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Re: Enforce and Protect Act ("EAPA") Case Number 7251; Worldwide Door Components, Inc.; 19 U.S.C. § 1517

Dear Mr. Foote:

This decision is in response to a request for de novo administrative review of a determination of evasion dated September 18, 2019, made by the Trade Remedy & Law Enforcement Directorate ("TRLED"), Office of Trade ("OT"), U.S. Customs and Border Protection ("CBP"), pursuant to 19 U.S.C. § 1517(c), in Enforce and Protect Act ("EAPA") Case Number 7251 (hereinafter referred to as the "September 18 Determination"). The request for administrative review, dated October 31, 2019, was submitted to CBP, OT, Regulations and Rulings ("RR") by Baker & McKenzie LLP, on behalf of its client Worldwide Door Components, Inc. ("Worldwide"), pursuant to 19 U.S.C. § 1517(f) and 19 CFR § 165.41(a). The request for administrative review was submitted to RR within 30 business days after the issuance of the initial determination, consistent with 19 CFR § 165.41(d).

For the reasons set forth below, the record evidence establishes that Worldwide entered "covered merchandise," as that term is defined in 19 U.S.C. § 1517(a)(3), into the commerce of the United States, on entries of door thresholds from the People's Republic of China ("China" or "the PRC") by means of evasion, as defined in 19 U.S.C. § 1517(a)(5)(A).

1 Letter from Regina Walton, Acting Director, Enforcement Operations Division, Trade Remedy & Law Enf't Directorate, Office of Trade, U.S. Customs & Border Protection re: Notice of Final Determination as to Evasion in EAPA Case Number 7251 (dated September 18, 2019).
Thus, the September 18 Determination of evasion is affirmed. Additionally, we note that our conclusion herein is buttressed by the Federal Circuit’s recent en banc decision in Sunprem Inc. v. United States.\(^2\)

I. BACKGROUND

A. FACTS

Inasmuch as the facts in this case were fully set forth in the September 18 Determination,\(^3\) we will not repeat the entire factual history in this decision.

In brief, on July 5, 2018, Endura Products, Inc. ("Endura"), a domestic producer of fabricated extruded aluminum door thresholds, filed an EAPA allegation against Worldwide. On July 20, 2018, CBP acknowledged receipt of Endura’s allegation.\(^4\) Endura alleged that Worldwide evaded the payment of cash deposits on entries of aluminum extrusions produced in China.\(^5\) In its allegation, Endura claimed that Worldwide was importing aluminum door thresholds from China and failed to pay antidumping and countervailing duties on aluminum extrusions from China under the applicable orders.\(^6\)

On August 10, 2018, CBP initiated an investigation pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, in response to an allegation of evasion.\(^7\)

On November 16, 2018, in accordance with 19 CFR § 165.24, CBP issued a notice of initiation of investigation and notified the interested parties of CBP’s decision to take interim measures based upon a reasonable suspicion that Worldwide entered covered merchandise into the customs territory of the United States through evasion.\(^8\) The investigation covered entries that were entered for consumption, or withdrawn from a warehouse for consumption, beginning July 20, 2017, one year before CBP acknowledged receipt of the allegation, through the pendency of the investigation, in accordance with 19 CFR § 165.2.\(^9\)

On September 18, 2019, TRLED issued a Notice of Final Determination as to Evasion in EAPA Case Number 7251.\(^10\) In this notice, TRLED found substantial evidence to demonstrate that Worldwide entered Chinese-origin aluminum extrusions into the United States that were covered by antidumping ("AD") order A-570-967 and countervailing duty

\(^2\)\textit{Sunprem Inc. v. United States}, No. 18-1116, 2020 U.S. App. LEXIS 244 (Fed. Cir. Jan. 7, 2020) (holding that it is within CBP’s authority to preliminarily suspend liquidation of goods based on an ambiguous antidumping or countervailing duty order, such that the suspension may be continued following a scope determination by the Department of Commerce).

\(^3\)\textit{See September 18 Determination, supra} note 1, at 2.

\(^4\)\textit{Id.}

\(^5\)\textit{Id.}

\(^6\)\textit{Id.}

\(^7\)\textit{Id.}

\(^8\)\textit{Id.}

\(^9\)\textit{Id.}

\(^10\)\textit{Id.} at 1.
order C-570-968, through evasion. As a result of the evasion, no AD and CVD cash deposits were applied to the merchandise.

B. THE ORDERS AND THE SCOPE

The U.S. Department of Commerce ("Commerce") has issued antidumping and countervailing duty orders on imports of select aluminum extrusions from the People's Republic of China.

Commerce defined the scope of the Orders as follows:

. . . [A]luminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (i.e., without any coating or further finishing), brushed, buffed, polished, anodized (including bright dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, i.e., prepared for

11 Id.
12 Id. at 3.
assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swaged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, etc.), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (e.g., by welding or fasteners) to form subassemblies, i.e., partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled “as is” into a finished product. An imported product will not be considered a “finished goods kit” and therefore excluded from the scope of the Orders merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum
alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters ("mm") or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of the Orders are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.9095, 7616.10.9090, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.42.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8515.90.80.45, 8418.99.80.05, 8418.99.80.50, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.20, 9403.90.80.40, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10,
7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the Orders is dispositive.\textsuperscript{14}

C. THE MERCHANDISE AT ISSUE

The merchandise at issue is door thresholds containing aluminum extrusions. The door thresholds were imported into the United States by Worldwide and were manufactured in China by USA Worldwide Door Components (Pinghu) Co., Ltd. The door thresholds were exported from China, and entered into the United States by Worldwide.

II. DISCUSSION

A. LAW

Title 19 U.S.C. § 1517(c)(1) provides, in relevant part, as follows:

(1) Determination of Evasion.

(A) In general.
Except as provided in subparagraph (B), not later than 300 calendar days after the date on which the Commissioner [of CBP] initiates an investigation under subsection (b) with respect to covered merchandise, the Commissioner shall make a determination, based on substantial evidence, with respect to whether such covered merchandise was entered into the customs territory of the United States through evasion.

The term "evasion" is defined in 19 U.S.C. § 1517(a)(5), as follows:

(5) Evasion.

(A) In general.
Except as provided in subparagraph (B), the term "evasion" refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.

See also 19 CFR § 165.1.

Examples of evasion could include, but are not limited to, the misrepresentation of the merchandise's true country of origin (e.g., through false country of origin markings on the

\textsuperscript{14} \textit{Id.}
product itself or false sales), false or incorrect shipping and entry documentation, or misreporting of the merchandise's physical characteristics. See Investigation of Claims of Evasion of Antidumping and Countervailing Duties, Interim Regulations, 81 Fed. Reg. 56477, 56478 (August 22, 2016).

Additionally, the term “covered merchandise” is defined as “merchandise that is subject to a countervailing duty order (“CVD”) issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. § 1671e), and/or an antidumping order (“AD”) issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. § 1673e).” 19 CFR § 165.1.

Therefore, CBP must determine whether a party has entered merchandise that is subject to an AD or CVD order into 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, that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or duties being collected on such merchandise.

B. ARGUMENTS MADE BY WORLDWIDE IN ITS REQUEST FOR ADMINISTRATIVE REVIEW

Worldwide requests that we reverse the September 18 Determination of evasion. Its arguments are summarized below.

1. Worldwide did not commit evasion because Worldwide had a good faith and credible belief that its merchandise was excluded from the scope of the Orders and Worldwide exercised reasonable care.

In its request for administrative review, Worldwide asserts that it had a good faith basis—rooted in a plain reading of the scope of the Orders, as interpreted by the Department of Commerce in previous scope rulings, and relevant case law—for its belief that its multi-component finished door thresholds containing aluminum extrusions as parts were excluded from the Orders as “finished merchandise.” Worldwide argues it is clear that Worldwide has not made any material false statement or act, or any material omission which could be reasonably construed as “evasion” under the EAPA.

Worldwide explains that, in August 2017, it requested a scope ruling from the U.S. Department of Commerce with respect to the company’s multi-component finished door threshold assemblies. Worldwide also states that the outcome of that scope ruling is currently being reviewed in court.

Prior to requesting a scope ruling from Commerce in August 2017, Worldwide asserts that it sought guidance from CBP regarding how Worldwide should declare this merchandise at the time of the entry. Worldwide explains that the information provided by Worldwide was examined by multiple CBP senior and supervisory import specialists at the appropriate Center of Excellence and Expertise (“CEE”). Worldwide explains further that upon review, these CBP import specialists instructed Worldwide in writing that the door threshold
assemblies should be entered via Type 01 entries,\textsuperscript{15} as CBP believed the merchandise was not subject to the Orders.

Worldwide cites to the FAQ page on CBP's website, which contains answers to the question "how can I determine whether merchandise that I am planning to import is subject to antidumping or countervailing duties?".\textsuperscript{16} The advice given explains that one needs to review the scope of the AD/CVD orders to determine whether the merchandise falls under the scope and further explains where the scope of the AD/CVD orders can be found by listing resources available. The fifth bullet point in this list explains, "you may contact an Import Specialist at the appropriate Center of Excellence and Expertise... although that advice is not binding. Commerce is the agency that issues final rulings regarding what merchandise is subject to an AD/CVD order."\textsuperscript{17} Worldwide asserts that it followed these recommendations when faced with the question of whether its multi-component door threshold assemblies fall within the scope of the AD and CVD orders on aluminum extrusions from China.

Worldwide argues that its correspondence with CBP was not only consistent with the FAQ guidance on CBP's website but was also consistent with CBP's "ministerial function" of fixing "the amount of duty to be paid" on subject merchandise.\textsuperscript{18} Worldwide notes that the U.S. Court of Appeals for the Federal Circuit has ruled, in addressing the divergent roles of CBP and Commerce in enforcing AD and CVD laws, that "[w]hen merchandise may be subject to an antidumping order, Customs makes factual findings to ascertain what the merchandise is, and whether it is described in an order."\textsuperscript{19} Worldwide argues this was the question it asked of CBP, and the question that CBP answered for Worldwide in its 2016 correspondence between CBP import specialists and representatives of Worldwide.

Worldwide opines that it is difficult to imagine a set of facts less akin to evasion. Worldwide asserts it did all it could do to determine how to properly enter its merchandise. Worldwide argues that an importer which makes entry by taking into account the plain language of the scope of the antidumping duty order, seeking the advice of counsel, requesting a formal scope ruling from the Department of Commerce, and seeking the guidance of CBP on how to enter its merchandise while the scope ruling was pending cannot have, in doing so, also "evaded" antidumping or countervailing duties. Worldwide asserts that such an importer has instead exercised reasonable, even extraordinary, care.

2. **Worldwide presents counterarguments to TRLED's decision and asserts there was ample support to reasonably believe Worldwide's products were outside the scope of the Orders at the time of entry.**

\textsuperscript{15} CBP requires importers to use Type 03 for entries that are subject to AD or CVD orders and pay the applicable AD/CVD duties. Meanwhile, if an entry is not subject to AD or CVD orders, then importers should use Type 01 for consumption entries.


\textsuperscript{17} See id.

\textsuperscript{18} See 19 U.S.C. § 1500(c).

\textsuperscript{19} Zernich Corp. v. United States, 289 F.3d 732, 794 (Fed. Cir. 2002) (citing Marvel Watch Co. v. United States, 11 F.3d 1054, 1056 (Fed. Cir. 1993)).
Worldwide notes that TRLED’s decision in this case takes issue with Worldwide’s assertion that the company exercised reasonable care, but argues that the precise contours of TRLED’s reasoning are not clear, as the decision was issued with significant business confidential information redactions. Worldwide explains that TRLED declined to provide Worldwide with a copy of an unredacted final determination in this case, even though the redacted information presumably refers to Worldwide’s own business confidential information. Worldwide argues that the reasons provided in TRLED’s decision which are not redacted are themselves not persuasive.

As an example, Worldwide explains that TRLED relied heavily on a 2011 classification ruling which found that multi-component door thresholds have an essential character of aluminum, and are therefore classified in subheading 7610.10 HTSUS, and claims that this ruling “at least acknowledges CBP’s ambiguity on the matter.” Worldwide respectfully disagrees. Worldwide acknowledges that there is no dispute as to the tariff classification of Worldwide’s multi-component thresholds, and that some types of thresholds classified in subheading 7610.10 HTSUS are subject to the Orders. However, Worldwide argues its reasonable belief was that these particular multi-component thresholds are among the finished products containing aluminum extrusions as parts which are specifically excluded from the Orders. Worldwide asserts that the 2011 customs classification ruling simply does not address that question one way or another.

Worldwide also argues that TRLED’s decision relies heavily on the scope determination, which was ultimately issued to Worldwide well after the EAPA investigation was commenced in this case. Worldwide asserts that the fact that the Department of Commerce ultimately ruled against Worldwide in issuing its scope determination should have no bearing on this EAPA case. Moreover, Worldwide argues that other scope rulings and court cases which had been issued at the time supported Worldwide’s view. Worldwide pointed to two scope rulings in its argument. First, the Final Scope Ruling on Telescoping Washing Poles issued on November 4, 2015 found that a product containing aluminum extrusions as parts “fully and permanently assembled at the time of entry” was excluded from the orders, even if it was to be “later incorporated with other components, or assembled into a larger downstream product.” Second, in Rubbermaid Commercial Products LLC v. United States, the Court of International Trade ruled in 2015 that finished subassembly products “comprised of extruded aluminum as well as non-extruded aluminum components… meet the portion of the finished merchandise exclusion for goods containing aluminum extrusions as parts.” Worldwide asserts that these cases represented the lay of the land in 2016 when Worldwide was evaluating whether its multi-component door thresholds were subject to the Orders. Thus, Worldwide argues these cases provided ample support for the good faith conclusion that these multi-component door threshold assemblies (unlike other types of door

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See September 18 Determination, supra note 1, at 6.


thresholds which may be made from a single aluminum extrusion), were outside the scope of the Orders.

In its conclusion, Worldwide opines that there will invariably be disagreements over questions of AD/CVD scope, and the interpretation of scope language, as a consequence of the AD/CVD statutory scheme in the United States. However, Worldwide argues the question of whether an importer “evaded” antidumping duties depends on more than just whether the products in question are finally determined to be in the scope of the Orders, once judicial review is complete—a question which Worldwide points out has not yet been resolved in this case, as the scope ruling is on review at the U.S. Court of International Trade. Worldwide asserts it simply cannot be the case that any importer of goods eventually found to fall within the scope of an AD or CVD order can be found, ipso facto to have “evaded” antidumping duties for failing to have declared such merchandise as subject to the order, when the importer exercised reasonable care, and had a good faith basis, rooted in the language of the order, for believing the product was outside the scope at the time of entry. Worldwide argues this is especially true when, as in this case, the importer asked CBP to perform the role described for Customs by the Federal Circuit in Xerox, 289 F.3d at 794, and when the importer has sought a scope ruling from the Department of Commerce.

C. ARGUMENTS SUBMITTED BY ENDURA IN ITS RESPONSE

Endura requests that we affirm the September 18 Determination of evasion. Its arguments are summarized below.

1. There is no knowledge or intent requirement in the EAPA statute.

Endura argues that the reasonable care standard does not apply to EAPA proceedings. While CBP may rely on this standard in other proceedings, Endura notes that Congress chose not to include the reasonable care standard in the EAPA statute. As such, Endura claims it is inappropriate to rely on this standard in arguing whether or not evasion occurred within the meaning of the EAPA statute. Endura asserts that there is no knowledge or intent requirement at all in the EAPA statute. Thus, Endura argues that to incorporate the reasonable care standard here would gut the congressional purpose of the EAPA statute. To do so would encourage importers like Worldwide to lobby CBP for interpretations of scope that only Commerce is supposed to give, then claim they exercised reasonable care. Endura argues that the only “reasonable care” that should have been exercised if a scope is unclear is to ask Commerce, which Worldwide did not do for over six years despite knowing that its products were subject.

Endura argues that the EAPA statute only directs CBP to determine, based on substantial evidence, whether covered merchandise was entered into the customs territory of the United States through evasion. Endura cites the definition of “evasion” and asserts there is plainly no requirement in the statute that an importer knowingly or intentionally engage in evasion. Endura cites to several letters from TRLED in other EAPA cases, which indicate that CBP has confirmed there is no knowledge or intent requirement in the EAPA statute.

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21 We note that Xerox Corp. v. United States was decided in 2002 and discussed the role of the U.S. Customs Service, which is a predecessor to the current U.S. Customs and Border Protection, created in 2003.
Endura asserts that Worldwide does not deny it imported door thresholds containing Chinese aluminum extrusions without paying AD/CVD duties. Endura maintains that Worldwide’s failure to declare its merchandise as subject to AD/CVD duties and its failure to pay the requisite cash deposits is a “material and false” statement and/or “material omission.” Whether Worldwide properly or improperly determined to not pay AD/CVD duties on its imports of door thresholds containing Chinese extruded aluminum simply has no bearing on whether the merchandise entered the United States by means of a “material and false” statement and/or “material omission” that resulted in any cash deposit or other security or any amount of applicable AD/CVD duties being reduced or not being applied with respect to the merchandise.

2. Worldwide’s claim that it had a good faith basis for its belief that its door thresholds were excluded from the scope of the Orders is undermined by the record.

Endura also argues that Worldwide’s claim that it had a good faith basis for its belief that its door thresholds were excluded from the scope of the Orders is an improper attempt to try to mitigate its material misstatements. Endura again asserts that there is no intent or knowledge requirement in the EAPA statute and it would be improper and a subversion of congressional intent for us to create one in this administrative review. Endura asserts that Worldwide is essentially arguing that its merchandise is multi-component thresholds, and Worldwide thought that the scope only applied to pure extrusions. The intent and the reasonable care standard do not apply in EAPA proceedings. Endura specifically asserts that TRLED properly concluded that the scope language of the Orders covers Worldwide’s merchandise and that Worldwide knew, or should have known, that its door thresholds are covered by the scope given its participation in the original investigation and the fact that it requested and received a separate AD rate, under A-570-967-028, for its subject merchandise.

Endura asserts that CBP properly noted that the scope of the Orders clearly indicates that subject merchandise may be identified with reference to its end use, such as door thresholds, and that subject merchandise falls under HTSUS subheading 7610.10. Endura maintains that CBP found substantial evidence that Worldwide entered door thresholds containing aluminum extrusions produced in China that would fall under HTSUS subheading 7610.10 during the period of investigation. The scope of the Orders clearly identifies door thresholds as a type of subject merchandise, without any distinction as to different types of thresholds, and instead with language clarifying that door thresholds are covered even if they are ready for use at the time of importation, i.e., finished. Endura argues that a plain reading of the scope language indicates that the aluminum extrusion components of door thresholds are covered, even if the thresholds may be ready for use at the time of importation, i.e., “finished.”

Moreover, Endura asserts that TRLED correctly found that Worldwide was on notice from the beginning that the scope of the investigations and resulting Orders included door thresholds, given its participation in the original investigations. Critically, CBP emphasized that Worldwide’s Chinese manufacturer, USA Worldwide, requested and received a separate AD rate in the original investigations, which was the applicable rate until recently, that
covered all subject merchandise without distinguishing among the different merchandise containing aluminum extrusions and shipped to Worldwide in the United States.

Endura further notes that, while Worldwide argued it acted in good faith by submitting a scope ruling request with Commerce, Worldwide did not do so until August 2017, more than six years after the issuance of the Orders. Furthermore, TRLED noted that Worldwide failed to take into account CBP’s 2011 tariff classification ruling that multi-component door thresholds containing aluminum extrusions are classified under HTSUS subheading 7610.10, as the essential character of the threshold is imparted by the aluminum extrusion. While CBP recognized that the classification ruling is not determinative of scope, the agency noted that the decision provides importers of multi-component door thresholds entered under HTSUS 7610.10, like Worldwide, the opportunity to seek clarification from Commerce through a scope ruling request if necessary. However, Worldwide did not avail itself of this opportunity until August 2017, and continued to enter subject merchandise without the requisite AD/CVD cash deposits. Thus, Endura argues that CBP correctly concluded that the 2011 ruling negates Worldwide’s contention that a plain reading of the scope excludes the importer’s multi-component thresholds from the scope.

For this reason, Endura avers that Worldwide’s repeated characterization of its thresholds as multi-component finished door thresholds is unavailing. The identification of door thresholds in the scope language as subject merchandise contains no limitation based on whether the thresholds are made solely of aluminum extrusions or contain non-extruded aluminum components in addition to aluminum extrusions. Endura opines that Worldwide is attempting to create a limitation that simply does not exist in the scope language. Endura argues that TRLED recognized this in the underlying investigation and Commerce confirmed that there is absolutely no basis to conclude that this type of merchandise might have been excluded.

Furthermore, Endura asserts that the industry standard for door thresholds is multi-component thresholds, and this was the case during the underlying investigations as well. To support this, Endura points to an affidavit from an industry expert, which confirms that the standard thresholds in the industry are engineered with multiple parts, including both aluminum and non-aluminum components, and that while thresholds can be made entirely of aluminum or wood, such products are for special applications and represent only about 10 percent of the market. Endura asserts that the standard multi-component thresholds have been the industry standard for the last 30 years and represent about 90 percent of the market. Endura opines that Worldwide knew this and filed a separate rate application because of that and only lobbied CBP later.

Moreover, Endura argues that Worldwide’s claim that its door thresholds are “finished” is inapposite. The scope language explicitly states that door thresholds are subject merchandise regardless of whether they are ready for use at the time of importation. A plain interpretation of the language “ready for use at the time of importation” is that such products are “finished” at the time of importation. In other words, unlike other products

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24 Response of Endura Products, Inc. to Request for Review, dated December 6, 2019 (citing Endura RFI Submission at 6, Exhibit 4).
25 See id.
which may be excluded from the scope of the Orders as “finished merchandise.” Endura argues that the scope language states that door thresholds cannot be excluded even if they are ready for use at the time of importation, i.e., finished.

While Worldwide claims it relied on prior scope rulings and case law in concluding that its door thresholds are not subject to the scope of the Orders, the two proceedings that Worldwide mentions involved products not expressly identified in the scope language and thus Worldwide’s claim is not persuasive. Endura argues Worldwide ignored more relevant case law, specifically *Shenyang Yuanda Aluminum Industry Engineering Co. v. United States*, which upheld Commerce’s final scope ruling confirming that curtain wall units and other parts of curtain wall systems are within the scope of the Orders. The Federal Circuit held that “curtain wall units meet the definition of the subject aluminum extrusions” because “[t]he scope language explicitly includes ‘parts for... curtain walls’ and curtain wall units are parts of a finished curtain wall.” The Federal Circuit emphasized that the products contain aluminum extrusions and even though the products are called “curtain wall units” rather than “aluminum extrusions,” this does not preclude the products from being within the scope.

3. The record evidence indicates that Worldwide made an intentional and concerted effort to avoid paying AD/CVD duties on its door thresholds.

Nevertheless, while Endura acknowledges that there is no knowledge or intent requirement in the EAPA statute for a finding of evasion, the record evidence indicates that Worldwide made an intentional and concerted effort to avoid paying AD/CVD duties on its door thresholds. Worldwide’s main defense in its request for administrative review is that CBP allegedly instructed Worldwide to enter its door thresholds as Type 01 entries. It is well established that Commerce is the arbiter of the scope of AD/CVD orders and Endura emphasizes that the Frequently Asked Questions website included in Worldwide’s request for administrative review clearly states that advice from import specialists is “not binding.” Any advice proffered to Worldwide by CBP import specialists that Worldwide’s door thresholds are not covered by the scope of the Orders is incorrect and not binding. Endura argues that it is an abuse of the system for importers to lobby CBP on an ex parte basis in an attempt to obtain “scope advice” rather then seek clarification from Commerce, and it effectively allows importers like Worldwide to forum shop. Endura asserts that if CBP were to conclude that this “advice” absolves Worldwide from evasion of duties, this would not only gut the EAPA statute itself, but would only serve to exacerbate the clearly rampant AD/CVD duty evasion that the EAPA statute was intended to address. Ultimately, Endura argues CBP correctly concluded in the underlying EAPA investigation that Worldwide knew, or should have known, that its door thresholds are covered by the scope of the Orders.

Specifically, TRLED observed in its September 18 Determination that Worldwide’s Chinese manufacturing base, USA Worldwide, filed a separate rate application in the original AD

25 Response of Endura Products, Inc. to Request for Review, dated December 6, 2019 (citing *Shenyang Yuanda Aluminum Industry Engineering Co. v. United States*, 776 F.3d 1351, 1359 (Fed. Cir. 2015)).
26 Id. at 1357.
27 See id.
investigation for its exports of subject merchandise. Worldwide’s separate rate, which applied to it until recently, covered all subject merchandise, and did not distinguish between different types of products. Thus, Endura argues that from the very beginning of these Orders, Worldwide recognized that its exports of door thresholds were subject merchandise when it asked for a separate rate. Therefore, Worldwide decided that it would interpret the scope contrary to its plain meaning and enter subject thresholds without paying the requisite AD/CVD duty deposits as CBP found in its September 18 Determination.

After requesting and then receiving a separate AD rate for its exports of subject merchandise in 2011, Worldwide appears to have unilaterally determined not to pay AD/CVD duties on its imports of door thresholds for years, until the importer began to lobby CBP to exclude its thresholds from duties and then, requested a scope ruling from Commerce as a last resort. Endura argues that Worldwide’s reliance on Xerox Corp. v. United States is misplaced. The Federal Circuit in Xerox Corp. held that the scope of the order was not in question because the products at issue were clearly outside the scope of the order and that where the scope of an order is unambiguous and undisputed, and the goods clearly do not fall within the scope of the order, misapplication of the order by Customs is properly the subject of a protest under 19 U.S.C. § 1514(a)(2), and the Court of International Trade may review the denial of such protests under 28 U.S.C. § 1518(a).29 In cases where it is unclear whether certain products are within the scope of AD/CVD orders, the Federal Circuit explained that “Commerce ‘should in the first instance decide whether an antidumping order covers particular products, because ‘the order’s meaning and scope are issues particularly within the expertise of that agency.’”30 The Federal Circuit further opined that “the statute excludes antidumping determinations, that is, the calculation of duties, and the scope of orders, from matters that can be protested to Customs. And to protect Commerce’s administrative authority, neither Customs nor the court should make such determinations.”31

Endura notes that in Sunprime Inc. v. United States, the Federal Circuit recently reiterated that “[w]hen a question arises as to whether certain goods are within the scope of an antidumping duty order, importers should first seek a scope ruling from Commerce... because Commerce ‘should in the first instance decide whether an antidumping order covers particular products,’ because ‘the order’s meaning and scope are issues particularly within the expertise of that agency.’”32 The court further explained that “[w]hen an importer disputes Customs’ application of an antidumping or countervailing duty order, the proper remedy is for the importer to seek a scope inquiry from Commerce, the result of which may subsequently be challenged before the [Court of International Trade].”33

Endura avers that if Worldwide had any question as to whether the scope of the Orders covers its door thresholds, Worldwide should have requested a scope ruling from Commerce, and the importer should have done so when the Orders were first imposed, instead of waiting and presumably importing door thresholds for years without paying the

29 Response of Endura Products, Inc. to Request for Review, dated December 6, 2019 (citing Xerox Corp. v. United States, 289 F.3d 792, 795 (Fed. Cir. 2002)).
30 Id. (citing Sandvik Steel Co. v. United States, 164 F.3d 596, 600 (Fed. Cir. 1998)).
31 See id. (internal citations omitted).
32 Response of Endura Products, Inc. to Request for Review, dated December 6, 2019 (citing Sunprime Inc. v. United States, 892 F.3d 1186, 1193 (Fed. Cir. 2018) (internal citations omitted)).
33 See id.
requisite AD/CVD duties. Endura argues that Worldwide clearly believed there was a question as to whether its door thresholds were subject when it approached CBP for advice. Endura maintains that Worldwide knew that only Commerce has the authority to determine whether a product is subject or not and instead, Worldwide chose to forum shop.

Endura also asserts that any suggestion that door thresholds were not covered by the scope of the Orders until Commerce issued its scope ruling for door thresholds is inaccurate and completely at odds with Commerce’s interpretation of its own regulations. Endura notes that Commerce issued a scope ruling in which it confirmed that door thresholds are covered by the scope, and Commerce made its scope determination pursuant to 19 C.F.R. § 351.225(d) and 19 C.F.R. § 351.225(k)(1) and did not initiate a formal scope inquiry. In other words, Commerce’s scope ruling confirmed that the scope of the Orders was clear on its face and that door thresholds are, and always have been subject to the Orders, not simply as of the date of Commerce's decision. The Federal Circuit has made clear that Commerce does not have to initiate a formal scope inquiry when it wishes to issue a ruling that does not clarify the scope of an unambiguous order. Endura argues that an interpretation otherwise "would permit importers to potentially avoid paying [AD/CVD] duties on past imports by asserting unmeritorious claims that their products fall outside the scope of the original order. Importers cannot circumvent [AD/CVD] orders by contending that their products are outside the scope of existing orders when such orders are clear as to their scope."

Endura asserts that to interpret otherwise would incentivize importers to evade AD/CVD duties and then simply request a scope ruling at a later point and argue that their products only became subject to the scope of the particular AD/CVD order as of such later date, leading to the persistent evasion of AD/CVD duties and manipulation of U.S. trade law. Endura argues this is the very type of activity that the EAPA statute was intended to address and that the facts of this case are precisely the fact pattern the Federal Circuit was describing in AMS Assocs. Thus, TRLED clearly understood this and reached the only appropriate conclusion supported by substantial evidence and in accordance with law.

D. ADMINISTRATIVE REVIEW ANALYSIS

Pursuant to 19 U.S.C. § 1517(f)(1) and 19 CFR § 165.45, the Office of Trade, Regulations and Rulings, will apply a de novo standard of review under the law, based solely upon the facts and circumstances on the administrative record in the proceeding. In making our determination, we reviewed: (1) the entire administrative record upon which the initial September 18 Determination was made by TRLED; and (2) the timely and properly filed requests for review and responses. The Office of Trade, Regulations and Rulings, did not request additional written information from the parties to the investigation pursuant to 19 CFR § 165.44. Pursuant to 19 CFR § 165.45, our administrative review of this case has been completed in a timely manner within 60 business days of the commencement of the review.

The term “evasion” under EAPA refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that

is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.\textsuperscript{35}

The term “covered merchandise” means merchandise that is subject to a CVD order issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. § 1671e), and/or an AD order issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. § 1673e).\textsuperscript{36}

For merchandise to be subject to an AD and/or CVD order it must be: (1) the type of merchandise described in the order, and (2) from the particular country covered by the order.\textsuperscript{37}

1. “Covered Merchandise” under 19 U.S.C. § 1517(c)(1)

   a. There is substantial record evidence that the door thresholds are described in the Orders.

   The record evidence shows that Worldwide’s door thresholds from China are considered subject merchandise within the scope of the Orders.

On August 3, 2017, Worldwide submitted a scope request asking that Commerce issue a scope ruling that Worldwide’s door thresholds are outside the scope of the Orders.\textsuperscript{38} Worldwide requested a scope ruling for 18 door threshold products since each of these door thresholds contained extruded aluminum as well as non-aluminum components, including synthetic plastic polymers like polyvinyl chloride (PVC), polyethylene, polyurethane, polypropylene, or thermoplastic elastomer, wood, and stainless steel.\textsuperscript{39} In its First Supplemental Response, Worldwide indicated that the 18 door thresholds fit within seven product groups.\textsuperscript{40} Each product group for door thresholds contained an extruded aluminum part, either an aluminum cap or an aluminum cover, made from extruded aluminum 6063-T5.\textsuperscript{41} Worldwide argued that its products are excluded as “finished merchandise” under the Orders because the door thresholds are “fully and permanently assembled and completed at the time of entry.”\textsuperscript{42} Worldwide indicated that none of the products for which it was requesting scope exclusion requires further finishing, fabrication or cutting, or repackaging after importation.\textsuperscript{43}

\textsuperscript{35} 19 U.S.C. § 1517(a)(5)(A).
\textsuperscript{36} 19 U.S.C. § 1517(c)(1) and 19 CFR § 165.1.
\textsuperscript{37} See Bell Supply Co., LLC v. United States, 179 F. Supp. 3d 1082, 1091 (Ct. Int’l Trade 2016) (Bell Supply II); Sunpower Corp. v. United States, 179 F. Supp. 3d 1286, 1298 (Ct. Int’l Trade 2016) (Sunpower); Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 58 FR 37062, 37065 (July 9, 1993) (Cold-Rolled from Argentina).
\textsuperscript{39} Id. at 8.
\textsuperscript{40} Id. at 9.
\textsuperscript{41} Id. at 9-11.
\textsuperscript{42} Id. at 8.
\textsuperscript{43} Id. at 11.
However, in Commerce’s final scope ruling issued on December 19, 2018, Commerce found that the scope of the Orders expressly covers aluminum extrusions that may be identified with reference to their end-use, such as door thresholds. Indeed, the plain language of the scope of the Orders specifies that “door thresholds” are included within the scope “if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.”\textsuperscript{44} Thus, Commerce reasoned that the express inclusion of “door thresholds” within the scope of the Orders renders the reliance of Worldwide on the finished merchandise exclusion inapposite.

Based on the description of the door thresholds, Commerce also found that the aluminum extruded components of Worldwide’s door thresholds may be described as parts for final finished products, i.e., parts for doors, which are assembled after importation with additional components to create the final finished product, and otherwise meet the definition of in-scope merchandise.\textsuperscript{45}

Moreover, Commerce found that the door thresholds, which constitute aluminum extrusion components attached to non-aluminum extrusion components, may also be described as subassemblies pursuant to the scope of the Orders.\textsuperscript{46} Thus, the non-aluminum extrusion components (i.e., the synthetic plastic polymers, polyethylene, polyurethane, polypropylene or thermoplastic elastomer, wood, and stainless steel), which are assembled with the in-scope aluminum extrusion components, are not included in the scope of the Orders.\textsuperscript{47}

Commerce disagreed with Worldwide that the door thresholds are excluded from the Orders under the finished merchandise exclusion.\textsuperscript{48} The finished merchandise exclusion states, “[t]he scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels.” Commerce reasoned that finding door thresholds excluded under the finished merchandise exclusion would render the express inclusion of “door thresholds” within the scope of the Orders meaningless.\textsuperscript{49}

Notably, Commerce pointed out that the same provision of the scope which expressly references “door thresholds” provides an express reference to the heat sinks exclusion: “subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below).”\textsuperscript{50} Thus, Commerce reasoned that in contrast to the heat sinks exclusion referenced in this same section of the scope language, there is no similar language within the scope of the Orders which indicates that only those door thresholds that do not meet an exclusion are within the scope of the Orders.\textsuperscript{51}

\textsuperscript{44} Id. at 34.
\textsuperscript{45} Id. at 33.
\textsuperscript{46} Id. at 34.
\textsuperscript{47} Id. at 34.
\textsuperscript{48} Id. at 35.
\textsuperscript{49} Id. at 35.
\textsuperscript{50} See the Orders.
\textsuperscript{51} See Final Scope Ruling on Worldwide Door Components, supra note 38, at 36.
Additionally, Worldwide argues that Commerce’s scope ruling was not issued until after the EAPA investigation had commenced. Furthermore, Worldwide argues that it relied on communications from CBP import specialists as to how to enter the merchandise and whether its door thresholds were covered by the Orders. Thus, Worldwide believes this reliance provided a good faith and credible belief that the door thresholds were outside the scope of the Orders.

These arguments are unavailing. The timing of Commerce’s scope ruling is not material herein. Importantly, when Commerce made its scope determination, Commerce decided that only the 19 CFR 351.225(k)(1) factors (i.e., the descriptions of the products, the scope language, and prior rulings) were dispositive, and did not consider the additional factors in 19 CFR 351.225(k)(2). Therefore, Commerce clarified that the merchandise at issue, i.e., Worldwide’s door thresholds, was always considered “covered merchandise” and as such, it was always included in the scope of the Orders.

Moreover, pursuant to 19 U.S.C. § 1517, CBP has the independent EAPA authority to investigate and suspend liquidation of entries when an allegation reasonably suggests that covered merchandise was entered into the United States through evasion. As such, once liquidation is extended or suspended, the entries are available for the ultimate imposition of AD and CVD duties, upon a final determination of scope coverage.

Further, while Worldwide may have sought guidance from CBP import specialists, this guidance was not binding. The FAQ webpage that Worldwide references emphasizes that one may contact a CBP import specialist to help determine whether the merchandise falls under the scope of the order “although that advice is not binding. Commerce is the agency that issues final rulings regarding what merchandise is subject to an AD/CVD order.” Worldwide was on notice of that fact and its choice to seek a non-binding opinion does not cut in its favor.

In addition, Worldwide’s alleged “credible beliefs” are not persuasive as Worldwide did not seek clarification from Commerce through a formal scope ruling request until August of 2017 (more than a year after communicating with CBP import specialists and six years after the Orders were put in place) and continued to enter subject merchandise without the requisite AD and CVD deposits. Moreover, as TRLED pointed out, the scope of the Orders clearly indicates that subject merchandise may be identified with reference to its end use, such as door thresholds.

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52 Id. at 32.
53 See also Sunporem Inc. v. United States, No. 18-1116, 2020 U.S. App. LEXIS 244 (Fed. Cir. Jan. 7, 2020) (holding that it is within CBP’s authority to preliminarily suspend liquidation of goods based on an ambiguous antidumping or countervailing duty order, such that the suspension may be continued following a scope determination by Commerce).
55 Final Scope Ruling on Worldwide Door Components, supra note 38, at 34.
b. There is substantial record evidence that the door thresholds are from China, the country covered by the Orders.

According to the record evidence, merchandise described as door thresholds containing aluminum extrusions was manufactured in China by USA Worldwide Door Components (Pinghu) Co., Ltd. and was entered by Worldwide into the United States.

Thus, we conclude that Worldwide was importing door thresholds containing aluminum extrusions from the PRC, which is the country covered by the Orders. Indeed, there appears to be no dispute as to this point.

2. Evasion

Worldwide argues it has not committed evasion because “it did not make any material false statement or act, or any material omission.” We disagree. Under the EAPA, evasion refers to entering covered merchandise into the customs territory of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise. EAPA’s definition of “evasion” does not expressly require an intentional or purposeful attempt to avoid duties, or provide reasonable care or a good faith and credible belief as defenses to evasion. Rather, it is sufficient that if an importer enters “covered merchandise” into the United States by means of any material false document, statement, act or omission that results in the reduction or non-payment of antidumping or countervailing duties or deposits thereof, then evasion has occurred.

We also note that the consequence of a finding of evasion is commensurate with the underlying act. In other words, when we find evasion, we find that AD or CVD duties on covered merchandise were not paid. The consequence in an EAPA case is that CBP requires liquidation of entries of relevant merchandise to remain extended/suspended or to be extended/suspended, and for deposits of AD/CVD duties to be made.

Worldwide falsely entered the door thresholds containing aluminum extrusions from China on entry Type 01 consumption entries, instead of entry Type 03 AD/CVD entries, so that the entries would not be subject to AD/CVD duties. Worldwide omitted Case Nos. A-570-967 and C-570-968 from the entry summary documentation, which would have identified the imported merchandise as subject to the Orders and required the payment of the applicable AD/CVD duties. These false statements and omissions were material because they resulted in the non-payment, i.e., evasion, of applicable AD and CVD cash deposits. Therefore, we conclude that there is substantial record evidence that covered merchandise, that is, door thresholds containing aluminum extrusions from China, was entered by Worldwide into the United States by means of evasion, as defined in 19 U.S.C. § 1517(a)(5)(A).

56 Id. at 8.
III. DECISION

Based upon our *de novo* review of the administrative record in this case, including the timely and properly filed request for administrative review submitted by Worldwide on October 31, 2019 and the timely and properly filed response submitted by Endura on December 6, 2019, we AFFIRM the September 18 Determination by TRLED under 19 U.S.C. § 1517(c). Substantial evidence exists that Worldwide entered covered merchandise from the People’s Republic of China into the United States through evasion.

A copy of this determination is being provided to TRLED. TRLED may also take any other appropriate actions consistent with this decision.

This decision does not preclude CBP or other agencies from pursuing additional enforcement actions or penalties. Pursuant to 19 CFR § 165.46(a), this final administrative determination is subject to judicial review pursuant to section 421 of the EAPA.

Sincerely,

Brian T. Barulich
Acting Chief, Penalties Branch
Regulations & Rulings
Office of Trade
U.S. Customs & Border Protection

Approved by:

Alice A. Kipel
Executive Director, Regulations & Rulings
Office of Trade
U.S. Customs & Border Protection