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Re: Enforce and Protect Act (“EAPA”) Case Number 7335; *Certain Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China: Antidumping Duty Order*, 57 FR 29702 (July 6, 1992); Norca Industrial Company, LLC and International Piping & Procurement Group, LP; 19 U.S.C. § 1517

Dear Messrs. Dutra, Koenig, Trendl, and Gloninger;

This is in response to a request for *de novo* administrative review of a determination of evasion dated November 6, 2020, made by the Trade Remedy & Law Enforcement Directorate (“TRLED”), Office of Trade (“OT”), U.S. Customs and Border Protection (“CBP”), pursuant to Title 19 United States Code (“U.S.C.”) section 1517(c) (19 U.S.C. § 1517(c)), in Enforce and Protect Act (“EAPA”) Consolidated Case Number 7335 (hereinafter referred to as the “November 6 Determination”).¹ The Request for Administrative Review, dated December 18, 2020, was submitted to CBP OT Regulations

¹ See Letter from Brian M. Hoxie, Director, Enforcement Operations Division, Trade Remedy Law Enforcement Directorate, CBP Office of Trade -Re: Notice of Determination as to Evasion, EAPA Cons. Case Number 7335, dated November 6, 2020.

and Rulings (“RR”) by Squire Patton Boggs (US) LLP, on behalf of Norca Industrial Company, LLC (“Norca”) and International Piping & Procurement Group, LP (“IPPG”) pursuant to 19 U.S.C. § 1517(f) and Title 19, Code of Federal Regulations (“CFR”) § 165.41(a).² Hereinafter Norca and IPPG will be referred to collectively as the “Importers.” Pursuant to 19 CFR § 165.1 and § 165.13, as parties to the investigation, the Importers’ timely and properly filed requests for administrative review, as well as timely and properly filed responses to those requests are considered herein.³

I. Background

Inasmuch as the facts in this case were fully set forth in the November 6 Determination, we will not repeat the entire factual history herein.

Briefly stated, on October 9, 2019, Allied Group (“Allied”), a U.S. producer of carbon steel butt-weld pipe fittings (“CSBW pipe fittings”), filed an EAPA allegation with CBP, alleging that the Importers (Norca and IPPG) were importing merchandise covered by antidumping (“AD”) order A-570-814⁴ into the United States through evasion, by not identifying the merchandise as subject to that order. On October 15, 2019, CBP acknowledged receipt of Allied’s properly filed allegation. On November 5, 2019, TRLED initiated a formal investigation under Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.

Specifically, Allied claimed that the Importers were importing Chinese-origin CSBW pipe fittings by transshipping them through Vietnam, using exporter BW Fittings, in order to evade payment of AD duties on CSBW pipe fittings from the People’s Republic of China (“China”). Allied alleged that, according to BW Fittings’ Chinese supplier’s website, BW Fittings and the supplier appeared to have the same individual promoting CSBW pipe fittings. Furthermore, Allied alleged that the Importers had shifted production of CSBW pipe fittings from Malaysia to Vietnam, after it became apparent that the U.S. Department of Commerce (“Commerce” or “DOC”) was looking into the circumvention of Chinese AD duties for covered merchandise that underwent minor processing in Malaysia.

The DOC defines the scope of the applicable antidumping case, A-570-814 (the “Order”) as follows:⁵

The product covered by this order is certain carbon steel butt-weld

² See Letter to Mark A. Morgan, Senior Official Performing the Duties of the Commissioner, U.S. Customs and Border Protection, EAPA Consolidated Case No: 7335-Norca Industrial Company, LLC’s Request for Administrative Review and Letter to Mark A. Morgan, Senior Official Performing the Duties of the Commissioner, U.S. Customs and Border Protection, EAPA Consolidated Case No: 7335-International Piping & Procurement Group, LP’s Request for Administrative Review both dated December 18, 2020.

³ On January 15, 2021, Counsel for Norca made an additional submission to the EAPA-FAD electronic mailbox, which was rejected as untimely in accordance with 19 CFR § 165.42.

⁴ See Allied’s EAPA allegation against Norca and IPPG, titled, “Allegation of Duty Evasion under the Enforcement and Protect Act of 2015,” October 9, 2019.

⁵ See *Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Carbon Steel Butt-Weld Pipe Fittings From the People’s Republic of China*, 57 Fed. Reg. 29,702 (Dep’t Commerce, Jul. 6, 1992).

pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the harmonized tariff schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

On February 10, 2020, CBP issued a Notice of Initiation and Interim Measures – EAPA Cons. Case 7335 to all interested parties, notifying them of CBP’s decision to take interim measures based upon reasonable suspicion that the Importers had entered covered merchandise into the customs territory of the United States through evasion, and that CBP was consolidating the investigations of Norca and IPPG under EAPA Consolidated Case Number 7335.⁶ The entries subject to the investigation were those entered by the Importers for consumption, or withdrawn from a warehouse for consumption, from October 15, 2018, one year before the receipt of the allegation, through the pendency of the investigation.⁷

On November 6, 2020, TRLED issued its November 6 Determination, as a consolidated decision against the Importers. TRLED found substantial evidence that during the period of investigation (“POI”) the Importers were importing CSBW pipe fittings into the Customs territory of the United States through evasion using BW Fittings Co., Ltd. in Vietnam. The BW Fittings’ CSBW pipe fittings were found to be of Chinese origin that were being transshipped through Vietnam. Specifically, TRLED found that BW Fittings bought rough fittings (unfinished), covered by A-570-814, and found no evidence of seamless pipe purchases, thus all of the unfinished goods consisted of covered merchandise (rough fittings). In addition, the fittings were found not to have undergone finishing processes in Vietnam of the kind that would make them products of Vietnam. TRLED found that cash deposits were not applied to the covered merchandise because the Importers had falsely claimed “Vietnam” to be the country of origin and had improperly used entry type code “01” (consumption entry) instead of the required “03” entry type code which is the CBP-designated code for consumption entries that are subject to antidumping and/or countervailing duties.

II. Discussion

A. Administrative Review and Standard of Review

Pursuant to 19 U.S.C. § 1517(f)(1) and 19 CFR § 165.45, upon a request for administrative review, CBP will apply a *de novo* standard of review and will render a

⁶ See Notice of Initiation of Investigation and Interim Measures –EAPA Cons. Case 7335 (February 10, 2020).

⁷ See 19 CFR § 165.2. While the regulations set forth which entries CBP will investigate, interim measures may be applied to all unliquidated entries.

determination appropriate under the law according to the specific facts and circumstances on the record. CBP will review the entire administrative record upon which the initial determination was made, the timely and properly filed request(s) for review and responses, and any additional information that was received pursuant to § 165.44. The administrative review is to be completed within 60 business days of the commencement of the review.

B. 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 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.

“Substantial evidence” is not defined in the statute. The U.S. Court of Appeals for the Federal Circuit has stated that “substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *A.L. Patterson, Inc. v. United States*, 585 Fed. Appx. 778, 781-82 (Fed. Cir. 2014) (quoting *Consol. Edison Co. of N.Y. v. NLRB*, 305 U.S. 197, 229 (1938)).

Examples of evasion include, but are not limited to, misrepresentation of the merchandise’s true country of origin (e.g., through false country of origin markings on the product itself or false sales), false or incorrect shipping and entry documentation, or misreporting of the merchandise’s physical characteristics.

Covered merchandise is defined as “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).”⁸ 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.

C. Importers’ Arguments

The Importers request that CBP reverse the November 6 Determination of evasion because, they allege, CBP did not have a lawful basis to initiate an EAPA investigation, inasmuch as Allied’s evasion allegations were unfounded and unreasonable.⁹ According to the Importers, the initiation of CBP’s investigation was based on unfounded allegations made by Allied that the Importers had moved their production of CSBW pipe fittings from Malaysia to Vietnam, after it became apparent that Commerce was looking into the circumvention of Chinese AD duties for covered merchandise that underwent minor processing in Malaysia. However, the Importers aver that the decision to shift production to Vietnam was based on legitimate business decisions. Therefore, by relying on Allied’s baseless allegations, CBP erred by improperly finding evasion in this case.

The Importers contend that the entries of CSBW pipe fittings imported into the United States during the POI were produced and processed in Vietnam with raw materials from China. The Importers contend that CBP erred in its finding that “China” is the country of origin for BW Fitting’s CSBW pipe fittings that were produced in Vietnam, inasmuch as BW Fittings bought rough fittings from Chinese suppliers and these were processed in Vietnam, and that CBP erred in its finding that the CSBW pipe fittings in this case are subject to the Order. The Importers claim that BW Fittings’ rough fittings (also referred to by the Importers as “stamping parts” or “forgings”) are not covered by the Order because the “rough fittings” are not “unfinished” or “semi-finished” and, that being the case, the CSBW pipe fittings are not covered by the scope of the Order. Moreover, the Importers argue that TRILED’s interpretation of the Order expands its scope and is therefore, unlawful.

In addition, the Importers claim that the record also demonstrates that BW Fittings purchased “seamless pipe” from China beginning in September 2019 before CBP received Allied’s allegations of evasion. The Importers claim that it is evident from the documents provided by BW Fittings that “seamless pipe” was used to produce finished CSBW pipe fittings in Vietnam. The Importers contend that CBP’s findings of evasion

⁸ See 19 CFR § 165.1.

⁹ See Importers’ Request for Administrative Review both dated December 18, 2020 at page 7 and Allied’s EAPA allegations for Norca and IPPG, titled, Allegations of Duty Evasion under Enforcement and Protect Act dated October 9, 2019 (Summary of Butt-Weld Pipe Fitting EAPA Allegations).

with respect to the seamless pipe conflict with the CBP Attaché's observations during the visit to BW Fittings' production facilities in January 2020.¹⁰

Furthermore, the Importers claim that throughout CBP's investigation, the Importers were deprived of due process because they were not granted access to the business confidential versions of the allegations of evasion, and, as a result, they were unable to fully respond. The Importers also contend that CBP improperly drew and relied on adverse inferences throughout the investigation giving the Importers no opportunity to respond to perceived discrepancies. In view of the foregoing, the Importers request that RR reverse the initial determination as to evasion and terminate the investigation into the alleged evasion.

The Importers' specific arguments follow:

First, the Importers allege that Allied's allegations of suspicion of evasion do not rise to the level of being "reasonably founded." Therefore, *ab initio*, CBP had no grounds to initiate its investigation based on Allied's unreasonable beliefs. The Importers claim that there cannot be a reasonable suspicion of evasion if and/or when an importer makes a reasonable business decision to shift purchases from a supplier in one country to a supplier in another country (in this case, from Malaysia to Vietnam). According to the Importers, the reason for the shift from Malaysia to Vietnam was "to ensure compliance with United States laws." Also, the Importers contend that there cannot be a reasonable suspicion of evasion because BW Fittings is or may be affiliated with a Chinese supplier(s).

Furthermore, Importers allege that Allied's allegations would have been discredited had CBP considered the reasonable explanations that were provided by BW Fittings during the course of the investigation. For example, regarding an incident where BW Fittings allegedly refused to allow Allied to visit BW Fittings' premises shortly after the "2018 tube exhibition in Germany,"¹¹ the Importers claim that it was reasonable for BW Fittings to decline to meet with Allied because at that time BW Fittings was in the process of establishing its production facility and installing manufacturing equipment. With respect to another allegedly suspicious incident, Allied claimed that during a "sales visit" to Allied in May 2018, a BW Fittings sales manager did not provide photographs of BW Fittings' manufacturing facility or of the equipment at its premises. The Importers allege that the reasonable explanation was because at that time, BW Fittings' production equipment was still "at Vietnam customs." Lastly, there cannot be suspicion of evasion based on apparently discrepant "employee time sheets." According to the Importers, the reason for the apparent discrepancies with BW Fittings' employee time sheets was that those time sheets "covered different facilities, locations, time periods and persons." More importantly, when CBP was presented with BW Fittings' explanations of the purported discrepant employee time sheets, as well as with the other explanations provided, the Importers allege that CBP chose neither to respond nor to address the evidence provided by BW Fittings in order to explain the alleged discrepancies.

¹⁰ The CBP visit was conducted on January 9, 2020 at BW Fittings' facility in Vietnam and the visit was described in the CBP Attaché's Memorandum for Preliminary On-site Visit (January 15, 2020).

¹¹ *See* Importers' Request for Administrative Review, December 18, 2020, both at pages 9-10.

Second, the Importers claim that CSBW pipe fittings that are produced in Vietnam are outside of the scope of the Order. The Importers contend that the rough fittings that were purchased from Chinese suppliers do not fall within the scope of the Order because the rough fittings are not in “finished or unfinished form” as contemplated by the Order. The Importers claim that the goods imported into the United States were “CSBW fittings from Vietnam that were processed/produced in Vietnam.”¹²

More specifically, regarding “scope,” the Importers contend that it has long been recognized by Commerce and by the jurisprudence that the language of an antidumping duty order dictates its scope. Another recognized principle is that “merchandise is subject to an antidumping order only if it is: (1) the type of merchandise described in the order and, (2) it is from the particular country or countries covered by the scope of the order as written by Commerce.”¹³ Moreover, the Importers contend that when Commerce drafts an antidumping order, Commerce can include processing operations that are performed in third countries. However, in this case the language of the Order makes no mention of goods produced or processed in countries other than China. Consequently, the Importers contend that CBP cannot expand the scope of the Order to encompass third country production.¹⁴ The Importers cite 19 U.S.C. § 1677j(b) in support of what they consider to be the Congressional intent. The Importers claim that “[w]hile Commerce conducted an anti-circumvention investigation of China-origin unfinished (not “rough”) CSBW fittings processed in Thailand and Malaysia, it conducted no such investigation with respect to Vietnam.”¹⁵ Therefore, any anti-circumvention determinations made by Commerce with respect to Thailand and Malaysia cannot automatically apply to Vietnam. The Importers claim that Commerce’s initiation of separate investigations (of other countries, like Malaysia and Thailand, but not Vietnam) and the existing case law underscore this point. The Importers conclude that “[b]ecause Commerce has not determined that merchandise completed in Vietnam using subject China-origin inputs is within the scope of the *Order*, CBP has no basis to extend the scope of the *Order*, as it did to arrive at its evasion determination”¹⁶

Furthermore, the Importers claim that CBP did not employ a “substantial transformation test” to determine whether “rough, unfinished (or semi-finished) CSBW pipe fittings from China that undergo finishing processes (e.g., re-forming, sizing, shot blasting, cleaning, machine beveling, grinding, die stamping or painting processes) in a third country would remain country of origin China upon importation to the United States.”¹⁷

¹² See Importers’ Request for Administrative Review (December 18, 2020), both at page 12.

¹³ The Importers cite *Dufervo Steel, Inc. v United States*, 296 F. 3d. 1087, 1097 (Fed Cir. 2002), *Deacero S.A. de C.V. v. United States*, 817 F.3d. 1332, and *Bell Supply Co. LLC v. United States*, 179 F. Supp. 3d. 1082, 1091-1092 (CIT 2016) and 19 U.S.C. §§ 1673, 1673a(b)(3)(A), 1673e(a)(2), 1677 (25), 1677b(a)(3), 1677j and Title 19, Code of Federal Regulations (“CFR”) §§ 351.202(b)(5) and (6).

¹⁴ See Importers’ Request for Administrative Review (December 18, 2020), both at page 12.

¹⁵ *Id.* both at page 13, citing *Certain Carbon Steel Butt-Weld Pipe Fittings From the People’s Republic of China; Affirmative Final Determination of Circumvention of Antidumping Duty Order*, 59 Fed. Reg. 15155 (March 31, 1994) and *Certain Carbon Steel Butt-Weld Pipe Fittings From the People’s Republic of China; Final Affirmative Determination of Circumvention of Antidumping Duty Order*, 84 Fed. Reg. 29164 (June 21, 2019).

¹⁶ See Importers’ Request for Administrative Review (December 18, 2020), both at page 14.

¹⁷ *Id.* both at page 15.

The Importers summarize the manufacture of CSBW pipe fittings as involving the following three production stages:

The first stage involves transforming seamless carbon steel pipe “into the rough shape of an elbow, tee, reducer, etc., through a cold - or hot - forming (or forging) process,” at which point, “the fittings are considered to be in a rough, ‘as formed,’ state.” During the second stage, the rough fittings “undergo a ‘reforming’ or ‘sizing’ operation to ensure that the fitting will match the pipe to which it is to be welded.” The third production stage involves “finishing steps,” including “shot blasting, or other cleaning, machine beveling, boring and tapering, grinding, die stamping, inspection, and painting.”¹⁸

The Importers claim that BW Fittings confirmed to CBP during the course of the investigation that its rough (or stamped) parts are the result of the first production stage and that these undergo second and third stages of production in Vietnam. Therefore, according to the Importers, the rough parts which BW Fittings imported from China are not “unfinished” or “semi-finished” CSBW fittings such that they are subject to the Order. BW Fittings stated in its response to CBP’s Request for Information (“RFI”) that all finished CSBW fittings that it exported to the United States “underwent at least” the second and third production steps in Vietnam. The Importers contend that in this regard CBP provided “no facts to the contrary nor could it.”¹⁹ The Importers assert that in a recent Malaysian anti-circumvention investigation, Commerce found that “performing the first and/or second stages of production render the product outside the scope of the *Order*.”²⁰

The Importers acknowledge that while BW Fittings did not have the equipment to perform hot sizing until it acquired two electric furnaces (allegedly clearing Vietnam customs on May 31, 2019, and allegedly in use beginning June 1, 2019), BW Fittings claimed nonetheless, that it had the capability to perform cool resizing throughout the POI. As evidence the Importers claim that BW Fittings had two elbow forming machines which cleared Vietnam customs on July 3, 2018 and which BW Fittings began using on August 1, 2018 (before the POI).²¹ Likewise, BW Fittings claimed that it acquired two four-column hydraulic presses (Production Range 1/2 inch to 12 inch) which cleared Vietnam Customs around July 3, 2018²² and began using that equipment in its production on September 1, 2018. Thus, this information confirms that BW Fittings had the capability to perform the second and third stages of production throughout the POI.²³

¹⁸ *Id.* both at page 15, citing *Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan and Thailand*, Inv. Nos. 731-TA-308-310, 520, and 521 (Second Review), USITC Pub. 3809 (October 2005) at I-14.

¹⁹ See Importers’ Request for Administrative Review (December 18, 2020), both at page 17.

²⁰ The Importers cite “*Issues and Decision Memorandum for the Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China* (Dept. of Commerce June 14, 2019) at 16-17.” We decline to comment on the referenced Malaysia investigation as it is outside of the purview of our administrative review.

²¹ BW Fittings cites their Exhibit S9 and Exhibit 18, as well as Bill of Lading No. KLS1801130.

²² Bill of lading no. TSNCB18005172.

²³ The Importers cite BW Fittings Narrative Response to Request for Information at page 16, also BW Fittings

In view of the above, the Importers are of the position that BW Fittings established that it had the production capability and that it performed second and third stages of production of rough fittings in Vietnam throughout the POI, and, consequently, CBP's evasion determination must be reversed. Furthermore, the Importers claim that CBP "effectively concedes" that it "failed to perform any country of origin analysis" when it based its determination on its reading of "the scope of the AD order."²⁴ Because of CBP's acknowledgments in this regard, the Importers take the position that CBP lacked substantial evidence to support its determination that the country of origin of BW Fittings' finished CSBW fittings was China rather than Vietnam.²⁵

The Importers contend that CBP erred when it made a finding that it could not confirm that BW Fittings had purchased seamless pipe from its Chinese suppliers. The Importers aver that there is substantial evidence to prove that BW Fittings imported seamless pipe to produce finished CSBW pipe fittings in Vietnam. The Importers contend that CBP was provided with copies of the relevant bills of lading, the Vietnam customs declarations, material-receiving documentation, as well as test reports that support that seamless pipe was imported from China during the POI. BW Fittings claims that it established that it began importing machines to convert seamless pipe to rough fittings in June 2019 and began importing seamless pipe in September 2019. The Importers claim that site visit reports and videos demonstrate that BW Fittings had the capability to transform seamless pipe into finished CSBW fittings at its facility in Vietnam.

Regarding seamless pipe, the Importers provided the following:

- The Importers aver that during the January 9, 2020 site visit to BW Fittings' facility in Vietnam, the CBP Attaché observed that BW Fittings was using seamless pipe to produce its fittings in Vietnam and furthermore, it was acknowledged that BW Fittings had sufficient production equipment and employees to produce CSBW pipe fittings in Vietnam. CBP's findings of evasion regarding the seamless pipe is contrary to the CBP Attaché's observations.
- The Importers aver that CBP's conclusion that numeric descriptions in its product code list and raw material invoices were for "rough fittings" only runs contrary to the documentary evidence and, is "irrational." While BW Fittings' raw material invoices for seamless pipe contain numeric descriptions, the material's name and corresponding "HS" code are indicated on the bills of lading and other documents. As evidence, BW Fittings provided under its Exhibit 16, purchase orders/contracts numbers: P.O. 505.005092/Contract BW190049, P.O. 505.005093/Contract SC-BW190050, P.O. 505.005095/Contract SC-BW190052, P.O. 505.005100/Contract

Ex S9 and Ex 18 at 18_5 at 1, 68-74, 18_10 at 1-3 and, 18_12. *See* Importers' Request for Administrative Review, both at page 17-18.

²⁴ The Importers refer to the November 6 Determination, however, we see no indication therein of CBP making such an acknowledgment. *See* Importers' Request for Administrative Review, both at page 14.

²⁵ *See* Importers' Request for Administrative Review, both at page 14.

BW190057, P.O. 505.005101/Contract SC-BW190058, P.O. 505.005102/Contract BW190059, P.O. 505.005103/Contract SC-BW190060, P.O. 505.005104/Contract SC-BW190061 and, P.O. 505.005105/Contract SC-BW190062. The Importers claim that increases in both electric and water utility usage, particularly from November 2019 through January 2020, prove that during the POI, BW Fittings produced finished CSBW fittings from imported seamless pipe in Vietnam. The Importers also claim that the CBP Attaché actually witnessed the production of finished CSBW fittings from seamless pipe during the site visit. Based on the site visit, as well as the bills of lading and the customs declarations produced by BW Fittings, it is apparent that the numeric descriptions were for *both* rough fittings and for seamless pipe. Purchase documents for imported long pipe or seamless pipe were presented to CBP under BW Fittings' Exhibit 6.

- The Importers contend that if any of BW Fittings' responses to CBP's inquiries appeared unclear, contradictory, or "careless" (as specifically acknowledged by the Importers with respect to BW Fitting's Exhibit S10), CBP could and should have sought further clarifications from BW Fittings instead of drawing adverse inferences. The Importers state that BW Fittings' responses were not "mal-intended." The Importers contend that in not seeking clarification from BW Fittings, CBP "merely fit whatever facts it needed in order to justify a pre-ordained determination."
- The Importers claim that CBP's emphasis on BW Fittings shifting the timeline for when it began using seamless pipe during production (from September 2019²⁶ to June 2019²⁷) is misplaced. According to the Importers the plausible explanation is that the individual at BW Fittings misunderstood the supplemental question. BW Fittings established that it began importing machines to convert seamless pipe to rough fittings in June 2019 and began importing seamless pipe in September 2019.²⁸
- CBP's effort to justify its determination that BW Fittings did not purchase seamless pipe because it observed that BW Fittings also purchased rough fittings in December 2019 and in January 2020, during the period in which BW Fittings stated it was purchasing seamless pipe, is irrelevant inasmuch as the Order does not cover rough parts from China (as argued above). Moreover, the Importers claim that there is nothing inconsistent if a manufacturer intermittently supplements the purchase of seamless pipe with rough parts to meet demand requirements.

Finally, the Importers contend that CBP violated their rights to due process. The Importers argue that the Federal Circuit recognizes that an importer participating in an administrative

²⁶ Per its RFI response.

²⁷ Per BW Fittings' response to the supplemental RFI.

²⁸ See Importers' Request for Administrative Review, at page 21 (IPPG) and at page 22 (Norca).

proceeding has a due process right to “notice and a meaningful opportunity to be heard.”²⁹ Due process requires notice of the proposed official action, access to the evidence supporting that action, and an opportunity to rebut that evidence. The Importers allege that lack of access to the business confidential versions of Allied’s allegations and all other initiating documents resulted in the Importers being unable to fully respond to the evasion allegations that were made against them. The Importers contend that CBP cannot draw adverse inferences to support an evasion determination if CBP does not provide BW Fittings with an opportunity to remedy or to clarify. CBP’s inherently unfair conduct was evident in the following examples cited to by the Importers:

- CBP referred to a sales contract from BW Fittings to Norca where the “fine print” indicated that “transshipment” was “To Be Allowed.” CBP did not ask the Importers or BW Fittings to explain this notation and assumed there was only one explanation - transshipment for the purpose of evasion. The Importers contend that the noted provision is routinely used to address permissible routings of containers and there was nothing nefarious about such standard shipping language being added to a sales contract that involves ocean transport.
- CBP found that “raw material sales contracts and invoices with written descriptions for rough fittings submitted in BW Fittings’ RFI response did not contain sufficient information for BW Fittings’ raw material suppliers to fulfill the orders.” The Importers allege that the claim is irrelevant and “there is no dispute that BW Fittings purchased rough parts.” The use of such parts during production in Vietnam does not render the finished CSBW fittings “covered merchandise.” The Importers allege that CBP drew an improper adverse inference and did not provide the Importers or BW Fittings with a real opportunity to clarify.
- CBP found that the raw material invoices it viewed during CBP’s on-site visit contained more product details than the raw material invoices that were submitted in BW Fittings’ RFI response. A comparison of the documents revealed that the raw material invoices which BW Fittings produced in response to the RFI were said to omit two columns: the “import code” and “import name.” The reasonable explanation is that the two columns which appeared on the invoices that were provided to CBP during the on-site visit were for “internal purposes” (used to prepare the necessary customs declarations). Notwithstanding, the Importers claim that the information contained under the two additional columns is simply “cumulative” or “irrelevant” and did not communicate any “additional information.” The Importers allege that CBP drew an improper adverse inference by not understanding that the information was not relevant and CBP did not provide the Importers or BW Fittings an opportunity to clarify.

²⁹ Citing *PSC VSMPO-Avisma Corp. v United States*, 688 F. 3d 751, 761-62 (Fed. Cir. 2012).

- CBP found that “BW Fittings’ production records contain discrepancies that cast doubt on their authenticity, as they do not appear to be representative of BW Fittings’ actual production experience.” The Importers contend that this claim made by CBP is a far-reaching conclusion that is based on discrepancies that were “isolated.” The Importers claim that CBP failed to consider plausible explanations, such as the likelihood that BW Fittings had employees available on Sundays to perform inspections and sign off on work performed. CBP also found fault with “process flow cards from 2019” on which BW Fittings’ employees signed off on cutting and forming processes during a period of time before BW Fittings claimed to have the ability to perform the first production stage. While CBP does not cite any specific process flow cards, BW Fittings’ documents suggest that CBP may simply be “misreading” the data.
- CBP found discrepancies relating to raw material requisitions. However, the Importers contend that CBP conceded that these showed cut pipe being withdrawn for production. In addition, the Importers contend that CBP acknowledged receipt of a letter from BW Fittings demonstrating that Vietnam customs does not require certificates of origin for imported raw materials and provided Vietnamese customs “Circular 38/2018/TT-BTC” dated April 20, 2018, which supports BW Fittings’ explanations. The Importers contend that without asking for clarifications, CBP dismissed the evidence as “not aligning” with the “thorough documentation that CBP reviewed from Vietnamese Customs for the arrival of the production equipment from China . . .”
- CBP appears to have “highlighted” Vietnam customs documents included with BW Fittings’ responses concerning equipment purchases that showed “the shipment of semi-finished seamless fittings from AFI (a Malaysian entity) to BW Fittings in April 2018;” however, the Importers contend this information concerns activity that is outside the period of investigation and, therefore, irrelevant.
- CBP drew adverse inferences against BW Fittings and the Importers and CBP did not seek clarification when CBP identified “vast inconsistencies” between the equipment purchase documentation provided in the Importers’ CF 28 responses and BW Fittings’ RFI responses. One such instance was with regard to invoice numbers BWIMEQ-190001 through 190006 that were said to be discrepant because CBP found that the invoice dates were different, along with differences seen with regard to arrival dates of the identified equipment. CBP also noted that BW Fittings produced documentation in its RFI response for additional shipments of equipment not included with the CF 28 response. While CBP found it could not determine “which set of documents is authentic,” the Importers claim that all of the documents are authentic, in view of other documents presented (*i.e.*, Vietnam customs declarations, Vietnam customs clearances, and bills of lading). The Importers aver that the same invoice numbers were used in 2018 and 2019; however, they were for “different machinery.” The equipment purchase records

submitted with the RFI response covered all of the machinery BW Fittings identified in its RFI response. The Importers believe that BW Fittings provided CBP with plausible explanations for the alleged discrepancies.

- In another instance where BW Fittings was required to identify equipment “presently used” versus equipment “no longer used,” the Importers claim that if BW Fittings’ answers were not responsive to CBP’s inquiries or otherwise discrepant, the plausible explanation was that the BW Fittings employee “undoubtedly made a mistake and pulled the incorrect purchasing documents for the CF 28 responses.” However, CBP did not provide an opportunity for the parties to clarify.

The Importers aver that the above instances were egregious in that CBP drew adverse inferences and “the regulations now prohibit the Importers from providing explanations from BW Fittings during this administrative review, thereby compounding the due process violation.” Nevertheless, the Importers (and BW Fittings) remain willing and able to address the specific issues which CBP identified and the Importers request that CBP provide them with an opportunity to further clarify.³⁰

D. Allied’s Arguments

In its submission dated January 5, 2021, titled EAPA Consolidated Case No. 7335 – Allied’s Response to Requests for Administrative Review Filed by International Piping & Procurement Group LP and Norca Industrial Company, LLC, Allied requested that CBP affirm the November 6 Determination of evasion, arguing that substantial evidence exists to show that evasion occurred.

Specifically, with respect to Norca, Allied mentions the finding of the phrase denoting transshipment “To be Allowed” in Norca’s contracts with BW Fittings, as well as the noted discrepancies in employee work schedules showing employee work made on Sundays.³¹

With respect to IPPG, Allied provided its opinion that IPPG may have *inadvertently* evaded antidumping duties. Allied mentions that IPPG made few entries with CBP involving BW Fittings, and that IPPG discontinued doing business with BW Fittings prior to the initiation of the CBP investigation. In Allied’s view, IPPG appears to have exercised “reasonable care.”³²

³⁰ See Importers’ Request for Administrative Review, at their respective last pages.

³¹ Allied cites the November 6 Determination at page 12 and Norca’s Supplemental RFI Response at Exhibit B19 and Norca’s Second Supplemental at Section 2 and 3 and Norca’s RFI at Exhibit B19 and Supplemental RFI response at Exhibit B19_5092.

³² Allegations made of “reasonable care” or lack thereof are outside the scope of the EAPA review; therefore, we decline to comment.

E. Administrative Review Analysis

Pursuant to 19 U.S.C. § 1517(f)(1) and 19 CFR § 165.45, upon a request for administrative review, CBP will apply a *de novo* standard of review and will render a determination appropriate under the law according to the specific facts and circumstances on the record. CBP will review the entire administrative record upon which the initial determination was made, the timely and properly filed request(s) for review and responses, and any additional information that was received pursuant to § 165.44. The administrative review is to be completed within 60 business days of the commencement of the review.

The term “evasion” under the 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.³³

The term “covered merchandise” means merchandise that is subject to a countervailing duty order issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. § 1671e), and/or an antidumping duty order issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. § 1673e).³⁴

The issue is whether, according to specific facts and circumstances on the record, there is substantial evidence that Norca and IPPG entered merchandise covered by antidumping AD order A-570-814 on CSBW pipe fittings into the customs territory of the United States through evasion.

In requesting administrative review of the November 6 Determination, the Importers’ main argument is that BW Fittings bought rough fittings and seamless pipe from its Chinese suppliers and such inputs were used to produce its CSBW pipe fittings that were subsequently imported into the United States. According to the Importers, these products that were imported into the United States were wholly processed and produced in Vietnam. The Importers argue that BW Fittings had fully operational, functioning production capabilities in Vietnam. The Importers contend that by making a determination of evasion CBP not only misread the language of the Order, it unlawfully expanded the scope of the Order. Moreover, the Importers claim that throughout the CBP investigation the Importers were deprived of due process because CBP did not provide meaningful opportunities for them to rebut CBP’s allegedly discrepant findings.

Based on our *de novo* review, RR’s Penalties Branch **AFFIRMS** the determination made by TRLED that there was substantial evidence in the administrative record that, during the POI Norca and IPPG, the Importers, entered merchandise covered by antidumping duty (AD) order A-570-814 into the customs territory of the United States through evasion. The Importers’ conduct with respect to CBP included statements, acts, and

³³ See 19 U.S.C. § 1517(a)(5)(A).

³⁴ See 19 U.S.C. § 1517(c)(1) and 19 CFR § 165.1.

omissions which included using “01” entry type code for merchandise that should have been entered using “03” entry type code (the CBP-designated entry code for entries that are subject to antidumping and/or countervailing duties) and omitted identifying the applicable AD case number, A-570-814 with the applicable entry summary or summaries. The Importers also failed to provide the required cash deposits at the applicable rate.

While we agree with the Importers that the language of an antidumping or countervailing duty order is the cornerstone of a scope analysis, we are not persuaded by the Importers’ claims that CBP “expanded” the scope of the Order. To assist the trade community and CBP in determining what merchandise falls within the scope of an antidumping or countervailing duty order, DOC generally requires that such orders contain three essential elements: (1) the physical description of the products covered by the applicable Order, (2) the physical description of goods that are excluded from the applicable Order and, (3) the references to the Harmonized Tariff Schedule (“HTS”) to be used for identification upon their importation to the United States. In addition to the physical description of the products covered and/or excluded, the order must identify the country of origin to which the order applies. The covered merchandise is “certain carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form.” The country of origin for A-570-814 is China. It is our position that the case law cited by the Importers (see footnote 13 above) does not address the Importers’ contention that CBP should not have extended the “scope” in this case because DOC did not commence an investigation in relation to Vietnam. The issue that the courts analyzed in those cases pertained to the scope as it related to “class or kind of merchandise” and not as to “country of origin.”³⁵

We find that TRLED thoroughly considered the administrative record and identified numerous discrepancies and inconsistencies. The record supports TRLED’s finding that the manufacturers of the rough fittings used in production by BW Fittings were the Chinese entities identified in the administrative record. Moreover, TRLED found no credible evidence of BW Fittings having purchased seamless pipe as raw material from its suppliers during the POI.

The Importers contend that the rough parts or fittings (or “stamping parts”) which BW Fittings imported from China were not “unfinished” and, therefore not in the scope of the Order. TRLED made a finding that all of the merchandise was produced from rough fittings of Chinese origin and found no evidence that any of the merchandise was produced from seamless pipe. TRLED found that regardless of whether BW Fittings performed finishing processes on its Chinese-origin rough fittings, the rough fittings remained wholly a Chinese product and therefore, subject to the Order.

³⁵ *Dufervo Steel, Inc. v. United States*, 296 F.3d 1087, 1099 (Fed Cir 2002) does not address country of origin; rather, it addresses the matter of what products were covered. Likewise, as to *Bell Supply Co. LLC v. United States* 179 F.Supp 3d, 1082, and *Deacero S.A de C.V. v. United States*, 817 F.3d 1332, the issue was not country of origin, but class or kind of merchandise.

More specifically, the Importers alleged that BW Fittings used rough parts or fittings from China as its raw material from October 2018 to June 2019 and used seamless pipe from China as its raw material from June 2019 onwards to produce CSBW pipe fittings that were then exported to the United States. The Importers argued that the rough parts or fittings that BW Fittings bought from its Chinese suppliers do not fall within the scope of the Order because the rough parts or fittings are not “unfinished” or “semi-finished.” The Importers further argued that BW Fittings’ rough parts or fittings and seamless pipe underwent substantial transformation in Vietnam. The Importers claimed that BW Fittings provided sufficient evidence that its rough parts or fittings underwent second and third stages of production in Vietnam. The Importers averred that in a prior Malaysian anti-circumvention investigation, Commerce made a finding that “performing the first and/or second stages of production render the product outside the scope of the *Order*.”³⁶

However, as stated in the November 6 Determination,³⁷ TRLED found that the merchandise covered by AD order A-570-814 is:

carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings).³⁸

Furthermore, the November 6 Determination explained that:

[b]ased on the scope of the AD order, rough, unfinished (or semi-finished) CSBW pipe fittings from China that underwent finishing processes (*e.g.*, re-forming, sizing, shot blasting, cleaning, machine beveling, grinding, die stamping or painting processes) in a third country would remain country of origin China upon importation into the United States.

and that “[c]onversely, if seamless carbon steel pipe is transformed into a rough shape (*e.g.*, elbow or tee) or steel plate is transformed into a rough cap through a cold or hot-forming process, the country in which the seamless carbon steel pipe or steel plate is made into CSBW pipe fittings would confer country of origin.”

We find that the Importers and BW Fittings were provided with ample opportunities to establish their claims of “Vietnam manufacture” and overall, BW Fittings’, as well as the Importers’ claims, fell short of establishing manufacture in Vietnam. As evidenced by the administrative record, in November 2019, TRLED made numerous attempts to gather

³⁶ We decline to comment on the referenced Malaysia investigation because it is outside the purview of this EAPA review.

³⁷ *See*, November 6 Determination, page 5.

³⁸ This is identical to the language in *Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Carbon Steel Butt-Weld Pipe Fittings From the People’s Republic of China*, 57 Fed. Reg. 29,702 (Dep’t Commerce, Jul. 6, 1992).

evidence regarding BW Fittings' manufacturing operations from the Importers. CBP issued numerous CF 28s (Requests for Information) requesting that the Importers provide the designated entry (or entries) for review, as well as the corresponding entry package (e.g., commercial invoices, purchase orders, proof of payments, bills of lading, etc.), along with production records for the CSBW pipe fittings, including purchase orders, proof of payments, mill test certificates, transportation documents, container load plans, receipt dates, and foreign customs documentation for raw materials (if imported). The production records were to include factory production records, stamped timecards, work order forms, descriptions of the equipment used, photos, packaging costs and information, along with factory profiles, including ownership records, factory capacities, types and counts for equipment, etc. CBP also requested relationship information regarding importers, sellers, and suppliers.

Upon receipt, CBP found the responses to those initial CF 28s to be incomplete and inconclusive. Consequently, between December 2019 and January 2020, CBP issued second or supplemental requests or follow-up CF 28s for the missing or otherwise incomplete information. Moreover, on January 9, 2020, CBP coordinated an on-site visit to BW Fittings in Vietnam by the CBP Attaché for the region, who then provided written observations to CBP's TRLED.³⁹ Pursuant to the visit, the CBP Attaché requested that BW Fittings provide documentation relating to shipments that BW Fittings may have produced in 2018. Upon submission of the records of "2018" shipments, BW Fittings informed that the production records were not from "2018" but were from "2019." This acknowledgement by BW Fittings, along with other concerns raised by the CBP Attaché, formed an independent basis for CBP to conclude that BW Fittings was not manufacturing CSBW pipe fittings at its Vietnam facility during the periods in question. While the CBP Attaché reported to TRLED that BW Fittings' site appeared to "currently" have capacity to produce CSBW pipe fittings, it was observed that the facility appeared to house a significant stock of semi-finished and finished products compared to the raw materials found at the time at the site.⁴⁰

After the CBP Attaché's site visit, on February 10, 2020, TRLED notified the Importers, that CBP had determined to commence a formal investigation into the allegations of evasion, and that CBP was establishing interim measures pursuant to 19 U.S.C. § 1517(e) and 19 CFR § 165.24. TRLED stated that it had found reasonable suspicion that some of the imported CSBW pipe fittings from BW Fittings appeared to be subject to the Order. Thus, one aspect of the EAPA investigation was to determine whether the imported CSBW pipe fittings qualified as a product of Vietnam as opposed to being a product of China. CBP informed the Importers that the period of investigation would cover from October 15, 2018 through the pendency of the investigation.

Subsequently, additional RFIs were issued to both the Importers and BW Fittings including requests for business registration certificates, production records, and documentation regarding raw materials. The administrative record reflected significant discrepancies and inconsistencies in the responses to which BW Fittings could not adequately explain. Particularly compelling was the level of association that CBP found between BW Fittings and the Chinese entities that were identified in this case, as well as the level of control the

³⁹ See, CBP Attaché Memorandum for Preliminary On-site Visit (January 15, 2020), page 1.

⁴⁰ *Id.*, at page 4.

Chinese supplier appeared to have over the purchase orders (for pipe products) which BW Fittings provided to CBP. TRLED also found that machinery was provided to BW Fittings by one of the aforementioned Chinese entities free of charge. In addition, in the responses to the RFIs, including Government of Vietnam registry records, CBP found details concerning the installation of machinery (i.e., details about specific machinery, the dates the machinery was installed and for what specific purpose the machinery was installed) for BW Fittings which indicate that some essential equipment was not installed during certain periods of time. Overall, the equipment lists and equipment purchase documents showed discrepancies, as well as machinery found to be missing at the relevant stages of production. TRLED also determined that sufficient quality control measures had not been established especially with regard to the type of production BW Fittings claimed to have in Vietnam. Finally, TRLED found that the responses to the Importers' CF 28s contradicted some of BW Fittings' statements made in its responses to the RFIs.⁴¹

TRLED found that background information provided by BW Fittings indicated that the company was established in 2018, and in describing its production procedures, BW Fittings stated that from September 2018 to June 2019 BW Fittings performed finishing procedures using raw materials obtained from China.⁴² Those processes were described as beveling, sand blasting, marking, painting, and packing. However, TRLED observed that BW Fittings did not indicate that it had painting equipment at this time. BW Fittings described production procedures for four types of CSBW pipe fittings (elbow, tee, reducer, and cap); however, they did not indicate having capability for any cutting or cold/hot forming-processes. Illustrations and photographs from this time period (September 2018 to June 2019) indicated that the raw materials used were rough fittings and the procedures performed by BW Fittings during this time period were not substantial enough to change (transform) the country of origin to Vietnam. For the period between June 2019 and September 2019, BW Fittings claimed to have added heat treatment and hot shaping to its production process described for the prior period, but it still did not indicate having painting equipment. Illustrations and photographs of that time period (June 2019 to September 2019) showed production of four types of CSBW pipe fittings (elbow, tee, reducer, and cap), thus indicating the use of rough fittings as raw materials. TRLED found that the procedures performed by BW Fittings on the rough fittings were not sufficient to change the country of origin to Vietnam. Lastly, from September 2019 to the present, BW Fittings claimed to have added cutting and forming procedures to its production processes. TRLED found that although BW Fittings did not provide written production procedures for this time period (September 2019 onwards), illustrations and photographs indicated that it used steel tubes/pipes and steel plates as raw materials. Towards the end of the period of review BW Fittings appeared to have production capabilities for more extensive processes as compared to earlier in the POI. However, as TRLED concluded in its November 6 Determination, the finishing procedures that occurred in Vietnam were not sufficient to transform the merchandise such that it is considered a product of Vietnam.

⁴¹ For example, BWF's April 20, 2020 RFI response: Exhibit 18 for the equipment purchase documentation and Exhibit 19 for a summary of the equipment purchase documentation.

⁴² It is notable that the documents regarding the "2018 shipments" that were received pursuant to the CBP Attaché's request contained different (more) information than those same documents later provided to CBP pursuant to CF 28s and RFIs. This calls their reliability and credibility into question, even if, as the Importers allege, the missing information was not relevant.

We note that TRLED based its findings of evasion on its examination of BW Fittings' "Raw Material Type Chart" purportedly listing the raw materials used with the corresponding sales contract numbers and purchase order numbers of the Importers. Once linked to the corresponding entry numbers, it became apparent to TRLED that the true manufacturers of the CSBW pipe fittings were the Chinese entities identified by Allied as parties to the evasion. While merchandise origination from a related party does not necessarily prove evasion, CBP determined the rough fittings provided by the Chinese suppliers during the POI to be "covered merchandise" as the products were unfinished (or semi-finished or pre-formed).

CBP found that product descriptions on the Chinese supplier's sales contracts and invoices were either written out such as types of rough fittings (e.g., "rough elbow," "rough cap," "rough red" ("reducer") or "rough tee") or were identified using a "numeric format." The invoices with written descriptions were for rough fittings (Chinese raw materials). The information in these documents raised concerns that these may not be the actual documents being used between the Chinese entities and BW Fittings due to missing information that would be relevant to production, such as "OD" (outside diameter) measurements as well as notable price variations.

With regard to raw materials that were described in a three numeric format, CBP requested that BW Fittings clarify or identify the numeric representations. BW Fittings clarified that the first number was the outside diameter and the second was the wall thickness. TRLED found many of BW Fittings' responses discrepant, including use of an unclear "third dimension" (325*9.5*215) for this numerical representation.⁴³ Ultimately TRLED was able to interpret the numeric descriptions and concluded that the numeric descriptions on the sales contracts and invoices for the POI were all for (unfinished) rough fittings of the kind that would be covered by the Order. As for purchases of seamless pipe, CBP could not confirm any such purchases. According to the documentation that TRLED reviewed, the raw material purchases were all for "rough fittings." While the Importers contended that the numeric descriptions on the invoices were for both rough fittings and seamless pipe, TRLED found that the Importers' assertions were not credible because TRLED could not further confirm BW Fitting's purchases of seamless pipe for the POI. TRLED also found that some of the documents provided for the alleged seamless pipe purchases contained odd formats as well as had missing and discrepant information which called into question the documents' reliability and credibility.

We find that the nature and the extent of the discrepancies found by CBP cannot be regarded as simply "isolated" incidents or as "unintended" or otherwise "explainable" errors as the Importers contend. Even if some of the Importers' explanations could be regarded as reasonable, on balance the Importers and BW Fittings explanations are not sufficient for RR to reverse TRLED's November 6 Determination.

⁴³ See, November 6 Determination at page 7.

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 and response, the November 6 Determination of evasion under 19 USC § 1517(c) is **AFFIRMED**.

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 EAPA.

Sincerely,

Paul Pizzeck
Chief, Penalties Branch, Regulations & Rulings
Office of Trade
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Approved by:

Joanne R. Stump
Acting Executive Director, Regulations & Rulings
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