into Cambodia.

Because Phoenix Metal appears to have imported fewer raw materials than it claimed, the company had fewer raw materials to produce soil pipe with, and so likely produced a lesser quantity of soil pipe than what it claimed. Certain circumstances on the record indicate that Phoenix Metal needed to supplement its lagging Cambodian soil pipe production. This is reflected in the following comment by Ms. Li: "[ SITUATION DESCRIPTION ]"<sup>265</sup> Similarly, in another place Phoenix Metal stated that "due to shortages of raw materials and skilled workers, only [ # ] centrifuges are operated, and the actual production quantity is less than the half capacity."<sup>266</sup> Thus, it appears that Phoenix Metal had trouble producing enough soil pipe in Cambodia to [ SITUATION DESCRIPTION ]. Because Phoenix Metal imported "[ DESCRIPTION ]" from China that appears to be finished soil pipe, any difference between what Phoenix Metal could produce and what it needed to fill its customers' orders were likely supplemented with Chinese-origin soil pipe from Phoenix Metal's [ DESCRIPTION ] suppliers.

The above scenario is corroborated in that CBP was unable to substantiate Phoenix Metal's production capacity or actual production amount. In its first RFI response, Phoenix Metal provided what it claimed was the production capacity of its machinery.<sup>267</sup> However, due to the significant incentive for bias, machinery production figures are unreliable when they originate

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<sup>264</sup> *Id.* at Exhibit IV-3, pages 8, 10, 12, 16, 18, 20, 22, 26, 29, 31, 33, 35, 38, 40, 42, 45, 47, 52, 55, 57, 60, 63, 65, 67.

<sup>265</sup> *Id.* at 9.

<sup>266</sup> *See* Phoenix Metal Supplemental RFI at 16; *see also* Verification Report at 5.

<sup>267</sup> *See* Phoenix Metal RFI at 9-10.

from company personnel estimates and lack substantiating evidence. Phoenix Metal neither substantiated nor documented its claims concerning the production capacity of its machinery.

Regarding actual production, Phoenix Metal showed functioning machinery to CBP personnel during the verification, but currently functioning machinery does not substantiate that Phoenix Metal used that machinery to produce the amount it claimed to produce during the POI.<sup>268</sup> During verification, CBP asked for documents to potentially corroborate Phoenix Metal's claimed production.<sup>269</sup> Although Phoenix Metal had the documents in its possession, Phoenix Metal refused to provide CBP with several production-related documents during verification, such as the bill of materials, material ledgers, finished goods records, warehouse records, or cost of production sheets.<sup>270</sup> Phoenix Metal expressly stated in its first RFI response that it "generated/used" the following production-related documents in the normal course of business: "(1) Material purchase documents; (2) Material (warehouse) ledger; (3) Finished product records; (4) Finished goods record; (5) Warehouse checking records; (6) Cost of production allocation worksheet."<sup>271</sup> Likewise, CBP personnel observed a blank worksheet titled "Daily Report of Material" during the facility tour of Phoenix Metal and subsequently requested and received a completed sample copy of this document for one month, which confirms Phoenix Metal's daily recording of its raw material usage.<sup>272</sup> Furthermore, Phoenix Metal factory worker [ NAME ] confirmed that Phoenix Metal maintains production records when he stated that he records daily production of pipes at the end of his shift.<sup>273</sup> Furthermore, Phoenix Metal provided what it claimed were its monthly production tallies in Excel spreadsheets, but Phoenix Metal did not provide the underlying figures or daily production documents.<sup>274</sup> During verification, CBP personnel informed Phoenix Metal of the production records' importance and were eventually shown a file that included daily worksheets of pipes produced, weight per pipe, and total weight for the day.<sup>275</sup> CBP personnel requested these worksheets for the EAPA POI and Phoenix Metal adamantly refused to provide these worksheets, saying that CBP would use the worksheets against them.<sup>276</sup> CBP personnel made several more requests for the documents and informed Phoenix Metal that CBP was unable to compute production with the documents provided thus far, but Phoenix Metal would not provide the production documents for the POI.<sup>277</sup>

Because of Phoenix Metal's refusal to provide CBP with the production-related documents in its possession, CBP finds that Phoenix Metal's production of Cambodian-origin merchandise is unsubstantiated. Because Phoenix Metal's actual production and production capacity is unsubstantiated, CBP has no reliable evidence suggesting that Phoenix Metal produced in Cambodia all, or even most, of the soil pipe it claimed to have exported to and subsequently entered into the United States. Furthermore, because Phoenix Metal repeatedly refused to provide production documents in its possession, it obstructed CBP's investigation by failing to

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<sup>268</sup> See Verification Report at 5.

<sup>269</sup> *Id.* at 9.

<sup>270</sup> *Id.*

<sup>271</sup> See Phoenix Metal RFI at 7, 18-19.

<sup>272</sup> See Verification Report at 9; see also Verification Exhibits at Exhibit 7, pages 6, 27.

<sup>273</sup> See Verification Report at 9.

<sup>274</sup> *Id.* at 9-10; see also Phoenix Metal RFI at Exhibit IV-1.

<sup>275</sup> See Verification Report at 9-10.

<sup>276</sup> *Id.*

<sup>277</sup> *Id.*

cooperate and comply to the best of its ability with a request for information made by CBP.<sup>278</sup> Finally, Phoenix Metal imported “[ DESCRIPTION ]” from China that appears to be finished soil pipe, which indicates that it was comingling Cambodian-origin and Chinese-origin products and is a motive for withholding production-related documents.

CBP’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>279</sup> As previously discussed, Phoenix Metal failed to provide its Lino Metal, Dalian Metal, DLNL, and [ DESCRIPTION ] bank account statements, failed to allow CBP personnel to interview two factory workers during verification, refused to provide production-related documents in its possession during verification, and failed to disclose the name of its affiliate Camellia Casting. Consequently, CBP finds that Phoenix Metal has not cooperated and complied with CBP’s requests for information during the investigation to the best of its ability.

Furthermore, CBP’s regulations state that “Any interested party that provides a material false statement or makes a material omission or otherwise attempts to conceal material facts at any point in the proceedings may be subject to adverse inferences (see § 165.6) and prosecution pursuant to 18 U.S.C. 1001.”<sup>280</sup> Camellia Casting’s first six entries began as Phoenix Metal exports and were changed after CBP issued interim measures to Phoenix Metal. Later, in its RFI responses, Phoenix Metal withheld its affiliation with Camellia Casting from CBP.<sup>281</sup> Consequently, CBP determines that Phoenix Metal made a material omission and attempted to conceal material facts concerning Camellia Casting from CBP. Additionally, export declarations to Cambodia’s Ministry of Commerce indicate that GDX was not the actual exporter of Camellia Casting’s first six entries but rather that Phoenix Metal was the original exporter.<sup>282</sup> Thus, CBP determines Phoenix Metal declared a false exporter to CBP.

For both reasons, CBP is applying adverse inferences against Phoenix Metal.<sup>283</sup> For its applications of adverse inference, CBP is relying on factual information on the record, including the fact that Phoenix Metal had relationships with known Chinese suppliers of finished soil pipes and with its Chinese supplier of [ DESCRIPTION ].<sup>284</sup> As such, there is evidence that Phoenix Metal may have imported finished soil pipes from China, and the fact that CBP could not verify actual production quantities during the POI.<sup>285</sup> Although CBP is applying adverse inferences, enough evidence exists on the record to determine that there is evasion without its use.

Therefore, CBP determines that substantial evidence exists demonstrating that, by means of material false statements or material omissions, Phoenix Metal entered Chinese-origin soil pipe

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<sup>278</sup> See 19 CFR 165.6(a).

<sup>279</sup> See also 19 USC 1517(c)(3)(A).

<sup>280</sup> See 19 CFR 165.5(b)(3).

<sup>281</sup> See Phoenix Metal RFI at 1-4.

<sup>282</sup> See Verification Exhibits at Exhibit 6.

<sup>283</sup> See 19 USC 1517(c)(3)(B)-(C); see also 19 CFR 165.6(c).

<sup>284</sup> See Phoenix Metal Supplemental RFI at 22 and Exhibit IV-3, pages 1-2; see also April 20 Memorandum at Attachment 28, page 155.

<sup>285</sup> See Verification Report at 9-10.



subject to the AD/CVD Orders and failed to pay the requisite duties. While evidence on the record suggests that Phoenix Metal comingled Cambodian-origin and Chinese-origin soil pipe in its entries of soil pipe into the United States, because no reliable evidence exists to differentiate between Phoenix Metal's Cambodian-origin and Chinese-origin soil pipe, CBP determines that all of Phoenix Metal's entries of soil pipe into the United States during the POI are Chinese-origin based on adverse inferences and Phoenix Metal's aforementioned relationships with Chinese suppliers of soil pipe.<sup>286</sup>

### *Written Arguments*

The Alleger asserted that CBP should apply adverse inferences against Phoenix Metal for its failure to cooperate to the best of its ability during verification.<sup>287</sup> Phoenix Metal disagreed and asserted that Phoenix Metal was cooperative during verification.<sup>288</sup> Phoenix Metal asserted that the number of personnel CBP sent on verification contributed to Ms. Li's behavior in that the number was unexpected and caused Ms. Li concern.<sup>289</sup> However, CBP informed Phoenix Metal of the number of personnel it was sending before verification.<sup>290</sup> Thus, Ms. Li was fully aware of the size of the team in advance of the verification.

Phoenix Metal also argued that it is a producer and pointed out that CBP personnel witnessed its production of soil pipe during verification.<sup>291</sup> Furthermore, Phoenix Metal asserted that "The key question for an EAPA investigation is ultimately whether the entity produces product. If they do, all the other EAPA factors are ultimately irrelevant."<sup>292</sup> CBP disagrees with Phoenix Metal's assertions. The key question for an EAPA investigation is not whether an entity produces merchandise but whether it has entered covered merchandise into the customs territory of the United States through evasion.<sup>293</sup> All other EAPA factors that help answer that question and that are in accordance with 19 USC 1517 and 19 CFR 165 are relevant. Consequently, an entity that imports from a manufacturer/exporter that has the ability to produce does not exclude the possibility of that manufacturer/exporter exporting merchandise that it produced that was comingled with subject merchandise. Such a situation could occur out of cost considerations or when a party is having trouble producing enough merchandise to meet an outstanding customer order. Phoenix Metal noted that it had trouble [ SITUATION DESCRIPTION ] due to shortages of skilled labor and raw material.<sup>294</sup> Also, in several text messages from 2019, to [ COMPANY AND SITUATION DESCRIPTION ].<sup>295</sup> Thus, Phoenix Metal had the motive and the means to comingle Chinese-origin soil pipe. Consequently, Phoenix Metal's ability to produce soil pipe during verification does not indicate that it did not concurrently engage in evasion through comingling subject and non-subject merchandise.

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<sup>286</sup> See Phoenix Metal Supplemental RFI at 22 and Exhibit IV-3, pages 1-2; see also April 20 Memorandum at Attachment 28, page 155.

<sup>287</sup> See Alleger Written Arguments at 14-16.

<sup>288</sup> See Phoenix Metal Response to Written Arguments at 2.

<sup>289</sup> *Id.* at 2-3.

<sup>290</sup> See Letter from CBP to Phoenix Metal, "Phoenix Metal Engagement Letter," dated June 3, 2022.

<sup>291</sup> See Phoenix Metal Response to Written Arguments at 4-7.

<sup>292</sup> *Id.* at 7.

<sup>293</sup> See 19 USC 1517(c)(1)(A).

<sup>294</sup> See Phoenix Metal RFI at 9; see also Phoenix Metal Supplemental RFI at 16; see also Verification Report at 5.

<sup>295</sup> See December 1 Memorandum at Attachment 3, page 5.

Several of the factors that Phoenix Metal claims as support that it produced the merchandise in Cambodia are unsubstantiated or manipulated. Three times during the investigation, Phoenix Metal noted its lack of raw materials and skilled workers negatively affected its production capacity and in one instance Phoenix Metal noted that its [ SITUATION DESCRIPTION ] negatively affected its production capacity.<sup>296</sup> Phoenix Metal neither substantiated nor documented its claims concerning the production capacity of its machinery. Thus, the ability of Phoenix Metal's production capacity to back up its purported production figures are unsubstantiated. Furthermore, CBP could not find most of Phoenix Metal's payments for its raw material purchases, which likewise indicates that they may not have entered Cambodia at all or under the claimed raw material type. Because most of these purchases did not have third-party confirmation, such as a payment on a bank statement, these raw material imports are unsubstantiated. Finally, Phoenix Metal refused to provide its daily production records to CBP during verification and so CBP could not calculate Phoenix Metal's production capacity during the POI.<sup>297</sup> Thus, Phoenix Metal's production could not be substantiated due to its refusal to cooperate with CBP.

### **Determination as to Evasion**

In conclusion, the previously discussed facts on the record establish that Chinese-origin soil pipe was undervalued and/or transshipped through Cambodia and imported into the United States. Furthermore, evidence on the record indicates that Granite Plumbing, Little Fireflies, and Phoenix Metal subsequently entered the Chinese-origin soil pipe into the United States as type 01 entries that evaded the payment of AD/CVD duties on soil pipe from China.<sup>298</sup> CBP determines that substantial evidence exists demonstrating that, by means of material false statements or material omissions, Granite Plumbing, Little Fireflies, and Phoenix Metal entered Chinese-origin soil pipe that was undervalued and/or transshipped through Cambodia into the United States. The soil pipe that Granite Plumbing and Little Fireflies entered from HiCreek and Little Fireflies during the POI is subject to the AD/CVD rates on soil pipe from China.<sup>299</sup> The soil pipe that Phoenix Metal entered from Phoenix Metal during the POI is also subject to the AD/CVD rates on soil pipe from China.<sup>300</sup> Because Granite Plumbing, Little Fireflies, and Phoenix Metal 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.

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<sup>297</sup> See Verification Report at 9-10.

<sup>298</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>.

<sup>299</sup> Granite Plumbing's and Little Fireflies' soil pipe entries from HiCreek and Little Fireflies are subject to the "China-Wide Entity" rate of 235.93 percent for AD case A-570-079 and the "All-Others" rate of 14.69 percent for CVD case C-570-080. These two rates equal a combined rate of 250.62 percent. See AD/CVD Orders.

<sup>300</sup> Phoenix Metal's soil pipe entries from Phoenix Metal are subject to the "China-Wide Entity" rate of 235.93 percent for AD case A-570-079 and the "All-Others" rate of 14.69 percent for CVD case C-570-080. These two rates equal a combined rate of 250.62 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 Granite Plumbing, Little Fireflies, and Phoenix Metal 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.<sup>301</sup> CBP will also make corrections to the valuation of certain entries as discussed herein. Finally, CBP will continue to evaluate Granite Plumbing's, Little Fireflies', and Phoenix Metal's 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

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<sup>301</sup> 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>.