



U.S. Customs and Border Protection

EAPA CONS. 7788

PUBLIC VERSION

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Re: Notice of Initiation of Investigation and Interim Measures (NOI) - EAPA Cons. Case 7788

To the Representatives and Counsel of the above-referenced Entities:

The purpose of this notice is to inform you that U.S. Customs and Border Protection (CBP) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA). CBP is investigating whether Muller Import Inc. (Muller) and U.S. Castings Inc. (U.S. Castings), (collectively, the Importers), evaded antidumping (AD) and countervailing duty (CVD) orders A-570-079 and C-570-080 on Cast Iron Soil Pipe ((CISP) *CISP Orders*),¹ as well as whether Muller is evading AD/CVD orders A-570-062 and A-570-063 on Cast Iron Soil Pipe Fittings ((CISPF) *CISPF Orders*)² (collectively, *AD/CVD Orders*), from the People's Republic of China

¹ See *Cast Iron Soil Pipe from the People's Republic of China: Antidumping Duty Order*, 84 Fed. Reg. 19035 (May 3, 2019) and *Cast Iron Soil Pipe From the People's Republic of China: Countervailing Duty Order*, 84 Fed. Reg. 19039 (May 3, 2019).

² 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 Fed. Reg. 44570 (Dep't Commerce Aug. 31, 2018) and *Cast Iron Soil Pipe Fittings From the People's Republic of China*, 83 Fed. Reg. 44566, (Dep't Commerce Aug. 31, 2018).

(China), by means of transshipment through India, when importing Chinese-origin CISP and CISPF into the United States. CBP has determined that there is reasonable suspicion of evasion of AD/CVD duties by the Importers; therefore, CBP is issuing a formal notice of initiation of an investigation and imposing interim measures.³

Period of Investigation

Pursuant to 19 CFR 165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation...” Entry is defined as an “entry, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”⁴ CBP acknowledged receipt of the three properly filed allegations against the Importers on December 1, 2022.⁵ Therefore, the entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from December 1, 2021, through the pendency of this investigation.⁶

Background

Initiation

On December 22, 2022, according to the record evidence, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP’s Office of Trade, initiated an investigation under EAPA⁷ after evaluating the three allegations⁸ filed by the Cast Iron Soil Pipe Institute (Alleger),⁹ against the Importers for possible evasion of the applicable *AD/CVD Orders*. Specifically, two of these Allegations suggest that Muller and U.S. Castings, with the cooperation of Bengal Iron Corporation (Bengal), transshipped Chinese-origin CISP through India and entered the merchandise into the United States as a product of India to evade the *AD/CVD Orders*. The third Allegation suggests Muller engaged in the same transshipment scheme, again with the cooperation of Bengal, with CISPF covered by the *CISPF Orders*.¹⁰

³ See 19 USC 1517(e); see also 19 CFR 165.24.

⁴ See 19 USC 1517(a)(4); see also 19 CFR 165.1.

⁵ See CBP December 1, 2022, emails entitled: “EAPA 7788 - Receipt of Properly Filed Allegation,” “EAPA 7789 - Receipt of Properly Filed Allegation,” and “EAPA 7790 - Receipt of Properly Filed Allegation.”

⁶ See 19 CFR 165.2.

⁷ See December 22, 2022, CBP Memorandum to the File, “Initiation of Investigation for EAPA Case Numbers 7788, 7789 and 7790 (EAPA Cons. Case 7788) – Cast Iron Soil Pipe (CISP) and Cast Iron Soil Pipe Fittings (CISPF)” (Dec. CBP Initiation Memo).

⁸ See the October 5, 2022, allegation letters entitled: “Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act” (Muller’s CISP Allegation); “Cast Iron Soil Pipe Fittings: Request for an Investigation under the Enforce and Protect Act” (Muller’s CISPF Allegation) and “Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act” (U.S. Castings CISP allegation) (collectively, the Allegations). At the initiation, CBP consolidated EAPA investigations 7788, 7789 and 7790 on Muller and U.S. Castings, respectively, into a single investigation. Thus, the new consolidated (Cons.) case number is EAPA Cons. Case 7788 and CBP is maintaining a single administrative record.

⁹ The Alleger was the petitioner before Commerce and the U.S. International Trade Commission in the original AD/CVD investigations, as well as the alleger in prior and ongoing EAPA investigations before CBP. Also, as a trade association, all of whose members produce CISP/CISPF products in the United States that are domestic like products under the *AD/CVD Orders*, the Alleger meets the definition of an interested party that may file an EAPA allegation, pursuant to 19 CFR 165.1(4).

¹⁰ See Dec. CBP Initiation Memo.

Commerce defined the scope of the *AD/CVD Orders* as follows:

CISP

“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. The scope of this order includes, but is not limited to, both hubless and hub and spigot cast iron soil pipe. Cast iron soil pipe is nonmalleable iron pipe of various designs and sizes. Cast iron soil pipe is generally distinguished from other types of nonmalleable cast iron pipe by the manner in which it is connected to cast iron soil pipe fittings.

Cast iron soil pipe is classified into two major types hubless and hub and spigot. Hubless cast iron soil pipe is manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888, including any revisions to those specifications. Hub and spigot pipe has one or more hubs into which the spigot (plain end) of a fitting is inserted. All pipe meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.”

CISPF

“cast iron soil pipe fittings finished and unfinished, regardless of industry or proprietary specifications, and regardless of size. Cast iron soil pipe fittings are nonmalleable iron castings of various designs and sizes, including, but not limited to, bends, tees, wyes, traps, drains (other than drain bodies), and other common or special fittings, with or without side inlets.

Cast iron soil pipe fittings are classified into two major types hubless and hub and spigot. Hubless cast iron soil pipe fittings are manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888. Hub and spigot pipe fittings have hubs into which the spigot (plain end) of the pipe or fitting is inserted. Cast iron soil pipe fittings are generally distinguished from other types of nonmalleable cast iron fittings by the manner in which they are connected to cast iron soil pipe and other fittings.

Excluded from the scope are all drain bodies.”

The Alleger contends that [[name](#)] shipment data suggest that products shipped from Bengal to Muller and U.S. Casting, respectively, was described as cast iron pipe products or cast iron pipe fittings. Muller has imported over 100 metric tons of cast iron “hubless” pipe and fittings, various products labeled as “CAST IRON HUBLESS PIPE FITTINGS” and “CAST IRON PRODUCTS,” among other terms, from March 2021 through as recently as August 2022, and

U.S. Castings has imported over 100 metric tons of cast iron “NO HUB” of “HUBLESS” pipe from Bengal as early as October 2020 through as recently as September 2022.¹¹

Further, the Alleger contends, based on a review of the [name] data, that Muller’s first imports of CISP and CISPF began February 2020, shortly after its 2019 incorporation, and it imported those products allegedly from Hicreek Plumbing Co. Ltd. (Hicreek) in Cambodia.¹² In past EAPA investigations, CBP has found that Hicreek was involved in transshipment of subject Chinese CISP and CISPF in collaboration with various Chinese exporters.¹³ After the first EAPA investigation into Hicreek, shipments of CISP and CISPF to Muller from Hicreek stopped in March 2021.¹⁴ The Allegations contend that Muller began receiving shipments of cast iron products from Bengal in India,¹⁵ Terrifour (Dalian) Trading Co. Ltd. (Terrifour) in China, and Sibio International Limited (Sibo) of Hong Kong following CBP’s investigation into Hicreek.¹⁶

Prior to the *CISP Orders* from China, U.S. Castings/AccuCast¹⁷ imported merchandise described as “CAST IRON VALVE BOXES” from Bengal in India; however, starting in August 2021 through September 2022, U.S. Castings/AccuCast received several shipments from Bengal described as cast iron hubless pipes in various sizes, which match the description and fall within the scope of the *CISP Orders*.¹⁸

The Allegations suggested that Bengal is a manufacturer of cast iron products in India, and lists hubless pipe and fittings among the cast iron products it produces.¹⁹ However, the [explaining source] pipe and fittings currently in the United States labeled as originating from Bengal in India.²⁰ The identity of the importer of this merchandise was not [explaining source], but the photographs show that the markings on the pipe are considerably different than the markings Bengal shows on its website for the pipe and fittings it produces. While the imported pipe is marked “BIC” – which allegedly stands for “Bengal Iron Corporation” – and is marked as made in India, these products are also marked with “TERIF” and identify the country of origin as China.²¹ The word “TERIF” is a trade name registered in the United States and the trademark is owned by Terrifour in China. During the Commerce investigation, Terrifour stated that while it is located in Zhongshan, China, it is an exporter, not a producer, of merchandise

¹¹ See the Allegations at 4 and Exhibit 1.

¹² See the Allegations at 4 and 5.

¹³ See Muller’s CISP Allegation and Muller’s CISPF Allegation at 5. See also EAPA Consolidated Case 7454: Blue Star Global, Inc. and Lino International Inc., Notice of Determination as to Evasion (CBP Feb. 8, 2021) at 19; EAPA Case 7455: Lino International Inc., Notice of Determination as to Evasion (CBP Feb. 8, 2021) at 15; EAPA Case 7624: Little Fireflies International Co., Notice of Determination as to Evasion (CBP Feb. 8, 2021) at 11; and EAPA Consolidated Case 7621: Granite Plumbing Products LLC, Little Fireflies International Co., and Phoenix Metal Co., Ltd., Notice of Determination as to Evasion (CBP Feb. 8, 2021) at 34.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at Exhibit 1.

¹⁶ *Id.*

¹⁷ U.S. Castings appears to also do business under the name of AccuCast Ltd. (AccuCast). Both U.S. Castings and AccuCast are [position] by Kirit Daftary, share the same physical address and phone number, and share U.S. Castings’ website and email contact information (listed as www.accucast.us and vijay@accucastltd.com). See U.S. Castings Allegation at 4 and Exhibit 2.

¹⁸ See U.S. Castings Allegation at 5 and Exhibit 1.

¹⁹ See the Allegations at 5 and Exhibit 3.

²⁰ See the Allegations at 6-7 and Exhibit 6. The source of the photos was not identified in all three allegations. See below Cargo Exam discussion.

²¹ *Id.* at 5-6.

produced by Qinshui Shunshida Casting and Shanxi Chengda Special Forging, companies that are also located in China.²²

The Alleger further claims that Indian import records, [source], show that on October 15, 2020, Bengal received a shipment of a wide variety of Chinese CISP and CISPF from Terrifour.²³ About 5 months later, and during the POI, Bengal started shipping CISP and CISPF to Muller.²⁴ This would have provided sufficient time for Bengal to reload the merchandise into a new container in India and then ship it to the United States. The Alleger asserts the following evidence reasonably suggests that pipe and pipe fittings produced in China for Terrifour was transshipped through India by Bengal and mislabeled to disguise its origin to evade the *AD/CVD orders*: the pipes and fittings marked as originating in India by Bengal (*i.e.*, “BIC” markings) also contained the conflicting “TERIF” mark (Terrifour is a known exporter of subject merchandise from China and Terif is their trademarked name), coupled with the [name] data which indicate CISP and CISPF shipments were exported from Terrifour to Bengal and then shortly after received by Muller.²⁵

The Alleger asserts that this conclusion is further supported by the connections between Terrifour and Muller, which explain why Muller would work with Terrifour to continue to import Terrifour’s products into the United States. Evidence indicates that Muller is affiliated with, if not controlled by, Terrifour. Muller was registered in California in August 2019²⁶—after the initiation of the Department of Commerce’s *AD/CVD* investigations into CISPF and CISP. Prior to that date, Dan Hong, the incorporator of Muller, had incorporated another company in California, TRF International Inc. (TRF), which dissolved in February 2020.²⁷ As mentioned above, TRF is another trademark owned by Terrifour that was registered in July 2017.²⁸ According to the Alleger, when TRF was operational, and prior to the *AD/CVD Orders*, TRF imported pipes and fittings from Terrifour in China. And, following the publication of the *AD/CVD Orders*, TRF, reconstituted as Muller, continued to import Terrifour products *via* Bengal in India.²⁹

The Alleger states that Sibio further cements a connection between Muller, TRF, and Terrifour. The Alleger provides evidence that Sibio is connected to Chinese CISP and CISPF exports to the United States and Canada, that Sibio operated out of the same Chinese address as Terrifour, that it has owners in common with Terrifour, and that Sibio uses the email address **trfhd@hotmail.com** (emphasis added) to conduct business.³⁰ The email address is significant because it incorporates the “TRF” Terrifour trademark.³¹

Regarding U.S. Castings/AccuCast, the Alleger provided evidence that U.S. Castings has a relationship to a Chinese producer that also sells cast iron products, including CISP and CISPF,

²² See Muller’s CISP Allegation and Muller’s CISPF Allegation at 7 and Exhibit 6.

²³ See the Allegations at 7-8.

²⁴ See Muller’s CISP Allegation and Muller’s CISPF Allegation at 7 and Exhibit 8.

²⁵ *Id.* at 8.

²⁶ *Id.* at Exhibit 2.

²⁷ *Id.* at Exhibit 9.

²⁸ *Id.* at Exhibit 8.

²⁹ *Id.* at 8-9.

³⁰ *Id.* at 9-10 and Exhibits 1, and 10-17. Note Sibio was also identified as involved in other transshipment schemes involving CISP and CISPF in EAPA investigation 7474.

³¹ See Muller’s CISP Allegation at 8.

to Bengal. The Alleger claims that starting in March 2019 (after the publication of the *AD/CVD Orders*), Bengal began to receive merchandise from Orange Golden Inc. (Orange Golden).³² According to the Alleger, Orange Golden describes itself as “a professional company in US mainly import {sic} and supply {sic} cast iron pipe, fittings and no hub couplings,” and states that it works “together with our Chinese Branch Golden Orange International Limited for Global sources and marketing.”³³ Golden Orange is located in China and utilizes various addresses in the city of Dalian in China and Hong Kong, exporting CISP and CISPF from China (which included exports of various products to AccuCast prior to the publication of the *AD/CVD Orders*).³⁴

Therefore, *in toto*, the Alleger contends that the evidence reasonably suggests that Bengal collaborated with Terrifour and Orange Golden to transship CISP and CISPF from China through India to Muller and U.S. Castings to evade the *AD/CVD Orders* and avoid the payment of cash deposit rates.

Initiation Assessment

TRLED will initiate an investigation if it determines that “{t}he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion.”³⁵ 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 covered merchandise.”³⁶ Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer through evasion, but that such entry was made by a material false statement or act, or material omission, which resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the claims made and evidence provided in the Allegations, TRLED finds that the Allegations reasonably suggest that Muller may have engaged in attempts to evade the *CISP Orders* and *CISPF Orders* by transshipping the Chinese-origin covered merchandise through India and incorrectly declaring the country origin as India on merchandise entering the United States. TRLED likewise finds that the allegation reasonably suggests U.S. Castings attempted to evade the *CISP Orders*, utilizing the same or similar evasion scheme as Muller. The Alleger has submitted documentation reasonably available to support these claims, including the [name] shipment data showing that Bengal imports CISP and CISPF from China, and that Bengal exports Chinese-origin CISP and CISPF to Muller and CISP to U.S. Castings. In addition, the Alleger supplied evidence showing Muller’s relationship to known Chinese CISP/CISPF supplier Terrifour, and Orange Golden’s prior sales of Chinese-origin CISP to U.S. Castings/AccuCast. After the *AD/CVD Orders* were implemented, the [name] data indicates that Orange Golden shipped merchandise from China to Bengal. Furthermore, the markings on the Bengal-supplied

³² See U.S. Castings Allegation at 8 and Exhibit 7.

³³ *Id.* at Exhibit 10.

³⁴ *Id.* at 8-9 and Exhibit 11.

³⁵ See 19 CFR 165.15(b); see also 19 USC 1517(b)(1).

³⁶ See 19 USC 1517(a)(5)(A); see also 19 CFR 165.1 (setting forth the definition of “evasion”).

pipe and fittings currently in the U.S. market have contradictory labeling, being marked as both made by Bengal in India and being marked as “TERIF,” showing a relationship to Terrifour, suggesting that it was made in China.

For the reasons set forth herein, CBP is initiating an investigation under the authority of 19 USC 1517(b)(1) for Muller and U.S. Casting’s imports of covered merchandise that are alleged to be entered for consumption into the customs territory of the United States through evasion.³⁷ While CBP shall make a determination as to whether merchandise properly within the scope of the Orders was entered into the customs territory through evasion, the statute does not limit this determination to only the type of evasion for which the investigation was initiated.³⁸

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the *AD/CVD Orders* was entered into the United States through evasion. CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be evading entered merchandise covered by an AD or CVD order into the United States, by a materially false statement or act, or material omission that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because there is a reasonable suspicion that the Importers entered covered merchandise into the United States through evasion by transshipment and failure to declare the Chinese-origin CISP and CISPF subject to the *AD/CVD Orders*.³⁹

CBP Form 28 (CF-28) Responses

On February 7, 2023, CBP issued CBP Form 28 (CF-28) Requests for Information (RFI) to the Importers for entry numbers [no.]8544 (entry 8544) and [no.]6105 (entry 6105). On February 14, 2023, CBP issued a third CF-28 for [no.]7856 (entry 7856).⁴⁰ In the CF-28s, CBP requested the following information:

- The Importers’ relationship to the seller and explain how this relationship affects the price paid or payable for the merchandise.
- Copy of contract (or Purchase Order (PO) and seller’s confirmation thereof) covering this transaction, and any revisions thereto including the Bill of Lading (BL).
- Descriptive or illustrative literature or information explaining what the merchandise is, where and how it is used, and exactly how it operates.
- Breakdown of components, materials, or ingredients by weight and the actual cost of the components at the time of assembly into the finished article.
- Proof of payment (invoices, checks, money order, bank statements, *etc.*) for the payment of the Bengal for each shipment.

³⁷ See also 19 CFR 165.15.

³⁸ See 19 USC 1517(c)(1)(A).

³⁹ See 19 CFR 165.24(a).

⁴⁰ See February 7, CF-28 Requests for Information on entries 8544 and 6105; see also February 14, CF-28 Request for Information on entry 7856.

- A detailed description and a photo of bell trap, waste trap, backwater valve, shower drain, cleanout drain on the invoice of entry 6105, cast Iron hubless pipe of entry 8544 and extension no hub 6" x10' hubless (item code: [no.]) and extension no hub 6" x 5' hub x no hub (item code: [no.]) of entry 7856.
- Production records for the bell trap, waste trap, backwater valve, shower drain, cleanout drain on the invoice of entry 6105, cast Iron hubless pipe of entry 8544 and extension no hub 6" x10' hubless (item code: [no.]) and extension no hub 6" x 5' hub x no hub (item code: [no.]) of entry 7856. This should include invoices or purchase orders for raw material indicating the point of origin and supplier of these raw materials and any material test reports, if applicable.
- Factory profile and business registration information about the supplier. This should include a copy of the business registration or articles of incorporation, details about 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 bell trap, waste trap, backwater valve, shower drain, cleanout drain on the invoice of entry 6105, cast Iron hubless pipe of entry 8544 and extension no hub 6" x10' hubless (item code: [no.]) and extension no hub 6" x 5' hub x no hub (item code:[no.]) of entry 7856, the owner(s) name, and/or corporate officeholders and export documentation.
- Describe the production process, listing all equipment used on site and provide photographs of all production machinery and equipment. Provide a flow chart of the production process that explains clearly what raw materials are used at each step.
- If work is done offsite through subcontractors, please provide contract details and a description of the work processes contracted out, including invoices for this type of contracting.
- Any additional costs/expenses incurred in each transaction.

On March 14, 2023, CBP received timely responses for entries 8544 and 6105 from Muller, including the entry summary documents, CBP Form 7501, invoice, packing list, CBP Form 3461, arrival notice / freight invoice, Sea Waybill, proof of payment, production capacity, production process flow chart, mill test report, Bengal business registration, and sales contract.⁴¹

Muller Entry 8544: CISP

For Muller's entry, Entry 8544, the CBP-Form 7501 indicates that the goods were declared as having a country of origin of India and were classified under 7303.00.0090. For this entry, Muller claimed Generalized System of Preferences (GSP) for 2" hubless pipe and 4" hubless pipe on invoice [no.], dated October 14, 2022, for the total amount of [no.] Freight on Board (FOB) Kolkata (Calcutta). The packing list, dated October 14, 2022, identified Calcutta as the port of receipt and the port of loading and the vessel as YM UBIQUITY. The description of the goods was hubless pipes, under harmonized tariff schedule (HTS) Code 7303.00.30. The Sea Waybill identified Chennai, India, as the place of issue on October 26, 2022, and identified Calcutta as the port of loading. Further, for this entry, SIBO in Hong Kong was identified as the "notify party," listing the email address as TRFHD@hotmail.com, with the attention of [name].

⁴¹ See March 14, 2023, CF-28 Responses for entries 8544 and 6105 (collectively, Muller CF-28 Responses).

As detailed above in the “Initiation” section,⁴² Muller is affiliated with, if not controlled by, Terrifour and the fact that SIBO is involved in the transaction further demonstrates a connection between Muller/TRF and Terrifour. To recap, the evidence in the allegation demonstrated that SIBO is connected to Chinese CISP and CISPF exports to the United States and Canada; SIBO operated out of the same Chinese address in the city of Dalian, China, as Terrifour; it has owners in common with Terrifour; and SIBO uses an email address with “TRF” – another trademark registered by Terrifour – in the name (**TRFHD@hotmail.com** (emphasis added)) to conduct business.⁴³

Also, the allegation states:

SIBO was also a respondent before Commerce, selected for individual examination in the CISPF antidumping investigation. There, SIBO claimed to be a trading Company in Hong Kong that exported fittings produced by Qinshui Shunshida Casting.⁴⁴ However, when Commerce attempted to arrange on-site verification of SIBO’s reporting as part of that investigation, SIBO was forced to admit to Commerce that it did not have any presence in Hong Kong, but operated out of offices in the city of Dalian, China.⁴⁵ Exposed in its deception, SIBO withdrew from cooperating in Commerce’s investigation.⁴⁶ One source shows that the SIBO office in the city of Dalian hid from Commerce were actually the same offices as Terrifour’s: 1312 No 90 Luxun Road, Zhongshan.⁴⁷ And while SIBO in its Section A response to Commerce stated that Lin Ronghua was its general manager,⁴⁸ in the separate rate application it had filed with Commerce just one month earlier—prior to being selected for individual examination in Commerce’s investigation—SIBO instead gave Lin Yongfeng as the name of its general manager.⁴⁹ Information on the incorporation of Terrifour in China shows that Lin Yongfeng was one of the owners of Terrifour and, as of at least October 2017, was the manager of Terrifour as well.⁵⁰ Thus, while both SIBO and Terrifour claimed to Commerce that they were not affiliated with any other companies involved in exporting or selling subject merchandise,⁵¹ these claims—like SIBO’s claims to operate in Hong Kong—were false. Further, CBP has also identified SIBO as involved in other transshipment schemes regarding CISP and CISPF in other EAPA investigations, and also found that SIBO’s claims to be unaffiliated with other exporters or U.S. companies were false, based on further evidence CBP collected.⁵²

⁴² See Dec. CBP Initiation Memo.

⁴³ *Id.* at 9-10 and Exhibits 1, and 10-17. Note Sibo was also identified as involved in other transshipment schemes regarding CISP and CISPF in EAPA investigation 7454.

⁴⁴ See Muller’s CISPF Allegation, Exhibit 11 at 7.

⁴⁵ *Id.* at Exhibit 12.

⁴⁶ *Id.* at Exhibit 13.

⁴⁷ *Id.* at Exhibit 14.

⁴⁸ *Id.* at Exhibit 11 at 15.

⁴⁹ *Id.* at Exhibit 15 at 1.

⁵⁰ *Id.* at Exhibit 16.

⁵¹ *Id.* at Exhibit 15 at 18 (Sibo separate rate application); Exhibit 6 at 21-22 (Terrifour separate rate application).

⁵² *Id.* citing EAPA Cons. 7454 NOD at 5.

Regarding production documentation, Muller provided limited information about Bengal's production process. While Muller provided some description of the production process and an inspection report for "produced" goods, Muller provided no information from Bengal regarding its purchasing of raw materials for the production of the imported products, no mill certificates for the origin of the iron used, and no production records demonstrating that Bengal produced the products that were imported for this entry.

In addition, the payment information provided to CBP does not establish that Bengal produced the merchandise imported. The information on Muller's Sea Waybill suggested that the shipment was on board SOL Progress Voyage 2217⁵³ vessel at the Calcutta port on October 26, 2022.⁵⁴ The CF-28 response documents also included another invoice number [no.] issued by SIBO for PO number [no.] in the amount of [no.] to Muller for the same quantity pieces of [no.] hubless pipes. Also, the proof of payment indicates that Muller paid SIBO, with payment method Cash Against Documents (CAD). This form of payment simply means that the importer (Muller) paid the shipper before the importer received the goods. However, the invoice [no.] disclosed to CBP indicated that the exporter for Muller is actually Bengal for a total value of [no.], FOB Calcutta. A second invoice [no.] was issued by SIBO, delivery term cost, insurance, and freight (CIF) LOS ANGELES for the total value of [no.], this means that Muller failed to disclose [no.] at entry. This is significant because it is unclear to CBP who issued the original commercial invoice to Muller. As a result, CBP is not certain why Muller paid SIBO and not Bengal, the supplier of the merchandise. In addition, Muller provided no evidence that Bengal received a payment for the goods it exported to Muller for this entry. These documents are not reliable because of the discrepancy described above.

Muller Entry 6105: CISPF

To test the validity of the classifications on products Muller is importing directly from China, CBP also requested a CF-28 for entry 6105. In this CF-28 response, the Form 7501 indicated that the goods were declared as type [no.] from [name] and were classified under HTS number 7326.90.8688, which provides for articles of iron/steel, non-specified, and HTS number 8481.30.2010, which provides for iron check valves.⁵⁵ The Invoice number [no.] and PO number [no.] indicated that the shipment of January 16, 2022, is from [name]). These documents show that the shipment consists of a bell trap, waste trap-S, backwater valve, shower drain-round head, shower drain-square head, shower drain-small round head, IBC drain w/BP and cleanout drain w/BP, with the total value of [no.]. The Packing list has similar information. The arrival notice indicates that SIBO is the "notify party" and that the loading port is the city of Dalian, China. The Sea Waybill indicates that the place of receipt is the city of Dalian and the date of the lading on board is January 16, 2022. The invoice and packing list indicate that the shipment may include parts covered by the *AD/CVD Orders*. While drain bodies are specifically excluded from the *CISPF Orders*, other parts of the drain that are cast iron could be covered by the orders.

According to Muller, the shipper shown on BL is [name], but the actual shipper is Terrifour. The broker stated on behalf of Muller that the influence of the COVID-19 pandemic

⁵³ See Muller CF-28 Response for entry 8544.

⁵⁴ *Id.*

⁵⁵ See Muller CF-28 Response for entry 6105.

on international logistics globally, the transportation capacity was very tight,⁵⁶ it was very hard to find a container in the market. As [name] was able to get shipping space at that time, Terrifour and [name] signed an agreement on consignment of export booking.⁵⁷ [name] only charged an operation fee and the payment for the goods were made to Terrifour directly. Terrifour is a trading company, and the products were bought from [name] factory.⁵⁸ The proof of payment was posted on April 6, 2022, in the amount of [no.] to Terrifour Trading.⁵⁹

Muller clarified that cast iron drains and valves are priced by set. The factory did not give the accurate weight information for each item and for some individual products containing brass parts. The factory also did not list the respective prices of cast iron and brass parts; therefore, the parts are comingled cast iron and brass parts. Muller claimed that the factory is a small workshop, the management is relatively loose and informal and, as a result, it is difficult for the factory to supply daily production records. However, the factory supplied some production process photos.⁶⁰

U.S. Castings Entry 7856: CISP

On February 20, 2023, CBP received a CF-28 response⁶¹ from U.S. Castings for entry 7856 that includes the entry summary documents such as a copy of the CBP Form 7501, invoice, packing list, CBP Form 3461, arrival notice / freight invoice, Sea Waybill, PO, Invoice, packing list, BL, Certificate of Origin (CO), Certificate of Non-Radioactivity, submittal sheet for the 6” Extensions, proof of payment, material test report by Bengal, a copy of Bengal Business Registration, production capacity details and a centrifugal casting process flow chart.⁶²

U.S. Casting’s commercial invoice for [no.], dated November 18, 2021, referenced in the email dated September 4, 2021, for buyer’s order number [no.], dated February 7, 2019, indicated that Bengal is the exporter of the hub and hubless cast iron [no.] for the total amount of [no.].⁶³ CBP noted that the information in the section identifying “commercial invoice,” “packing list,” and “place of receipt” are blank, and that Bengal’s logo and letterhead is missing on the commercial invoice, whereas Bengal’s logo and letterhead is on the inspection report number [no.], dated November 9, 2022. The testing report indicates that the mechanical testing occurred during the month of October 2022 and the physical testing during the month of October 2022, well after the goods entered the United States in February 2022.⁶⁴ Finally, the arrival notice issued by Mediterranean Shipping Company (USA) Inc. indicated that a charge of [no.] for freight was not disclosed on CBP Form 7501, suggesting that another invoice(s) exists for this entry that was not provided to CBP.⁶⁵ As a result, it is unclear to CBP as to the identity of the issuer of the commercial invoice for U.S. Castings on entry 7856.

⁵⁶ See March 14, 2023, broker’s email response for Muller’s entry 6105.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ See Muller CF-28 Response for entry 6105.

⁶⁰ See March 14, 2023, broker’s email response for Muller.

⁶¹ See February 20, 2023, CF-28 response for entry 7856 (U.S. Castings CF-28 Response).

⁶² *Id.*

⁶³ See U.S. Castings CF-28 Response.

⁶⁴ *Id.*

⁶⁵ *Id.*

Regarding production documentation, U.S. Castings provided limited information about Bengal's production process, including some description of the production process and an inspection report for "produced" goods. However, U.S. Castings provided no information from Bengal as to the purchasing of raw materials for the production of the imported products, no mill certificates for the origin of the iron used, and no production records demonstrating that Bengal produced the products that were imported for this entry. In addition, the inspection report it provided is unlikely related to the goods shipped for this entry because the date of the inspection report is after the entry date into the U.S. Therefore, the inspection report is unreliable.

Cargo Exam for Entry 4574 Muller CISP

On March 21, 2023, in an effort to validate the allegation of transshipment, CBP conducted a cargo examination of Muller's shipment from India for entry number [no.]4574 (entry 4574) containing [no.] - cast iron hubless pipe, which identified the country-of-origin as India.⁶⁶ The exam reveals that the CISP itself was marked with "BIC," which would seemingly indicate it was manufactured by Bengal. However, the plastic packaging and the CISP was also marked with [letter] which would indicate the involvement of [names], as discussed above. The photo from the cargo exam is similar to the photo below which was provided in all three allegations.⁶⁷



Overall, all the CF-28 responses fail to establish that Bengal actually produced the merchandise entered into the United States. In addition, the cargo exam validated that Bengal's CISP merchandise being imported to the United States has contradictory labeling, containing Bengal's markings, India country of origin marking, as well as [name] trademark, therefore, obscuring the true producer of the merchandise. Nevertheless, both Muller and U.S. Casting's entries from Bengal to the United States contain covered merchandise, whether CISP or CISPf, and the Allegations establish that the Importers had relationships with Chinese companies who also ship to Bengal, and that Bengal received shipments of covered merchandise from China with sufficient time to then export such merchandise to the U.S. Therefore, for all the reasons

⁶⁶ See cargo examination documents for Muller entry 4574, dated March 21, 2023.

⁶⁷ See Muller's CISP Allegation at 6.

listed above—namely the lack of actual and specific production documentation/evidence that Bengal produced the merchandise in the shipments, the lack of cohesive sales documentation and payment information, the dual marked merchandise on the CISP as discovered in the cargo exam by CBP, and information provided in the Allegations—CBP finds there is reasonable suspicion that the Importers entered covered merchandise from China through India during the POI and failed to claim the CISP and CISPF as subject to the *AD/CVD Orders* upon entry to the United States.

Enactment of Interim Measures

Based on the record evidence described above, CBP finds that reasonable suspicion exists that the Importers imported covered merchandise, Chinese-origin CISP and CISPF, into the United States through evasion by means of transshipment through India and failure to declare the subject Chinese-origin CISP and CISPF, in addition to failing to correctly file the entry as type 03, tendering the applicable AD/CVD duties. Therefore, CBP is imposing interim measures on the Importer's imports of CISP and CISPF from the exporter into the United States.⁶⁸ Specifically, in accordance with 19 USC 1517(e)(1)-(3), CBP shall:

- (1) suspend the liquidation of each unliquidated entry of covered merchandise that entered on or after December 22, 2022, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under section 504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation; and
- (3) pursuant to the Commissioner's authority under section 623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.⁶⁹

In addition, CBP will require live entry and reject any entry summaries that do not comply with live entry and require refile of entries that are within the entry summary rejection period. CBP may also evaluate the Importers' continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

Consolidation of the Investigations

CBP is consolidating EAPA investigations 7788, 7789 and 7790 for Muller and U.S. Castings, respectively, into a single investigation. The new consolidated (Cons.) case number will be EAPA Cons. Case 7788, and a single administrative record will be maintained. At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation, pursuant to 19 CFR 165.13(b), which stipulates the factors that CBP may consider in consolidating multiple allegations include, but are not limited to, whether the multiple allegations involve: 1) relationships between the importers; 2) similarity of covered merchandise; 3) similarity of *AD/CVD Orders*; and 4) overlap in time periods of entries of covered merchandise.⁷⁰ In these investigations, Muller and U.S. Castings are alleged to be entering

⁶⁸ See 19 USC 1517(e); see also 19 CFR 165.24.

⁶⁹ See also 19 CFR 165.24(b)(1)(i)-(iii).

⁷⁰ See also 19 USC 1517(b)(5).

merchandise from India that is subject to the *AD/CVD Orders* on CISP and CISPF.⁷¹ In addition, the entries of Muller and U.S. Castings fall within a similar period of investigation.⁷² Moreover, Muller and U.S. Castings are alleged to import CISP and CISPF produced in China and then transshipped through India by way of a single exporter, Bengal.⁷³ Because factors warranting consolidation are present in these investigations, CBP is consolidating them and will provide notice pursuant to 19 CFR 165.13(c). We note that the deadlines for the consolidated investigation will be set from the date of initiation of EAPA consolidated case 7788, which is December 22, 2022.

Any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation must be made electronically using EAPA's case management system (CMS) at <https://eapallegations.cbp.gov/>. Please provide a business confidential and public version to CBP and serve the public version on the parties to this investigation (*i.e.*, to the parties identified at the top of this notice). Public versions of administrative record documents will be available via the EAPA Portal at <https://eapallegations.cbp.gov/>.⁷⁴ Please note that CBP is requiring that all documents submitted *via* the CMS are made text searchable, especially if those documents are submitted as PDFs.

Should you have any questions regarding this investigation, you may contact us at eapallegations@cbp.dhs.gov and cc: somboun.dauble@cbp.dhs.gov and tobias.a.vandall@cbp.dhs.gov with "EAPA Cons. Case 7788" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

Sincerely,



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

⁷¹ See the Allegations.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ See 19 CFR 165.4; see also 19 CFR 165.23(c); see also 19 CFR 165.26.