



U.S. Customs and Border Protection

PUBLIC VERSION

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VIA EMAIL

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RE: Notice of Determination as to Evasion – EAPA Case Numbers 7819 and 7820 (Consolidated Case Number 7819) – Cast Iron Soil Pipe and Cast-Iron Soil Pipe Fittings

Dear Counsel and/or Representatives for the above-referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) consolidated case number 7819, U.S. Customs and Border Protection (CBP) has determined there is substantial evidence that Besttn Industry Inc. (Besttn) entered merchandise covered by antidumping duty (AD) orders and countervailing duty (CVD) orders on cast iron soil pipe fittings (CISPF) from the People's Republic of China (case numbers A-570-062 and C-570-063) (Allegation 7819) and cast iron soil pipe (CISP) from the People's Republic of China (case numbers A-570-079 and C-570-080) (Allegation 7820) into the customs territory of the United States through evasion.¹ Substantial evidence demonstrates that Besttn imported Chinese-origin CISP and CISPF (collectively, covered merchandise) into the United States that was exported from China by Kingway Pipe Co., Ltd. (Kingway China) and transshipped through Malaysia. As a result, no cash deposits were applied to the merchandise at the time of entry. Additionally, substantial evidence demonstrates that Besttn undervalued covered merchandise entered into the United States.

¹ See *Cast Iron Soil Pipe Fittings From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 83 FR 44570 (August 31, 2018) and *Cast Iron Soil Pipe Fittings From the People's Republic of China: Countervailing Duty Order*, 83 FR 44566 (August 31, 2018) (CISPF Orders); see also *Cast Iron Soil Pipe From the People's Republic of China: Antidumping Duty Order*, 84 FR 19035 (May 3, 2019) and *Cast Iron Soil Pipe From the People's Republic of China: Countervailing Duty Order*, 84 FR 19039 (May 3, 2019) (CISP Orders) (collectively, Orders).

Background through Interim Measures

Allegations

On April 25, 2023, the Cast Iron Soil Pipe Institute (Alleger) filed two EAPA allegations regarding the evasion of AD/CVD duties on CISP and CISP by Besttn.² In its Allegations, the Alleger claimed that available information reasonably suggested Besttn imported Chinese-origin CISP and CISP that was subject to the AD/CVD orders on CISP and CISP from China but entered as products of Malaysia to evade the *Orders*. On July 5, 2023, the Trade Remedy Law Enforcement Directorate (TRLED) within CBP's Office of Trade acknowledged receipt of the properly filed EAPA allegations against Besttn.³

Description of the Alleged Transshipment Scheme

The Alleger claimed that evidence shows that Besttn links to an “apparent affiliate,” Kingway China, a known exporter of CISP and an entity that faces AD/CVD duties on CISP and CISP.⁴ Kingway China reported in March 2018 to the Department of Commerce, in a separate rate application signed by Xuguang Yang, the Vice Manager, that it did not have an affiliate in the United States.⁵ The Alleger argued that the claim of no U.S. affiliate was not true, as Kingway Pipe USA Inc. (Kingway USA) was registered with the State of California at least as early as February 2017.⁶ The Alleger stressed that because Kingway China faces AD/CVD duties on CISP and CISP, Kingway China is incentivized to evade the *Orders*.⁷

The Alleger argued that Besttn's chief executive officer (CEO), chief financial officer (CFO), and director, Xuguang Yang, mutually served in the roles of CEO, Secretary, CFO, and director in December 2021 for Kingway USA.⁸ The Alleger explained that the importer Besttn was registered as a California corporation in February 2022.⁹ Besttn was dissolved as a corporation in December 2022 by Xuguang Yang.¹⁰ The Alleger provided information showing that Besttn appeared to have been used as an importer of record for shipments even after its dissolution date.¹¹

Besides Besttn and Kingway USA appearing to share the same CEO, Besttn and Kingway USA also share a similar address. While Besttn was registered at 10900 Fawcett Ave., South El

² See Letters from Alleger, “Cast Iron Soil Pipe Fittings: Request for an Investigation under the Enforce and Protect Act,” dated April 25, 2023 (Allegation 7819) and “Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act,” dated April 25, 2023 (Allegation 7820) (collectively, Allegations). The two investigations together are consolidated case 7819.

³ See Email from CBP, “EAPA 7819 and 7820 - Receipt of Properly Filed Allegations,” (July 5, 2023).

⁴ See Allegations at 7 and Exhibit 12. See also CBP's Memorandum, “Initiation of Investigation for EAPA Case Numbers 7819 and 7820 (EAPA Consolidated Case 7819) – Cast Iron Soil Pipe and Cast Iron Soil Pipe Fittings,” dated July 26, 2023 (Initiation Memo) at 2.

⁵ See Allegations at 7.

⁶ See Allegations at 7 and Exhibit 3. See also Initiation Memo at 3.

⁷ See Allegations at 8.

⁸ See Allegations at 4-5, Exhibit 2, and Exhibit 3. See also Initiation Memo at 2-3.

⁹ See Allegations at 4 and Exhibit 2. See also Initiation Memo at 2.

¹⁰ See Allegations at 4 and Exhibit 2. See also Initiation Memo at 2-3.

¹¹ See Allegations at 4 and Exhibit 1. See also Initiation Memo at 3.

Monte, California 91733, Kingway USA’s business address is 10816 Fawcett Avenue, South El Monte, California 91733.¹² The Alleger maintained that the 10900 Fawcett Avenue and 10816 Fawcett Avenue addresses both appear to be a part of a complex of buildings used for legally separate but apparently operationally identical plumbing supply businesses, including Kingway USA, Agua Plumbing Supply, Brother Plumbing Supply Inc., and DuoHome Electrical Inc.¹³

Citing data from [[source](#)] on shipments entering the United States, the Alleger contended that Besttn imported over 350 tons of cast iron “hubless” and “no hub” pipe and fittings, including imports of hubless pipe that were listed under HTS subheading 7307.11.045 and HTS subheading 7303.00.0030.¹⁴ The Alleger provided information indicating that the hubless CISP and no hub CISPF that were imported by Besttn were reported to be shipped by United Metal Industries, which has an address of 434, Jalan Kamunting, Taman Saujana Kamunting, 34600 Kamunting, Perak Malaysia.¹⁵ However, the Alleger claimed that this address cannot be the address of a CISP and CISPF producer since that address (*i.e.*, 434 Jalan Kamunting) is a business office location for a telecommunications provider, not a cast iron foundry (or for any other industrial production).¹⁶

The Alleger suggested, based on Xuguang Yang’s role as either vice manager or CEO in each of the three entities (Besttn, Kingway USA, and Kingway China), that Kingway China’s once-vice manager took over operations of Kingway USA and set up Besttn as a corporate front for Kingway’s operations in the United States.¹⁷ Even if Kingway USA did not exist and did not have overlapping management with Besttn, Besttn is linked to Kingway China because Besttn’s CEO Xuguang Yang has also been the vice manager at Kingway China.¹⁸ Thereafter, Besttn imported shipments of CISP and CISPF from United Metal Industries, which does not clearly have established production facilities in Malaysia.¹⁹ The Alleger also pointed out that the short existence of Besttn and its continued post-dissolution activity indicate it was only intended for import-related activities.²⁰ Taken together, this evidence reasonably suggests that the imports are, in fact, transshipped Chinese covered merchandise.²¹

Initiation of Investigations

TRLED found the information provided in the Allegations reasonably suggested that Besttn entered covered merchandise into the customs territory of the United States through evasion. Consequently, on July 26, 2023, CBP initiated EAPA investigations 7819 and 7820 on Besttn’s entries of CISPF and CISP from Malaysia, respectively, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the “Enforce and Protect Act” or “EAPA.”²² The two investigations together are consolidated case 7819.

¹² See Allegations at 4-5, Exhibit 2, and Exhibit 3. See also Initiation Memo at 3.

¹³ See Allegations at 5 and Exhibit 4. See also Initiation Memo at 3.

¹⁴ See Allegations at 4 and Exhibit 1. See also Initiation Memo at 2.

¹⁵ See Allegations at 6 and Exhibit 1. See also Initiation Memo at 2.

¹⁶ See Allegations at 6 and Exhibit 9. See also Initiation Memo at 2.

¹⁷ See Allegations at 5 and Exhibit 4. See also Initiation Memo at 3.

¹⁸ See Allegations at Exhibit 12.

¹⁹ See Allegations at 4, 8, and Exhibit 1. See also Initiation Memo at 3.

²⁰ See Allegations at 8. See also Initiation Memo at 3.

²¹ See Allegations at 8. See also Initiation Memo at 3.

²² See Initiation Memo.

CBP Form 28 Responses

On August 16, 2023, CBP issued two CBP Form 28 requests for information (CF-28 Questionnaires) to Besttn for two entries, [##]8820 and [##]8101.²³ In the CF-28s, CBP requested that Besttn provide purchase orders, bills of lading, and proof of payment for the imported merchandise. In addition, CBP requested that Besttn provide: full production records for CISP and CISPF (including invoices for raw materials indicating origin, supplier, and material test reports); factory profile and business registration information about supplier (including business registration or articles of incorporation; details about production capabilities, including but not limited to equipment used in production, number of employees, physical location, mailing address, turnaround time on orders, and an estimate of total annual production capacity of CISP and CISPF); the names of the owner(s) and/or corporate officeholders; export documentation; production process description (including a listing of all equipment used, photographs of production equipment, and a flow chart of the production process that explains raw materials used at each step); contract details and work process description for any subcontractors; and any additional costs/expenses incurred in this transaction.

On September 12, 2023, Besttn provided a response to the CF-28s for entry [##]8820 and entry [##]8101.²⁴ Besttn submitted the following documents for both entries: bill of lading, certificates of origin, company profile and production process, an apparent factory business registration, freight invoice, batch production record, proof of payment, and sales contract.²⁵

Certain documents that Besttn filed were duplicates for both entries whereas other documents differed for the respective entry. The same company profile and pictures of equipment and production process were reported for both CF-28 Response No. 8820 and CF-28 Response No. 8101. The same apparent factory business registration in Malaysian, which was not translated into English as requested in the CF-28s, was reported for both CF-28 Response No. 8820 and CF-28 Response No. 8101.

For the remaining documents, Besttn filed a distinct version of the type of document corresponding with each entry. The bills of lading (BLs) were distinct, *i.e.*, BL number OERT111701M00010 with a gross weight cargo of 48,900 kilograms was reported as a part of CF-28 Response No. 8820, whereas BL number OERT111701L00747 with a gross weight cargo of 23,800 kilograms was reported as a part of CF-28 Response No. 8101. The certificates of origin were distinct, *i.e.*, certificate of origin MCCIPK/UMI/2023 (009) with a gross weight of 48,900 kilograms for sales contract number 22BTN101 was reported as part of CF-28 Response No. 8820, whereas certificate of origin MCCIPK/UMI/2022 (585) with a gross weight of 23,800 kilograms for sales contract number 22BTN095 was reported as part of CF-28 Response No. 8101. There are also two distinct freight invoices, batch production records, proofs of payment and sales contracts.

²³ See CBP CF-28 for Entry [##]8820 (August 16, 2023) and CF-28 for Entry [##]8101 (August 16, 2023) (collectively, CF-28 Questionnaires).

²⁴ See Besttn's CF-28 responses for Entry [##]8820 (September 12, 2023) (CF-28 Response No. 8820) and Entry [##]8101 (September 12, 2023) (CF-28 Response No. 8101).

²⁵ *Id.*

Similarity of Price and Quantities in CF-28 Responses

The invoiced price and invoice gross weight across the two entries are remarkably similar, even though they are entered as distinct products falling under distinct HTS classifications. The value and payment for sales contract 22BTN101 is \$48,976.72 whereas the gross weight per the BL is 48,900 kilograms; the BL and sales contract were reported in CF-28 Response No. 8820 and entered as HTS code 7303.00.0030. The value and payment for sales contract 22BTN095 is \$24,598.48 whereas the gross weight per the BL is 23,800 kilograms; the BL and sales contract were reported in CF-28 Response No. 8101 and entered as HTS code 7307.11.0045. The similarities between price and kilogram for both entries suggest that one kilogram of imported merchandise is valued at approximately U.S. \$1, for merchandise entered under both HTS classifications 7303.00.0030 and 7307.11.0045. Given that evidence shows Besttn's imports appeared to have started in July 2022 and ended in February 2023, there is reasonable suspicion that the entered prices may not have been reliably reported during the short window of imports.²⁶

Sales contract 22BTN101 is \$48,976.72 and consists of 2-inch cast iron pipe, 2560 pieces each \$14.31; 3-inch cast iron pipe, 576 pieces each \$20.37; and a reinforcement fee of \$610. The weight of the pipe is not recorded on sales contract 22BTN101. The total number of pieces reported on sales contract 22BTN101 is 3,136. The only specification that appears on the invoice is a dimension. No other attributes (*e.g.*, wall thickness, length, surface finish, end finish, or stenciling) are reported on the sales contract.²⁷ While the full specifications of the merchandise on sales contract 22BTN101 are not identified on the sales contract, a simple average of the 48,900 kilograms by the 3,136 total sales contract pieces suggests that each piece would average to about 15 kilograms.

Sales contract 22BTN095 is \$24,598.48 and consists of 3x4x6x12 inch closet bend, 1000 pieces each \$5.01; 2 inch short sweep, 2400 pieces each \$1.6; 4 inch 1/8 bend, 416 pieces each \$2.01; 1.5 inch P-trap, 595 pieces each \$1.58; 4 inch short sweep, 80 pieces each \$4.01; 2 inch san tee, 1892 pieces each \$1.35; 2 inch 1/4 bend, 1210 pieces each \$1.13; 4 inch 1/4 bend, 10 pieces each \$2.45; 3x2 inch BHO, 460 pieces each \$2.14; 2 inch 1/6 bend, 4200 pieces each \$0.97; 2 inch 1/8 bend, 3440 pieces each \$0.79; and 3 inch short sweep, 794 pieces each \$2.43. The weight of the merchandise is not recorded on sales contract 22BTN095. The total number of pieces reported on sales contract 22BTN095 is 16,497 pieces. A simple average of the 23,800 kilograms by the 16,497 pieces suggests that each piece would average to about 1.4 kilograms.

CF-28 Responses' Lack of Production Records

While Besttn did respond to the CF-28 Questionnaires, Besttn did not provide all the requested documentation in Besttn's CF-28 responses. Specifically, in the CF-28s, CBP requested that Besttn provide: export documentation; full production records for CISP and CISPF including "invoices or orders for raw material indicating the point of origin and supplier of these raw materials and any material test reports, if applicable;" and a flow chart of the production process

²⁶ See Allegations at 4.

²⁷ The scope of the CISP Orders specifies attributes that may distinguish CISP, *e.g.*, "The merchandise covered by this order is cast iron soil pipe, whether finished or unfinished, regardless of industry or proprietary specifications, and regardless of wall thickness, length, diameter, surface finish, end finish, or stenciling."

that explains clearly what raw materials are used at each step. This requested information was not provided. The absence of a production process flowchart and invoices for raw material inputs into CISP and CISPF suggests that United Metal Industries did not purchase raw materials that went into CISP and CISPF production, and does not even have a production flow by which it manufactures CISP and CISPF.

Some of the requested documentation provided was incomplete; Besttn provided only a partial response. Specifically, in the CF-28s, CBP requested that Besttn provide particular “details about the production capabilities (*i.e.*, a list of equipment used in production, the number of employees, physical location, mailing address, turnaround time on orders, an estimate of total annual production capacity of CISP and CISPF).”²⁸ Besttn provided a batch production record containing a list of equipment, identified the number of employees in the company profile, and reported an office address and a plant address; however, Besttn did not identify or demonstrate the turnaround time on orders or provide an estimate of total annual production capacity of CISP and CISPF.²⁹

Additionally, the CF-28 Questionnaires instructed that the responses be provided in English. Besttn provided an apparent factory business registration that is inferred to be a factory business registration because the name of the computer file is “factory business registration.” However, CBP is unable to confirm any particularities on the apparent factory business registration, as provided by Besttn, as Besttn did not provide an English translation. Thus, CBP was not able to use the business registration documents provided by Besttn. CBP separately, based on its own research, retrieved the English version records from Malaysia as described subsequently and added the business registration documents to the administrative record.³⁰

CF-28 Response Addresses Do Not Reconcile with Maps of Claimed Addresses

In Besttn’s CF-28 responses, Besttn reported a picture of the plant that ostensibly is at PT 11054, Jalan Logam 2, Perindustrian Kamunting Raya 34600 Kaunting, Perak, Malaysia.³¹ This area does appear to have many factories; however, TRLED obtained both Google Maps and Google Earth images of the address and the images do not have any identified United Metal Industries facilities, or any facility claiming to produce CISP or CISPF, even though the company profile indicated the company has operated for many years. The lack of a United Metal Industries Google Earth presence implies that United Metal Industries is not using Google to market its CISP and CISPF to consumers in the United States, even though it has exported CISP and CISPF to the United States and claims it manufactures the CISP and CISPF that is exported to the United States.³²

In a nine-sentence, narrative description of the United Metal Industries company profile, the date of establishment or incorporation of United Metal Industries is not specified. The closest the

²⁸ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

²⁹ *Id.*

³⁰ While Besttn did not provide English translations of the business registrations, CBP placed English versions of business registration documents on the record in the October 31, 2023, Memorandum. The Alleger also filed English translations of the business registrations in the Alleger’s February 7, 2024, Letter.

³¹ *Id.*

³² See Memorandum, “Map and Business Registration,” dated October 31, 2023 (Map and Registration Memo).

description gets to indicating the timeframe of the company's operation is a sentence of the company profile indicating that "through many years of honest and serious attitude, {United Metal Industries} had become a technology-based private joint-stock enterprise with design, producing, processing and developing all kinds of cast iron and ductile iron goods." Since no specific date or timeline is identified in the description, TRLED is unable to determine with certainty: 1) the number of years that constitutes United Metal Industries' claim of "many years," {of operation}; 2) the year in which the United Metal Industries facility was incorporated, was established, was built, developed the necessary production technology, and managed the necessary resources to be a competitive producer in the CISP/CISPF industry; 3) how to reconcile the years of United Metal Industries' CISP/CISPF production with the period of shipments (which available evidence shows were shipped from United Metal Industries in Malaysia and imported by Besttn) that started in July 2022 and continued through as recently as February 2023.³³

In an attempt to better understand the operations of United Metal Industries, CBP obtained the business profile, business registration, and business expiration certificate from Suruhanjaya Syarikat Malaysia (SSM) (*i.e.*, the Malaysian Companies Commission).³⁴ The certificate of expiry of a business registration from SSM indicates that the business registration for United Metal Industries expired on February 13, 2023, seven months before the September 12, 2023, CF-28 responses.³⁵ The SSM documents identified the principal place of business address as No. 434 Jalan Kamunting, Taman Saujana Kamunting, 34600, Kamunting, Perak, which is the same address reported as the office address on the business profile in the CF-28 responses and the same address reported for United Metal Industries in the Allegations.³⁶ The SSM certificates identify that the start date was January 26, 2021.³⁷

In the nine-sentence company profile reported in the CF-28 responses, there is no mention that United Metal Industries' business registration expired. Since the apparent business registration expiry on February 13, 2023 appears to have been withheld, there is reasonable suspicion as to whether information in the CF-28 responses pertaining to United Metal Industries is complete, is reliable, or is factual in its claim that United Metal Industries is producing CISP and CISPF in Malaysia.³⁸ Additionally, it has been less than four years since the SSM certificates indicate that United Metal Industries started on January 26, 2021. Since United Metal Industries is described as having many years of operations, which could be reasonably understood to constitute more than four years of operations, the claim reported in the CF-28 response contradicts the facts acquired from the SSM documents.³⁹

Additionally, there is no suggestion in the company profile reported in the CF-28 responses that United Metal Industries is a relatively new company with less than five years of experience.

³³ See Allegations at 4, 7, and Exhibit 1. While the Allegor identified that shipments continued through as recently as February 2023, those shipments are irrespective of Besttn's documented corporate dissolution in December 2022. See Allegations at 2 and Exhibit 2.

³⁴ See Map and Registration Memo.

³⁵ *Id.*

³⁶ See Map and Registration Memo. See also CF-28 Response No. 8820 and CF-28 Response No. 8101; and Allegations at 6.

³⁷ See Map and Registration Memo.

³⁸ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

³⁹ See CF-28 Response No. 8820 and CF-28 Response No. 8101. See also Map and Registration Memo.

Since no definitive timeline of its history is provided or explained in the company profile, and since SSM documents show that United Metal Industries was started on January 26, 2021, and expired on February 13, 2023, the temporary nature of the two-year period of United Metal Industries' corporate registration suggests that United Metal Industries was set up for a two-year period to be a shell company. The inference from the available business registration records that the establishment of United Metal Industries was a corporate front in Malaysia by which to ship non-Malaysian-origin CISP/CISPF to the United States is similar to the Alleger's claim that Besttn itself was set up as a corporate front for imports.⁴⁰ And there is evidence in the Allegations that Besttn has ties to a known Chinese producer of CISP and CISPF, making it likely that United Metal Industries is helping to ship Chinese-origin product.

CF-28 Response Pictures and Sales Documentation Among Other Evidence

In the CF-28 responses there are reported pictures of equipment and ostensible steps of the production process for CISPF: coated sand mold, transfer molten iron tools, modeling equipment, place coated sand mold, prepare for casting, make coated sand mold, molten iron, transport coated sand model, casting, casting, polished fittings, painting asphalt paint, and packing.

In the CF-28 responses there are reported pictures of equipment and ostensible steps of the production process for CISP: molten iron, pouring molten iron, centrifuge product pipes, pipe cooling, hydrostatic testing, spraying asphalt paint, air drying of asphalt paint, and packing.

However, with respect to the reported CISP/CISPF pictures of equipment and production steps, there is no assurance that the reported pictures were photographed in Malaysia, or that they are pictures of United Metal Industries' equipment and production.

Additionally, in the CF-28 responses, Besttn provided freight invoices, proof of payment, and a sales contract. In the CF-28 responses, Besttn provided a batch production record for "pipes" and "fittings" that appear to have undergone production and been completed in November 2022. However, these sales and production documents provide no convincing information that Besttn imported CISPF and CISP that was produced in Malaysia, especially because no raw material purchase documents were provided and given the weight of all the other evidence on the record that suggests reasonable suspicion that Besttn imported Chinese-origin CISP and CISPF shipped by United Metal Industries through Malaysia.

Interim Measures

On October 24, 2023, after evaluating all the record information, CBP determined there was reasonable suspicion that Besttn imported CISP and CISPF into the United States that was transshipped from China through United Metal Industries and therefore imposed interim measures.⁴¹ CBP issued its Notice of Initiation of Investigation and Interim Measures memorandum on October 31, 2023, explaining that its determination was based on information

⁴⁰ See Allegations at 5 and 8.

⁴¹ See CBP's Letter, "Notice of Initiation of Investigation and Interim Measures – EAPA Case Numbers 7819 and 7820 (Consolidated Case Number 7819) – Cast Iron Soil Pipe and Cast-Iron Soil Pipe Fittings," dated October 31, 2023 (Notice of Interim Measures).

provided in the Allegations, business profile, business registration, business expiration certificates, and information contained in Besttn’s CF-28 responses.⁴²

Issuance of Requests for Information

On November 1, 2023, CBP issued a Request for Information (RFI) to Besttn pursuant to 19 C.F.R. § 165.23(a).⁴³ In the RFI to Besttn, CBP requested, *inter alia*: the business license, organization charts, a list of production facilities, a list of shareholders, financial statements, price lists for covered merchandise sold to the United States, catalogs, a list of suppliers of covered merchandise, mill certifications, a description of price negotiation, and a list of customers in the United States.⁴⁴

Besttn did not respond by the November 15, 2023, deadline specified in the RFI; thus, on December 1, 2023, CBP reissued the RFI to Besttn by FEDEX.⁴⁵ The FEDEX tracking receipt recorded that the RFI was delivered to Besttn’s address on December 4, 2023.⁴⁶ Besttn did not respond to the RFI that CBP issued by FEDEX.

On November 1, 2023, pursuant to 19 C.F.R. § 165.23(a), CBP issued an RFI to the claimed manufacturer in Malaysia, United Metal Industries.⁴⁷ In the RFI to United Metal Industries, CBP requested, *inter alia*: the business license, organization chart, a list of production facilities, a list of shareholders, financial statements, reports from cost accounting and production control systems, a list of cost centers, a list of machines used in the production of covered merchandise, price lists for covered merchandise sold to the United States, catalogs, a list of suppliers of covered merchandise, certificates of origin, annual production capacity, monthly inventory movement schedules for the three most significant direct material inputs, mill certificates, and total quantity and value of all sales of covered merchandise sold during the period of investigation to the United States.⁴⁸

CBP issued the RFI to United Metal Industries via FEDEX at its reported office in 434 Jalan Kamunting Taman Saujana Kamunting 34600 Kamunting, Perak Malaysia.⁴⁹ This address is reported as United Metal Industries’ office address in the CF-28 responses, in the Allegations, and on the certificates from SSM (*i.e.*, the Malaysian Companies Commission). The FEDEX tracking receipt recorded that the RFI was not delivered.⁵⁰

⁴² *Id.*

⁴³ See CBP’s Letter to Besttn, “EAPA Consolidated Case 7819 Request for Information,” dated November 1, 2023 (Besttn RFI). See also CBP’s Email, “EAPA Cons 7819 Investigation - Importer Request for Information,” dated November 1, 2023 (Besttn RFI Issuance Email).

⁴⁴ *Id.*

⁴⁵ See CBP’s Memorandum, “FEDEX Delivery Attempts of Requests for Information to Shipper and Importer,” dated December 11, 2023 (FEDEX Memo).

⁴⁶ *Id.*

⁴⁷ See CBP’s Letter to United Metal Industries, “EAPA CONSOLIDATED CASE NUMBER 7819 - Request for Information,” dated November 1, 2023 (United Metal Industries RFI).

⁴⁸ *Id.*

⁴⁹ See FEDEX Memo.

⁵⁰ See FEDEX Memo.

Since the RFI to the office address was not delivered, on December 1, 2023, CBP sent the RFI by FEDEX to United Metal Industries' plant address reported in the CF-28 response: PT 11504, Jalan Logam 2, Perindustrian Kamunting Raya, 34600 Kaunting, Perak, Malaysia.⁵¹ The second FEDEX delivery was also not successful and the tracking report recorded that the "customer {was} not available or business closed."⁵²

Request for Comment on Valuation

On January 17, 2024, CBP issued a request for comment through the case management system to parties to the investigation.⁵³ The Alleger provided comments and new factual information (NFI) on February 7, 2024.⁵⁴

Submissions of Factual Information

In the Alleger's Comments and NFI, the Alleger provided: comparison tables comparing prices between three entities, a price list from a U.S. producer (Charlotte Pipe), a price list from a second U.S. producer (Tyler Pipe), a price list from an importer (NewAge Castings), a worksheet converting the list prices to a dollars-per-kilogram-basis, the English translation of United Metal Industries' business registration, a directory listing for a Malaysian construction company (TLN Management Sdn. Bhd.) with the same phone number (*i.e.*, 03-3168-3889) as the phone number reported for United Metal Industries in the CF-28 Responses,⁵⁵ a company profile demonstrating a name change from Shinoe Engineering Sdn. Bhd. to TLN Management Sdn. Bhd., and a company profile demonstrating that the same number claimed to be United Metal Industries' fax number (*i.e.*, 03-3168-4988) is listed as the phone number for Shinoe Engineering Sdn. Bhd.⁵⁶

Analysis as to Evasion

Under 19 U.S.C. § 1517(c)(1)(A), to reach a determination as to evasion, CBP must "make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion."⁵⁷ "Covered merchandise" is defined as "merchandise that is subject to a CVD order... and/or an AD order."⁵⁸ "Evasion" is defined as "the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise."⁵⁹ As discussed in this determination, the record of this investigation indicates

⁵¹ *Id.*

⁵² *Id.*

⁵³ See CBP's Memorandum, "Request from Parties to the Investigation for Comment on Valuation," dated January 17, 2024 (Request for Comment).

⁵⁴ See Alleger's Letter, "EAPA Case No. Cons. 7819, Cast Iron Soil Pipe and Fittings: Comments on Valuation and New Factual Information," dated February 7, 2024 (Alleger's Comments and NFI).

⁵⁵ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

⁵⁶ *Id.*

⁵⁷ See also 19 C.F.R. § 165.27(a) (implementing 19 U.S.C. § 1517).

⁵⁸ See 19 C.F.R. § 165.1.

⁵⁹ *Id.*

there is substantial evidence that Besttn entered covered merchandise into the United States through evasion, resulting in the avoidance of applicable AD/CVD cash deposits or other security.

CBP determines that the application of adverse inferences is appropriate in this EAPA investigation and that there is substantial evidence of evasion of the *Orders* even absent the application of adverse inferences.

Adverse Inferences: Transshipment

In making an evasion determination, EAPA provides CBP the authority to “collect such additional information as is necessary to make the determination through such methods as the Commissioner considers appropriate, including by ... issuing a questionnaire with respect to such covered merchandise to” the importer alleged to have engaged in evasion and the foreign producer or exporter of the covered merchandise.⁶⁰ Furthermore, an adverse inference may be used with respect to the U.S. importer or foreign producer or exporter “without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought...” by CBP.⁶¹

Under 19 U.S.C. § 1517(c)(3)(A), if CBP finds that a party “has failed to cooperate by not acting to the best of the party or person’s ability to comply with a request for information, {CBP} may, in making a determination {of evasion}, use an inference that is adverse to the interests of that party or person in selecting from among the facts otherwise available to make the determination.” Additionally, the EAPA regulations provide that if “the importer, or the foreign producer or exporter of the covered merchandise fails to cooperate and comply to the best of its ability with a request for information made by CBP, CBP may apply an inference adverse to the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion....”⁶²

1. Besttn

In its entry documents, Besttn claimed United Metal Industries in Malaysia as the manufacturer. CBP provided Besttn with multiple opportunities to respond to the RFI and demonstrate that Besttn’s imports from United Metal Industries were indeed produced by United Metal Industries in Malaysia. Specifically, CBP sent the RFI to Besttn using both email and FedEx.⁶³ Besttn did not respond to the RFI.

Accordingly, CBP finds that Besttn failed to act to the best of its ability in this EAPA investigation by its lack of cooperation and responsiveness to CBP’s RFI requesting, *inter alia*, the business license, organization charts, a list of production facilities, a list of shareholders, financial statements, price lists for covered merchandise sold to the United States, catalogues, a list of suppliers of covered merchandise, mill certifications, a description of price negotiation, and a list of customers in the United States. Besttn provided an incomplete, partial response

⁶⁰ See 19 U.S.C. § 1517(c)(2); see also 19 C.F.R. § 165.5(a).

⁶¹ See 19 U.S.C. § 1517(c)(3)(B) and 19 C.F.R. § 165.6(c).

⁶² See 19 C.F.R. § 165.6(a).

⁶³ See Besttn RFI Issuance Email. See also FEDEX Memo.

consisting of a smattering of documentation in the CF-28 responses. However, the CF-28 responses were sparse and did not demonstrate that United Metal Industries produced the CISP and CISPF in Malaysia. Due to Besttn's failure to respond to the RFI, the record does not contain any information directly from Besttn convincingly demonstrating: its imports of CISP and CISPF from a manufacturer in Malaysia, the existence of United Metal Industries, any manufacturing quality control checks for the CISP and CISPF, mill certifications for the quality of the covered merchandise, the country of origin, the price negotiations between Besttn and United Metal Industries, and price lists of covered merchandise imported by Besttn into the United States. Additionally, CBP officials were unable to verify the entered values and quantities of Besttn's imports, or the information that Besttn provided in the CF-28 responses.

Therefore, CBP is drawing inferences adverse to Besttn and will select from among the facts otherwise available to make the determination as to evasion. In making its determination, CBP is relying on information, as detailed below, in the Allegations (*e.g.*, California Articles of Incorporation and Dissolution) and CF-28 responses (*i.e.*, Besttn's responses to the CF-28 Questionnaires demonstrates an entity acted on behalf of Besttn even though Besttn had been dissolved).

Specifically, CBP is relying on the information described below that indicates that: a) Kingway China established Besttn as a shell company to evade the *Orders*; and b) Besttn did not import CISP and CISPF that had been produced in Malaysia:

- The Allegations presented corporate filings indicating that Besttn was incorporated for less than one year and information linking Besttn to Kingway China. Specifically, California Articles of Incorporation indicate that Besttn was incorporated in March 2022 with Xuguang Yang as Besttn's CEO, CFO, and Director.⁶⁴ Besttn was dissolved by Xuguang Yang in December 2022.⁶⁵ Xuguang Yang has also acted as Kingway USA's CEO, Secretary, CFO, and Director. Xuguang Yang also acted as a representative of Kingway China in antidumping duty investigation proceedings at the Department of Commerce. This investigation has yielded no information that contradicts the assertion that the importer was incorporated for less than a year. Rather, this investigation has yielded information that has only corroborated the assertion that Besttn was established as an importer for a very short, temporary period to transship CISP and CISPF. Besttn's temporary incorporation and non-responsiveness to CBP's RFI frustrates CBP's inquiries into the nature of the imports and CBP's enforcement efforts against the evasion of AD/CVD duties. There is evidence that links Besttn to Kingway China. Since Besttn failed to respond to the RFI, CBP is applying an inference adverse to Besttn, and selecting from the facts available to determine that Besttn was incorporated for less than a year as a shell company by Kingway China to evade AD/CVD duties on CISP and CISPF from China and duties specific to Kingway China, where applicable. Therefore, where there is a Kingway China specific AD rate and/or CVD rate for which Kingway China is the exporter or the manufacturer with no corresponding exporter, CBP will apply the

⁶⁴ See Allegations at 4 and Exhibit 2.

⁶⁵ *Id.*

Kingway China specific rate. Where there is no Kingway China specific AD rate and/or CVD rate, CBP will apply the all-others rate.⁶⁶

- Even though Besttn was dissolved in December 2022, Besttn provided CF-28 Responses on September 12, 2023,⁶⁷ suggesting that an outside entity must have established Besttn and acted as Besttn in responding to the CF-28 Questionnaires.
- As discussed below, United Metal Industries as a CISP and CISPF production facility does not exist. Therefore, Besttn's imports from United Metal Industries could not have been produced by United Metal Industries in Malaysia.

Accordingly, in applying an inference adverse to Besttn and selecting from among the facts otherwise available in making the determination as to evasion, CBP determines that United Metal Industries does not produce any CISP or CISPF in Malaysia, and instead all CISP and CISPF imported by Besttn originated in China and was transshipped through Malaysia. Further, in applying an inference adverse to Besttn and selecting from among the facts otherwise available in making the determination as to evasion, CBP determines that Kingway China incorporated Besttn in the state of California for less than one year duration to evade Kingway China specific rates on the *Orders*, as well as the all-others rates at large.

2. United Metal Industries

In CF-28 Response No. 8820 and CF-28 Response No. 8101, Besttn claimed that the entries were produced by United Metal Industries in Malaysia. Besttn provided certificates of origin, certifying both entries (*i.e.*, CF-28 Response No. 8101 for CISPF and CF-28 Response No. 8820 for CISP) as Malaysian in origin.⁶⁸ In CF-28 Response No. 8820 and CF-28 Response No. 8101, a company profile was included in which United Metal Industries claimed that it had many years of production, processing, and development experience of CISP and CISPF.⁶⁹

However, as outlined in the FEDEX Memo, CBP provided United Metal Industries with multiple opportunities to respond to the RFI and demonstrate its CISP and CISPF production capabilities.⁷⁰ The first attempt was addressed to the United Metal Industries' office address (*i.e.*, 434 Jalan Kamunting Taman Saujana Kamunting 34600 Kamunting, Perak Malaysia). The office address is: the same address declared to CBP by the importer,⁷¹ the same address for United Metal Industries as identified in the Allegations,⁷² and the same address identified on the SSM business registration certificates.⁷³ The FEDEX tracking report indicates that the delivery was not successful.⁷⁴ Since the delivery was not successful, this suggests that there was not an individual or business at that address to receive the delivery. CBP made a second attempt to deliver the RFI and sent the RFI by FEDEX to United Metal Industries plant address (*i.e.*, PT

⁶⁶ Kingway China is an exporter and assigned rates in A-570-079. Kingway China is a manufacturer with no named exporter in C-570-080. Kingway China is not assigned a separate rate in A-570-062 and C-570-063. As such, the all-others rate is appropriate for A-570-062 and C-570-063.

⁶⁷ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ See FEDEX Memo.

⁷¹ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

⁷² See Allegations.

⁷³ See Map and Registration Memo.

⁷⁴ See FEDEX Memo.

11504, Jalan Logam 2, Perindustrian Kamunting Raya, 34600 Kaunting, Perak, Malaysia) that was reported in the CF-28 responses.⁷⁵ The FEDEX tracking report indicates that this second delivery was also not successful.⁷⁶

These two failed delivery attempts, viewed in conjunction with the maps, which also show that there is no indicator or presence of United Metal Industries, demonstrate that United Metal Industries as a CISP and CISPF production facility does not actually exist. This demonstration is contrary to the CF-28 responses; thus, this demonstration that United Metal Industries does not exist at the reported addresses renders the CF-28 responses' claims (*e.g.*, the CISP and CISPF was manufactured by United Metal Industries in Malaysia) unreliable. Based on the foregoing, CBP finds that United Metal Industries failed to act to the best of its ability in this EAPA investigation by its lack of cooperation and responsiveness to CBP's RFI requesting, *inter alia*, the business license, organization chart, a list of production facilities, a list of shareholders, financial statements, reports from cost accounting and production control systems, a list of cost centers, a list of machines used in the production of covered merchandise, price lists for covered merchandise sold to the United States, catalogues, a list of suppliers of covered merchandise, certificates of origin, annual production capacity, monthly inventory movement schedules for the three most significant direct material inputs, mill certificates, and total quantity and value of all sales of covered merchandise sold during the period of investigation to the United States.

Due to United Metal Industries' failure to provide a response to the RFI, CBP does not have information on the record, such as the following—financial statements, annual reports from cost accounting and production control systems, a list of cost centers—that would enable CBP to determine that Besttn's entries of covered merchandise originated from United Metal Industries in Malaysia and determine the costs and valuation of United Metal Industries' exports. Further, CBP does not have information on the record, such as the following—proof of raw material purchases and deliveries demonstrating the raw materials used for production, monthly inventory movement schedules for direct material inputs and total quantity and value of all sales of covered merchandise—that would help CBP verify that United Metal Industries actually produced CISP and CISPF and has operational CISP and CISPF production capabilities.

Therefore, CBP is drawing inferences adverse to United Metal Industries and will select from among the facts otherwise available to make the determination as to evasion. In making its determination, CBP is relying on the information, as detailed below, in the maps, business registration documents, and CF-28 responses.

Specifically, CBP is relying on the information described below that indicates that United Metal Industries does not exist in Malaysia as a CISP and CISPF manufacturer. Since CBP is determining that United Metal Industries did not exist, and, as a result, Besttn's entries of CISP and CISPF were not manufactured by United Metal Industries in Malaysia, CBP is determining that Besttn's entries from United Metal Industries consist of China-origin CISP and CISPF that was transshipped through Malaysia.

⁷⁵ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

⁷⁶ See FEDEX Memo.

- The publicly available maps of United Metal Industries do not identify United Metal Industries.⁷⁷ The maps also do not show evidence of having any facilities capable of CISP and CISPf production. The maps appear to demonstrate that: a) United Metal Industries is not publicly listed at the claimed address; and b) there are no facilities capable of CISP and CISPf production at the claimed address.⁷⁸ CBP is applying an inference adverse to United Metal Industries, and concluding that United Metal Industries as a CISP and CISPf production facility does not exist.
- Malaysian SSM business registration shows United Metal Industries was registered as a wholesaler for steel pipe and hardware by owner Woo See Sing, a Malaysian citizen who is Chinese.⁷⁹ This business registration contradicts the CF-28 Response No. 8820 and CF-28 Response No. 8101, which both presented United Metal Industries as a manufacturer of CISP and CISPf with years of experience.⁸⁰ The business registration shows that the start date was January 26, 2021, and expiration date was February 13, 2023.⁸¹ This SSM registration shows that United Metal Industries was not even registered in Malaysia as a cast iron foundry or a business with CISP/CISPf production capabilities. As such, CBP is applying an inference adverse to United Metal Industries and concluding that United Metal Industries as a CISP and CISPf production facility does not exist.
- Even though Besttn provided CF-28 Response No. 8820 and CF-28 Response No. 8101 on September 12, 2023, there is no indication in the responses that the business registration for United Metal Industries had expired in February 2023.⁸² On the contrary, in CF-28 Response No. 8820 and CF-28 Response No. 8101, Besttn presents documentation claiming that United Metal Industries is in active production and has years of experience.⁸³ This disregard for the business expiration in February 2023 further renders CF-28 Response No. 8820 and CF-28 Response No. 8101 unreliable. CBP is applying an inference adverse to United Metal Industries and concluding that United Metal Industries as a CISP and CISPf production facility does not exist.

While CBP is applying an adverse inference with respect to Besttn and United Metal Industries, the record contains ample evidence to determine there is substantial evidence of evasion without the application of an adverse inference to Besttn and United Metal Industries.

As detailed above, the information on the record makes clear that United Metal Industries did not produce CISP and CISPf in Malaysia. The record also makes clear that the same individual that incorporated Besttn was linked to Kingway China, indicating it is likely Besttn actually sourced its CISP and CISPf from Kingway China.

Based on the aforementioned record evidence, CBP finds that Besttn's entries of CISP and CISPf from United Metal Industries were not produced in Malaysia. Further, based on the application of inferences adverse to Besttn and United Metal Industries, CBP has determined that

⁷⁷ See Map and Registration Memo.

⁷⁸ *Id.*

⁷⁹ See Map and Registration Memo at Attachment 4.

⁸⁰ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

⁸¹ See Map and Registration Memo at Attachment 4.

⁸² See CF-28 Response No. 8820 and CF-28 Response No. 8101.

⁸³ *Id.*

all CISP and CISPF exported by United Metal Industries to Besttn originated in China and was transshipped through Malaysia. Accordingly, CBP determines there is substantial evidence that the CISP and CISPF entered by Besttn during the POI from United Metal Industries was of Chinese origin, exported from China by Kingway China, and transshipped through Malaysia.

Adverse Inferences: Undervaluation

CBP is drawing inferences adverse to Besttn and United Metal Industries and selecting from among the facts otherwise available to find undervaluation.

As described above, and summarized again subsequently, CBP found the value of entered merchandise, as identified in CF-28 Response No. 8820 and CF-28 Response No. 8101, suspicious.⁸⁴ The value and payment for sales contract 22BTN101 is \$48,976.72 whereas the gross weight per the BL is 48,900 kilograms; the BL and sales contract were reported in CF-28 Response No. 8820 and entered as HTS code 7303.00.0030, which can be used to classify and enter CISP, as identified in the scope of the CISP *Orders*. The value and payment for sales contract 22BTN095 is \$24,598.48 whereas the gross weight per the BL is 23,800 kilograms; the BL and sales contract were reported in CF-28 Response No. 8101 and entered as HTS code 7307.11.0045, which can be used to classify and enter CISPF, as identified in the scope of the CISPF *Orders*.

CBP expects that different merchandise under different HTS classifications would have different pricing structures and found it unexpected that, for both sales contracts, the merchandise averages to about U.S. \$1 per kilogram.

Given the questions as to the similarity of the quantity and volume, and thus the accuracy of the entry and shipping documents, TRLED would have opted to conduct a cargo examination for an entry to confirm that the entered quantities and values of the merchandise were indeed recorded correctly. However, given that Besttn's import activity has ceased, TRLED was unable to conduct a cargo examination and compare the reported quantities and values against the actual merchandise entered. Further, Besttn and United Metal Industries did not respond to RFIs and explain the valuation.

Since CBP did not know whether both CISP and CISPF should be priced at approximately U.S. \$1 per kilogram, despite being different products, and since Besttn and United Metal Industries did not respond to RFIs and explain the pricing, CBP issued the Request for Comment on the sales contract values and the corresponding gross cargo weight.⁸⁵ The Alleger responded on February 7, 2024.⁸⁶ The Alleger could not provide pricing on CISP and CISPF pricing in Malaysia. However, the Alleger provided information demonstrating the U.S. market prices for CISP and CISPF—including two price lists of U.S. producers and a price list from a CISP and CISPF importer that imports from India, NewAge Castings (NewAge).⁸⁷ The Alleger provided the January 1, 2024 NewAge price list.⁸⁸ The Alleger explained that there was also a NewAge

⁸⁴ See CF-28 Response No. 8820 and CF-28 Response No. 8101.

⁸⁵ See Request for Comment.

⁸⁶ See Alleger's Comments and NFI.

⁸⁷ *Id.*

⁸⁸ *Id.* at Exhibit 4.

2022 price list publicly available, but the Alleger did not provide the NewAge 2022 price list, because the NewAge 2024 price list was 33% lower and more conservative than the NewAge 2022 price list.⁸⁹

The 2024 NewAge price list identified the prices for CISP and CISPF. Since the two sales contracts delineated merchandise by line item, as such, the respective price from the NewAge price list for the respective merchandise were compared to the prices recorded on the sales contract. The comparisons between the prices in the sales contracts and the prices in the NewAge price list are evident in Table 1 and Table 2 subsequently.

Table 1: CISP Sales Contract and NewAge Price List Comparisons

<p>Entry xxxxxxx8820, (Sales Contract 22BTN101) (Bill of Lading OERT111701M00010 reported Gross Weight Cargo: 48,900 kilograms) (Sales Contract and Bill of Lading Submitted by Bestn in CF-28 Response)</p>				<p>NewAge Casting Price List from January 1, 2024 (Submitted by the Alleger to the EAPA Cons. 7819 Investigation Administrative Record)</p>
Sales Contract Item	Sales Contract Quantity in Pieces	Sales Contract Total	Sales Contract Unit Price	Price List Unit Price
2" cast iron pipe	2,560	\$ 36,633.60	\$ 14.31	\$ 173.90
3" cast iron pipe	576	\$ 11,733.12	\$ 20.37	\$ 240.50
Contract Fee		\$ 610.00		
Total	3,136	\$ 48,976.72		

⁸⁹ *Id.* at 2 (footnote 5).

Table 2: CISP Sales Contract and NewAge Price List Comparisons

<p style="text-align: center;">Entry xxxxxxx8101, (Sales Contract 22BTN095) (Bill of Lading OERT111701L00747 reported Gross Weight Cargo: 23,800 kilograms) (Sales Contract and Bill of Lading Submitted by Besttn in CF-28 Response)</p>				<p style="text-align: center;">NewAge Casting Price List from January 1, 2024 (Submitted by the Alleger to the EAPA Cons. 7819 Investigation Administrative Record)</p>
Sales Contract Item	Sales Contract Quantity in Pieces	Sales Contract Total	Sales Contract Unit Price	Price List Unit Price
3X4X6X12"CLOSET BEND	1,000	\$ 5,010.00	\$ 5.01	\$ 116.20
2"SHORT SWEEP	2,400	\$ 3,840.00	\$ 1.60	\$ 35.90
4" 1/8 BEND	416	\$ 836.16	\$ 2.01	\$ 38.90
1.5"P-TRAP	595	\$ 940.10	\$ 1.58	\$ 39.70
4" SHORT SWEEP	80	\$ 320.80	\$ 4.01	\$ 82.80
2"SAN TEE	1,892	\$ 2,554.20	\$ 1.35	\$ 35.40
2" 1/4 BEND	1,210	\$ 1,367.30	\$ 1.13	\$ 25.70
4" 1/4 BEND	10	\$ 24.50	\$ 2.45	\$ 53.00
3X2" BHO	460	\$ 984.40	\$ 2.14	\$ 56.70
2" 1/16 BEND	4,200	\$ 4,074.00	\$ 0.97	\$ 22.60
2" 1/8 BEND	3,440	\$ 2,717.60	\$ 0.79	\$ 22.10
3" SHORT SWEEP	794	\$ 1,929.42	\$ 2.43	\$ 46.80
Total	16,497	\$ 24,598.48		

Besttn and United Metal Industries were both afforded opportunities to participate in this investigation, to explain the pricing structure of the imported CISP and CISPF, and to provide CBP with information to defend the entered prices. However, Besttn and United Metal Industries both failed to act to the best of their abilities in this EAPA investigation by their lack of cooperation and responsiveness to CBP’s RFIs. On the contrary, the Alleger has participated in this investigation. Since Besttn and United Metal Industries have not responded to RFIs and demonstrated the costs and pricing structure of the imported CISP and CISPF, CBP is applying an adverse inference with respect to Besttn and United Metal Industries and inferring that Besttn imported undervalued CISP and CISPF to the United States.

As a result, CBP is using the NewAge 2024 price list provided by the Alleger as a surrogate for valuation. Since the two sales contracts were broken out by line item, the surrogate prices for each individual line item from the NewAge price list were applied.⁹⁰ The change in ratio for the CISP sales contract is being applied to the other CISP entries imported by Besttn. The change in ratio for the CISPF sales contract is being applied to the other CISPF entries imported by Besttn.

⁹⁰ See Attachment 1 and Attachment 2 to this notice.

CBP calculated the difference between the value of the merchandise in the sales contract and the surrogate NewAge Casting prices, then took the percentage of the merchandise contract value to determine the percent undervalued. CBP is applying that percent undervalued to other entries. CBP determined that CISP is undervalued by 91.6183%.⁹¹ CBP determined that CISPF is undervalued by 95.7704%.⁹²

Written Arguments

On March 26, 2024, the Alleger submitted written arguments.⁹³ Besttn did not submit written arguments.

Issue 1: Adverse Inferences

The Alleger argued that CBP should apply adverse inferences and find that Besttn was integrated with Kingway USA and the source of the merchandise was Kingway China; as such, Besttn was a corporate front established for evasion and thus evaded the *Orders*. The Alleger also argued that CBP should take action against the entities that set up the temporary front company.

CBP Response:

As explained above, CBP will use adverse inferences for Besttn's imports to the United States during the period of investigation and apply the Kingway China-specific rate for the individual *Orders* that have a Kingway China-specific rate. Elsewhere, CBP will apply the China all-others rate.

Determination as to Evasion

The previously discussed facts on the record of this investigation establish there is substantial evidence that Besttn imported Chinese-origin CISP and CISPF into the United States through evasion, specifically by transshipment through United Metal Industries in Malaysia. Additionally, by application of adverse inferences and even without its use, relying on information in the Allegations, CF-28 responses, maps, business registration documents, and Alleger's Comments and NFI, CBP determines that all the CISP and CISPF exported by United Metal Industries imported by Besttn was of Chinese origin. CBP also determines that CISP entries were undervalued by 91.6183% and that CISPF were undervalued by 95.7704%. Furthermore, evidence on the record indicates that Besttn entered the CISP and CISPF into the United States from United Metal Industries as type 01 entries and evaded the payment of AD/CVD duties on CISP and CISPF from China by misrepresenting the CISP and CISPF as Malaysian in origin. The CISP and CISPF that Besttn entered from United Metal Industries during the POI should have been subject to the AD/CVD rates on CISP and CISPF from China.

⁹¹ See Attachment 1 to this notice.

⁹² See Attachment 2 to this notice.

⁹³ See the Alleger's Letter, "EAPA Case No. Cons. 7819, Cast Iron Soil Pipe and Fittings: Submission of Written Argument," dated March 26, 2024 (Written Arguments).

Actions Taken Pursuant to the Affirmative Determination as to Evasion

In light of CBP's determination that substantial evidence demonstrates that Besttn entered covered merchandise into the customs territory of the United States through evasion, CBP will take action, as applicable, pursuant to 19 U.S.C. § 1517(d) and 19 C.F.R. § 165.28. CBP will suspend or continue to suspend the liquidation of all entries imported by Besttn that are subject to this EAPA investigation and continue suspension of liquidation until instructed to liquidate these entries. For those entries previously extended in accordance with the interim measures, CBP will rate adjust and change those entries to type 03 and continue suspension of liquidation until instructed to liquidate those entries. CBP will also evaluate Besttn's continuous bond in accordance with CBP's policies and may require single transaction bonds as appropriate. None of the above actions precludes CBP or other agencies from pursuing additional enforcement actions or penalties.⁹⁴

Sincerely,



Victoria Cho
Director, Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
CBP Office of Trade

⁹⁴ See 19 U.S.C. § 1517(h).

Attachment 1: CISP Undervaluation

Entry xxxxxx8820, (Sales Contract 22BTN101) (Bill of Lading OERT111701M00010 reported Gross Weight Cargo: 48,900 kilograms) (Sales Contract and Bill of Lading Submitted by Besttn in CF-28 Response)				NewAge Casting Price List from January 1, 2024 (Submitted by the Allegor to the Administrative Record)	Surrogate Value and Undervaluation Calculations	
Sales Contract Item	Sales Contract Quantity in Pieces	Sales Contract Unit Price	Total Sales Contract Value	NewAge Casting Price List	Total NewAge Surrogate Value	Difference Between Sales Contract and Surrogate
(a)	(b)	(c)	(d) = (b)*(c)	(e)	(f) = (b) * (e)	(g) = (b*e) - (b*c)
2" cast iron pipe	2,560.00	\$ 14.31	\$ 36,633.60	\$ 173.90	\$ 445,184.00	\$ 408,550.40 (h)
3" cast iron pipe	576.00	\$ 20.37	\$ 11,733.12	\$ 240.50	\$ 138,528.00	\$ 126,794.88 (i)
Contract Fee			610		\$ 583,712.00	\$535,345.28 (j) = sum(h:i)
Total	3,136.00		\$ 48,976.72			Total Difference
					CF 28 Sales Contract Value	\$ 48,976.00 (k)
					Undervalued	91.6183% (l) = j/(j+k)

Attachment 2: CISP Undervaluation

Entry xxxxxx8101, (Sales Contract 22BTN095) (Bill of Lading OERT111701L00747 reported Gross Weight Cargo: 23,800 kilograms) (Sales Contract and Bill of Lading Submitted by Besttn in CF-28 Response)				NewAge Casting Price List from January 1, 2024 (Submitted by the Allegor to the Administrative Record)	Surrogate Value and Undervaluation Calculations	
Sales Contract Item	Sales Contract Quantity in Pieces	Sales Contract Unit Price	Total Sales Contract Value	NewAge Casting Price List	Total NewAge Surrogate Value	Difference Between Sales Contract and Surrogate
(a)	(b)	(c)	(d) = (b)*(c)	(e)	(f) = (b) * (e)	(g) = (b*e) - (b*c)
3X4X6X12"CLOSET BEND	1,000.00	\$ 5.01	\$ 5,010.00	\$ 116.20	\$ 116,200.00	\$ 111,190.00 (h)
2"SHORT SWEEP	2,400.00	\$ 1.60	\$ 3,840.00	\$ 35.90	\$ 86,160.00	\$ 82,320.00 (i)
4" 1/8 BEND	416.00	\$ 2.01	\$ 836.16	\$ 38.90	\$ 16,182.40	\$ 15,346.24 (j)
1.5"P-TRAP	595.00	\$ 1.58	\$ 940.10	\$ 39.70	\$ 23,621.50	\$ 22,681.40 (k)
4" SHORT SWEEP	80.00	\$ 4.01	\$ 320.80	\$ 82.80	\$ 6,624.00	\$ 6,303.20 (l)
2"SAN TEE	1,892.00	\$ 1.35	\$ 2,554.20	\$ 35.40	\$ 66,976.80	\$ 64,422.60 (m)
2" 1/4 BEND	1,210.00	\$ 1.13	\$ 1,367.30	\$ 25.70	\$ 31,097.00	\$ 29,729.70 (n)
4" 1/4 BEND	10.00	\$ 2.45	\$ 24.50	\$ 53.00	\$ 530.00	\$ 505.50 (o)
3X2" BHO	460.00	\$ 2.14	\$ 984.40	\$ 56.70	\$ 26,082.00	\$ 25,097.60 (p)
2" 1/16 BEND	4,200.00	\$ 0.97	\$ 4,074.00	\$ 22.60	\$ 94,920.00	\$ 90,846.00 (q)
2" 1/8 BEND	3,440.00	\$ 0.79	\$ 2,717.60	\$ 22.10	\$ 76,024.00	\$ 73,306.40 (r)
3" SHORT SWEEP	794.00	\$ 2.43	\$ 1,929.42	\$ 46.80	\$ 37,159.20	\$ 35,229.78 (s)
	16,497.00		\$ 24,598.48		\$ 581,576.90	\$556,978.42 (t) = sum(h:s)
						Total Difference
					Sales Contract Total Value	\$ 24,598.48 (u)
					Percent Undervalued	95.7704% (v) = u/(t+u)