



## U.S. Customs and Border Protection

### **PUBLIC VERSION**

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VIA EMAIL

Nicholas J. Birch  
On behalf of the Cast Iron Soil Pipe Institute  
Schagrin Associates  
900 Seventh Street, NW  
Suite 500  
Washington, DC 20001  
[nbirch@schagrinassociates.com](mailto:nbirch@schagrinassociates.com)

Brittney R. Powell  
On behalf of LDL Trading Company  
Fox Rothschild LLP  
2020 K Street, N.W.  
Suite 500  
Washington, DC 20006  
[bpowell@foxrothschild.com](mailto:bpowell@foxrothschild.com)

RE: Notice of Determination as to Evasion – EAPA Consolidated Case Number 7785

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Dear Counsel for the above-referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) consolidated case number 7785, U.S. Customs and Border Protection (CBP) has determined there is substantial evidence that LDL Trading Company (LDL) entered merchandise covered by antidumping duty (AD) and countervailing duty (CVD) orders A-570-079<sup>1</sup> and C-570-080,<sup>2</sup> respectively, on cast iron soil pipe (CISP) from the People's Republic of China (China) and AD and CVD orders A-570-062<sup>3</sup> and C-570-063,<sup>4</sup> respectively, on cast iron soil pipe fittings (CISPF) from China into the customs territory of the United States through evasion. Substantial evidence demonstrates that LDL imported Chinese-origin CISP and CISPF (collectively, covered merchandise) into the United States that was transhipped through Malaysia. Additionally, substantial evidence

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<sup>1</sup> See *Cast Iron Soil Pipe From the People's Republic of China: Antidumping Duty Order*, 84 Fed. Reg. 19,035 (May 3, 2019) (*CISP AD Order*).

<sup>2</sup> See *Cast Iron Soil Pipe From the People's Republic of China: Countervailing Duty Order*, 84 Fed. Reg. 19,039 (May 3, 2019) (*CISP CVD Order*).

<sup>3</sup> 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. 44,570 (August 31, 2018) (*CISPF AD Order*).

<sup>4</sup> See *Cast Iron Soil Pipe Fittings From the People's Republic of China: Countervailing Duty Order*, 83 Fed. Reg. 44,566 (August 31, 2018) (*CISPF CVD Order*).

demonstrates that LDL misclassified covered merchandise entered into the United States as not subject to the AD/CVD orders on CISP and CISPF from China. As a result, no cash deposits were applied to the merchandise at the time of entry.

## **Background through Interim Measures**

### *Allegations and Initiation of Investigations*

On October 4, 2022, the Cast Iron Soil Pipe Institute (CISPI or the Alleger) filed two EAPA allegations regarding the evasion of AD/CVD duties by LDL.<sup>5</sup> In its allegations, the Alleger claimed that available information reasonably suggested LDL imported Chinese-origin CISP and CISPF that was subject to the AD/CVD orders on CISP and CISPF from China but entered as products of Malaysia to evade the orders. On October 5, 2022, the Trade Remedy Law Enforcement Directorate (TRLED) within CBP's Office of Trade acknowledged receipt of the properly filed EAPA allegations against LDL.<sup>6</sup>

The allegations included [source] data showing that Vanguard Metal Fabrication Sdn. Bhd. (Vanguard) shipped over 1,000 metric tons of CISP and CISPF from Malaysia to LDL between October 2021 through August 2022.<sup>7</sup> These shipments consisted of "Cast Iron Pipe" and "Cast Iron Pipe Fitting{s}" classified under Harmonized Tariff Schedule (HTS) Codes 7303.00 and 7307.11, respectively, both of which are included in the scope of the respective AD/CVD orders on CISP and CISPF.<sup>8</sup> These shipments also consisted of "Cast Iron Pipe" classified under HTS code 7307.19, which is not included in the scope of the AD/CVD orders on CISP from China, thereby suggesting misclassification.<sup>9</sup>

The address shown for LDL in the [source] data is the same as Winfield Products' address.<sup>10</sup> According to the Alleger, Winfield Products is doing business as (dba) Copperfit Industries (also known as CFI Industries) (collectively, Copperfit), and LDL is a corporate front to mask the ultimate customer of the Chinese-origin CISP and CISPF, Copperfit.<sup>11</sup>

The allegations also contained Vanguard's business registration, which lists one shareholder, Peng Liu, and two board members, Peng Liu (director) of China and Lim Saw Im (director and secretary) in Malaysia.<sup>12</sup> The Alleger asserted that Peng Liu appears to be the same individual as Flora Liu, who describes herself as being salesperson for Sandstein Industries Co., Ltd. (Sandstein) since 2016.<sup>13</sup> Sandstein, which is also known as Shanxi Tianzhu Industrial Co., Ltd.,

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<sup>5</sup> See Letters from the Alleger, "Cast Iron Soil Pipe: Request for an Investigation under the Enforce and Protect Act" (Oct. 4, 2022) (CISP Allegation) and "Cast Iron Soil Pipe Fittings: Request for an Investigation under the Enforce and Protect Act" (Oct. 4, 2022) (CISPF Allegation) (collectively, Allegations).

<sup>6</sup> See CBP Emails, "EAPA 7785 – Receipt of Properly-Filed Allegation" (Oct. 5, 2022) and "EAPA 7786 – Receipt of Properly-Filed Allegation" (Oct. 5, 2022).

<sup>7</sup> See CISP Allegation at 3-4 and Exhibit 1 and CISPF Allegation at 4 and Exhibit 1.

<sup>8</sup> See Allegations at 6 and Exhibit 1.

<sup>9</sup> *Id.* at 6 and Exhibit 1.

<sup>10</sup> *Id.* at 4 and Exhibit 1.

<sup>11</sup> *Id.* at 4-5 and Exhibits 5 and 6.

<sup>12</sup> *Id.* at 7 and Exhibit 2, pages 3-4.

<sup>13</sup> *Id.* at 11-12 and Exhibit 8.

was established in 1998 in Taiyuan, Shanxi Province, China and offers various cast iron products, including “Hubless Pipe and Fitting.”<sup>14</sup>

The allegations also included pages from Vanguard’s website, which showed that it offers “No Hub Cast Iron Pipe,” “Cast Iron Fittings,” and “Cast Iron Drains” and contained claims that Vanguard has been in production “{o}ver the years” and its products are “Made in Malaysia.”<sup>15</sup> However, according to Vanguard’s business registration, the company was incorporated in Malaysia in November 2019,<sup>16</sup> not long after the Department of Commerce’s final determinations in the AD/CVD investigations on CISPF from China<sup>17</sup> and preliminary determinations in the AD/CVD investigations on CISP from China.<sup>18</sup> Information in the allegations from Qingdao Grande Credit Management Consulting Co., Ltd., a Chinese source providing information on export activities for some producers in Shanxi Province in China, lists Sandstein’s primary export market in 2019 as Malaysia, supporting the conclusion that Sandstein shifted the shipment of its products through Vanguard in Malaysia.<sup>19</sup>

Finally, the photographs on Vanguard’s website of CISP and CISPF production are identical to, or show the same production and workers, as photographs on Sandstein’s website.<sup>20</sup> Vanguard’s website also contains pictures of CISP that are dated “2010/10/15,” nearly a decade before Vanguard’s establishment in 2019, and pictures of CISPF that are clearly marked as made in “China.”<sup>21</sup>

TRLED found the information provided in the allegations reasonably suggested that LDL entered covered merchandise into the customs territory of the United States through evasion. Consequently, on October 27, 2022, CBP initiated EAPA investigations 7785 and 7786 on LDL’s entries of CISP and CISPF, 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.”<sup>22</sup>

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<sup>14</sup> *Id.* at 1, 8 and Exhibit 7.

<sup>15</sup> See CISP Allegation at 6 and Exhibit 3, pages 3 and 6 and CISPF Allegation at 6-7 and Exhibit 3, pages 3 and 6. The Allegor noted that at the time of the allegations, Vanguard’s website appeared to be down, and that it did not know if the website was taken down permanently or if temporary issues were affecting the website’s accessibility.

<sup>16</sup> See CISP Allegation at 6 and Exhibit 2, page 1 and CISPF Allegation at 7 and Exhibit 2, page 1.

<sup>17</sup> See CISP Allegation at 6-7 and CISPF Allegation at 7, each citing *CISPF AD Order* and *CISPF CVD Order*.

<sup>18</sup> *Id.*, each citing *Cast Iron Soil Pipe from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 Fed. Reg. 44,567 (August 31, 2018) and *Cast Iron Soil Pipe From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 83 Fed. Reg. 30,914 (July 2, 2018).

<sup>19</sup> See Allegations at 12 and Exhibit 7, pages 13-16. Sandstein is listed under its Chinese name, Shanxi Tianzhu Industrial Co., Ltd.

<sup>20</sup> *Id.* at 8-11, Exhibit 3, pages 2-3 and 10, and Exhibit 7, pages 1, 3, and 7-12.

<sup>21</sup> *Id.* at 12 and Exhibit 3, pages 13-21.

<sup>22</sup> See CBP Memoranda, “Initiation of Investigation for EAPA Case Number 7785” (Oct. 27, 2022) and “Initiation of Investigation for EAPA Case Number 7786” (Oct. 27, 2022).

### *Preliminary On-site Visits*

On October 27, 2022, CBP officials conducted site visits to two addresses associated with Vanguard in Malaysia.<sup>23</sup> The CBP team first visited the “Business Address” listed on Vanguard’s business registration<sup>24</sup> and observed that the facility there appeared to be a plastics company, and the only other facility in the general vicinity appeared to be a chemical company.<sup>25</sup> The CBP team did not see anyone at either facility’s gate nor see or hear any significant manufacturing activity, as would be expected for CISP and CISPF production.<sup>26</sup> Next, the CBP team visited the address listed as Vanguard’s shipping address in the [ *source* ] data.<sup>27</sup> GPS mapping directed the CBP team to a gated industrial complex that housed numerous companies, where each building had its own numbering and lettering; however, none bore the “2518-B” in Vanguard’s address.<sup>28</sup> Rather, GPS mapping led the CBP team to a single, unmarked door with no doorknob that was raised above the ground; that location bore no evidence of being a cast iron pipe production facility,<sup>29</sup> as the CBP team did not observe or hear any manufacturing activity, such as noise from machinery, raw materials entering the building, CISP and CISPF exiting the building, CISP and CISPF being stored outside the building, or trucks being loaded with CISP and CISPF.

On October 28, 2022, CBP officials conducted site visits to two other addresses associated with Vanguard.<sup>30</sup> Upon visiting the first address, which was the “Registered Address” listed on Vanguard’s business registration,<sup>31</sup> the CBP team learned that Vanguard was not located in that building.<sup>32</sup> However, an employee from Wong Liu & Partners Chartered Accountants, which was located in that building, informed a CBP official that her company handles all of Vanguard’s paperwork for Malaysia and Vanguard’s accounting, and that Vanguard consisted of only two individuals, one Chinese national located in China and a partner located in the United States.<sup>33</sup> The CBP team then proceeded to the address listed in Vanguard’s business registration for Lim Saw Im, Vanguard’s director and secretary.<sup>34</sup> There, the CBP team found a multi-story residential building; a CBP official observed that the mailbox for that address was empty, rusted, and dusty,<sup>35</sup> suggesting the mailbox had not been used for some time.

In short, CBP did not find a factory for Vanguard at any of the four locations it visited.

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<sup>23</sup> See CBP Memorandum, “EAPA Case Nos. 7785/7786 – Site Visit” (Nov. 15, 2022) (Site Visit Memorandum) at 1 and Attachment 1.

<sup>24</sup> This address was Lot 103, Lorong Perusahaan Dua, Prai Industrial Estate, Prai, Pulau Pinang, Malaysia 13600. See Allegations at Exhibit 2.

<sup>25</sup> See Site Visit Memorandum at Attachment 1.

<sup>26</sup> *Id.*

<sup>27</sup> This address was 2518-B, Lorong Perusahaan 2, Kawasan Perusahaan Bebas Perai, Perai, Pulau Pinang, Malaysia 13600. See Allegations at Exhibit 1.

<sup>28</sup> See Site Visit Memorandum at Attachment 1.

<sup>29</sup> *Id.*

<sup>30</sup> See Site Visit Memorandum at 1 and Attachment 2.

<sup>31</sup> This address was 60 Sri Bahari Road, George Town, Pulau Pinang, Malaysia 10050. See Allegations at Exhibit 2.

<sup>32</sup> See Site Visit Memorandum at Attachment 2.

<sup>33</sup> *Id.*

<sup>34</sup> This address was 46-15-16, Jalan Van Praagh, 11600 George Town, Pulau Pinang Malaysia. See Allegations at Exhibit 2.

<sup>35</sup> See Site Visit Memorandum at Attachment 2.

## CF-28 Responses

On November 9, 2022, CBP issued CBP Form 28 (CF-28) requests for information to LDL for two entries, [ # ]0523 and [ # ]0987.<sup>36</sup> On December 26, 2022, LDL provided a response to the CF-28 for entry [ # ]0523, and on January 9, 2023, LDL submitted its CF-28 response for entry [ # ]0987.<sup>37</sup> However, LDL did not submit all the requested documentation, such as bills of lading and proof of payment for the imported merchandise; the commercial invoice from Vanguard to LDL for entry [ # ]0523; Vanguard’s purchase orders for the raw materials; transportation documents and foreign customs documents for the raw materials; and information about the production equipment and its capacity for CISPF.<sup>38</sup> LDL also did not provide any information about CISPF production, such as a description of the equipment, photographs, and production capacity.<sup>39</sup>

CBP found the following based on the documentation LDL did submit. LDL submitted a spreadsheet indicating that Vanguard’s cast iron pipe production process consists of six steps; the spreadsheet lists the machines used, the capacity per hour for each machine, and one thumbnail-sized photograph for each production process.<sup>40</sup> According to this spreadsheet, the first step of the production process is [ *first step of production* ]. The process of [ *first step of production* ] involves [ *description of production process* ]. However, the production videos that LDL submitted do not appear to reflect this first step of production. Instead, based on the photographs and descriptions in the production process spreadsheet, the videos begin with the second step of the production process, which involves [ *description of production process* ] using a “one-station centrifugal machine.”<sup>41</sup> In addition, LDL provided raw material invoices for pig iron, but not for any other raw materials required to produce CISP and CISPF.<sup>42</sup> CBP also researched the address for the entity named on the pig iron raw material invoices, [ *company name* ], and found that it appears to be for a bus stop rather than a building, and the entity itself has no Internet-based evidence of existence.<sup>43</sup>

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<sup>36</sup> See CBP CF-28 for Entry [ # ]0523 (Nov. 9, 2022) and CBP CF-28 for Entry [ # ]0987 (Nov. 9, 2022).

<sup>37</sup> LDL submitted the bracketed versions (*i.e.*, the business confidential and public versions) of its CF-28 responses for Entry [ # ]0523 and Entry [ # ]0987 on May 2 and 4, 2023. See Letters from LDL, “Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Revised CF-28 Response for LDL Trading Company” (May 2, 2023) and “Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Revised CF-28 Response for LDL Trading Company” (May 4, 2023) (collectively, CF-28 Responses). Even though LDL originally submitted the CF-28 response for each entry on two different dates, the CF-28 Responses are dated December 26, 2022, in the EAPA Case Management System because the documents for the two entries are intermingled in the CF-28 Responses.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at Exhibit 3.

<sup>41</sup> *Id.* at Exhibit 3 and “First Part Production” and “Second Part Production” videos.

<sup>42</sup> *Id.* at Exhibits 18 and 19.

<sup>43</sup> *Id.* The address on the raw material invoices is [ *address*

[ *address* ]. See also CBP Memorandum, “EAPA Cons. Case No. 7785 – Information Regarding Raw Material Supplier” (Feb. 1, 2023) (CBP February 1, 2023, Memorandum on Raw Material Supplier).

CBP also noted the address for LDL on its purchase orders to Vanguard and on Vanguard's invoice and packing list to LDL for entry [ # ]0987<sup>44</sup> is virtually identical to the address for Winfield Products.<sup>45</sup> As noted previously, the Alleger claimed that Winfield Products is a dba name for Copperfit and LDL is a corporate front for Copperfit. In addition, the address for Vanguard on those same documents appears to be an amalgamation of the two addresses that CBP officials visited on October 27, 2022, during the site visits at which they found no factory present for Vanguard.<sup>46</sup>

Moreover, CBP observed that for entry [ # ]0987, LDL's purchase order to Vanguard and the invoice and packing list from Vanguard to LDL indicate that Vanguard sold both "cast iron pipes" and "cast iron fittings" to LDL.<sup>47</sup> However, CBP systems show that LDL entered the pipe under HTS number [ # ] and the pipe fittings under HTS number [ # ].<sup>48</sup> Since neither HTS number used by LDL for this entry is in the scope of the AD/CVD orders on CISP and CISPF from China,<sup>49</sup> LDL appears to have misclassified the merchandise.

Similarly, for entry [ # ]0523, the two purchase orders provided by LDL show that the entry contained both pipe fittings and cast iron pipe,<sup>50</sup> but CBP systems show that LDL entered both the pipe fittings and cast iron pipe on one line rather than properly listing them on separate line numbers.<sup>51</sup> CBP systems also demonstrate that LDL entered both the pipe fittings and cast iron pipe under HTS number [ # ],<sup>52</sup> which is not an HTS number listed in the scope of the AD/CVD orders on CISP and CISPF from China, thereby suggesting misclassification.

### *Cargo Examinations*

On November 23, 2022, CBP conducted a cargo examination of the merchandise contained in entry [ # ]8081. CBP found that the imported merchandise consisted of CISP.<sup>53</sup> Because

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<sup>44</sup> See CF-28 Responses at Exhibits 9, 10, 11, 13, and 17. The address for LDL on these documents is 1689 Mission Blvd., Pomona, CA 91766.

<sup>45</sup> Winfield Products' address is 1689 E. Mission Blvd., Pomona, CA 91766. See Allegations at Exhibit 5.

<sup>46</sup> See CF-28 Responses at Exhibits 9, 10, 11, 13, and 17. The address shown for Vanguard on the invoice, packing list, and purchase orders is 2518-B, Lorong Perusahaan 2, Prai Industrial Estate, 13600, Perai, Penang, Malaysia. Other documents in LDL's CF-28 Responses have the same address for Vanguard but with slight variations, such as "Pulau Pinang" rather than "Penang" and "Prai" rather than "Perai." *Id.*, e.g., at Exhibits 4-7, 12, 14, 15, and 20. As noted above, the two addresses at which CBP officials conducted site visits on October 27, 2022, were Lot 103, Lorong Perusahaan Dua, Prai Industrial Estate, Prai, Pulau Pinang, Malaysia 13600 and 2518-B, Lorong Perusahaan 2, Kawasan Perusahaan Bebas Perai, Perai, Pulau Pinang, Malaysia 13600.

<sup>47</sup> *Id.* at Exhibits 9, 13, and 17.

<sup>48</sup> See DC NTAC EAPA Receipt Report for EAPA 7785 (Oct. 14, 2022) (Receipt Report for EAPA 7785) and DC NTAC EAPA Receipt Report for EAPA 7786 (Oct. 21, 2022) (Receipt Report for EAPA 7786).

<sup>49</sup> The HTS number listed in the scope of the AD/CVD orders on CISP from China is 7303.00.0030, and the HTS numbers included in the scope of the AD/CVD orders on CISPF from China are 7307.11.0045, 7324.29.0000 and 7307.92.3010. See *CISP AD Order*, 84 FR at 19,036; *CISP CVD Order*, 84 FR at 19,040; *CISPF AD Order*, 83 FR at 44,570; and *CISPF CVD Order*, 83 FR at 44,566.

<sup>50</sup> See CF-28 Responses at Exhibits 10 and 11.

<sup>51</sup> See Receipt Report for EAPA 7785 and Receipt Report for EAPA 7786.

<sup>52</sup> *Id.*

<sup>53</sup> See CBP Memorandum, "EAPA Cons. Case No. 7785 – Cargo Examination for Entry [ # ]8081" (Jan. 25, 2023) (Cargo Exam Memorandum for Entry [ # ]8081) at Attachment 1. The markings "Hubless Pipe {A}STM A888 CISPI" are visible on the pipe. According to Vanguard's product catalog, Vanguard's cast iron soil

CBP determined the merchandise was not marked in compliance with statutory country-of-origin marking requirements, CBP issued a marking notice (CBPF4647) to LDL on November 28, 2022.<sup>54</sup> LDL marked “Made in Malaysia” along the length of the pipe in accordance with CBP’s instructions, and CBP accepted LDL’s country-of-origin markings.<sup>55</sup> Copperfit, for which the Alleger claims LDL is a corporate front, was involved in the process of marking the pipe and referred to the shipment as its own. Specifically, [ *name* ] of Copperfit wrote the following in an email to CBP: “I would like to file an extension on our shipment [ *shipment identifier*] for Entry # [ # ]8081 due to the delay on the revision of country of origin marking. Since, we just received the approval on COO marking, it will take us about another 2 weeks to complete the remarking on the whole shipment...”<sup>56</sup>

CBP also conducted a cargo examination of the merchandise contained in entry [ # ]8123 on November 23, 2022. CBP took photographs of the cargo and observed that it consisted primarily of cast iron products,<sup>57</sup> specifically, floor drains.<sup>58</sup> Like the other entry subject to cargo examination, CBP determined there was a country-of-origin marking violation with respect to the merchandise in entry [ # ]8123. Specifically, no country-of-origin markings were found on any of the products.<sup>59</sup> Therefore, CBP issued a marking notice to LDL on November 23, 2022.<sup>60</sup> LDL added “Made in Malaysia” to the packaging, and CBP approved the importer’s country-of-origin markings.<sup>61</sup> CBP observed that Copperfit’s name appeared on boxes holding the product.<sup>62</sup> As noted above, LDL is alleged to be a corporate front for Copperfit.

While entry [ # ]8081 consisted of cast iron pipes and [ *entry #* ]8123 contained other products, primarily cast-iron floor drains, CBP noted that the merchandise in both entries was classified under the same HTS number, [ # ] (“[ *HTS description* ]”).<sup>63</sup>

### *Other Information*

The HTS number listed in the scope of the AD/CVD orders on CISP from China is 7303.00.0030,<sup>64</sup> and the HTS numbers included in the scope of the AD/CVD orders on CISPF from China are 7307.11.0045, 7324.29.0000 and 7307.92.3010.<sup>65</sup> As noted above, information

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pipe products include “Hubless Pipe” that meets ASTM A-888 and CISPI 301 standards. *See* Allegations at Exhibit 3, pages 22-40.

<sup>54</sup> *Id.* at Attachment 2.

<sup>55</sup> *Id.* at Attachment 3.

<sup>56</sup> *Id.*

<sup>57</sup> *See* CBP Memorandum, “EAPA Cons. Case No. 7785 – Cargo Examination for Entry [ # ]8123” (Jan. 25, 2023) (Cargo Exam Memorandum for Entry [ # ]8123) at Attachments 1 and 3. Based on entry documentation and CBP’s observations during the cargo examination, this entry also included some non-covered merchandise, [*description of merch.* ]. *Id.*

<sup>58</sup> *Id.* CBP notes that floor drains may not be covered by the AD/CVD orders on CISPF from China.

<sup>59</sup> *Id.* at Attachment 3.

<sup>60</sup> *Id.* at Attachment 2.

<sup>61</sup> *Id.* at Attachment 3.

<sup>62</sup> *Id.* at Attachment 1.

<sup>63</sup> *See* CBP Memorandum, “EAPA Cons. Case No. 7785 – CBP Import Data for LDL Trading” (Jan. 30, 2023) (Import Data for LDL).

<sup>64</sup> *See* *CISP AD Order*, 84 FR at 19,036 and *CISP CVD Order*, 84 FR at 19,040.

<sup>65</sup> *See* *CISPF AD Order*, 83 FR at 44,570 and *CISPF CVD Order*, 83 FR at 44,566.

on the record suggests that LDL misclassified its entries of CISP and CISPF from Vanguard. In fact, CBP systems show that throughout the period of investigation (POI), LDL's entries of CISP and CISPF were not entered under any of the HTS numbers in the scope of the AD/CVD orders on CISP and CISPF, but, rather, under the following HTS numbers: [ #s ].<sup>66</sup>

### *Interim Measures*

On January 25, 2023, after evaluating all the record information, CBP determined there was reasonable suspicion that LDL imported CISP and CISPF into the United States that was transshipped from China through Vanguard in Malaysia and misclassified, and therefore imposed interim measures.<sup>67</sup> CBP issued its Notice of Initiation of Investigation and Interim Measures memorandum on February 1, 2023, explaining that its determination was based on information provided in the allegations, preliminary on-site visits to addresses associated with Vanguard in Malaysia, information contained in LDL's CF-28 responses, cargo examinations conducted on two entries by LDL, and data in CBP systems.<sup>68</sup> CBP also explained that it was consolidating the two EAPA investigations concerning LDL's entries of CISP and CISPF into a single EAPA investigation.<sup>69</sup>

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<sup>66</sup> See Receipt Report for EAPA 7785 and Receipt Report for EAPA 7786; see also Import Data for LDL.

<sup>67</sup> See CBP Emails, "EAPA Consolidated Case 7785 - Implementing Interim Measures on IOR LDL Trading Company" (Jan. 25, 2023) and "EAPA Consolidated Case No. 7785 - Implementation of Interim Measures" (Jan. 25, 2023).

<sup>68</sup> See CBP Memorandum, "Notice of Initiation of Investigation and Interim Measures – EAPA Consolidated Case Number 7785" (Feb. 1, 2023) (Notice of Interim Measures).

<sup>69</sup> *Id.* at 2-3.

## **Post-Interim Measures**

### *Issuance of Requests for Information*

On February 8, 2023, CBP issued a Request for Information (RFI) to LDL pursuant to 19 C.F.R. § 165.23(a).<sup>70</sup> In the RFI to LDL, CBP requested information regarding LDL’s corporate structure and affiliations, accounting and financial practices, procurement and sales practices, and sales reconciliations.<sup>71</sup> LDL did not respond by the deadline specified in the RFI; thus, on February 27, 2023, CBP reissued the RFI to LDL with a new deadline.<sup>72</sup> After two extensions to the deadline<sup>73</sup> and an opportunity to correct issues related to the business confidential treatment of information and the public version of its response,<sup>74</sup> LDL submitted its RFI response to CBP on April 25, 2023 and April 28, 2023.<sup>75</sup> On May 17, 2023, CBP issued a supplemental RFI to LDL.<sup>76</sup> Subsequent to two extensions to the deadline<sup>77</sup> and an opportunity to correct issues pertaining to the business confidential treatment of information and the public version of its response,<sup>78</sup> LDL submitted its supplemental RFI response to CBP on June 22, 2023.<sup>79</sup>

On February 8, 2023, CBP also issued an RFI to the claimed manufacturer in Malaysia, Vanguard, pursuant to 19 C.F.R. § 165.23(a).<sup>80</sup> The RFI issued to Vanguard requested information regarding the company’s corporate structure and affiliations, accounting and financial practices, sales/exports of covered merchandise to LDL, the production of covered merchandise, and sales and production reconciliations.<sup>81</sup> Vanguard did not respond by the deadline set forth in the RFI; however, CBP learned that it had sent the RFI to an incorrect email address, and therefore sent the RFI, with a revised deadline, to Vanguard using the correct email

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<sup>70</sup> See CBP Letter to LDL, “EAPA Cons. Case 7785 Request for Information” (Feb. 8, 2023) (LDL RFI).

<sup>71</sup> See LDL RFI.

<sup>72</sup> See CBP Email to LDL, “EAPA Cons. Case 7785 - Reissuance of CBP Request for Information” (Feb. 27, 2023).

<sup>73</sup> See CBP Emails to LDL, “EAPA Cons. Case 7785 - Granting Extension to LDL Trading Company” (Mar. 21, 2023) and “EAPA 7785 - Responding to LDL Trading Company's Request regarding RFI” (Apr. 4, 2023).

<sup>74</sup> LDL originally submitted its RFI response to CBP on April 10, 2023. However, that response did not fully comply with the instructions regarding the business confidential treatment of certain information and public summaries for certain information. Thus, CBP rejected LDL’s April 10, 2023, submission, but provided LDL with an opportunity to resubmit its RFI response upon correcting the specified issues. See CBP Email to LDL, “EAPA 7785 - Rejection of LDL RFI Response and Opportunity to Resubmit” (Apr. 21, 2023).

<sup>75</sup> See Letter from LDL, “Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Resubmission of Initial RFI Response for LDL Trading Company” (Apr. 25, 2023) (LDL RFI Response) and Letter from LDL, “Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Clarification and Correction of Information on the Record” (Apr. 28, 2023).

<sup>76</sup> See CBP Letter to LDL, “EAPA Cons. Case No. 7785 – Supplemental Request for Information” (May 17, 2023) (LDL Supplemental RFI).

<sup>77</sup> See CBP Emails to LDL, “EAPA 7785 - Granting Extension for LDL's Supplemental RFI Response” (May 26, 2023) and “EAPA 7785 – Partial Granting of Extension for LDL's Supplemental RFI Response” (Jun. 7, 2023).

<sup>78</sup> LDL originally submitted its supplemental RFI response to CBP on June 12, 2023. However, that response did not fully comply with the instructions regarding the business confidential treatment of certain information and contained one filing error. Thus, CBP rejected LDL’s June 12, 2023, submission, but granted LDL an opportunity to resubmit its supplemental RFI response upon correcting the specified issues. See CBP Email to LDL, “EAPA 7785 – Rejection of LDL's Supplemental RFI Response and Opportunity to Resubmit” (Jun. 21, 2023).

<sup>79</sup> See Letter from LDL, “Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Supplemental RFI for LDL Trading Company” (Jun. 22, 2023) (LDL Supplemental RFI Response).

<sup>80</sup> See CBP Letter to Vanguard, “EAPA Cons. Case 7785 - Request for Information” (Feb. 8, 2023) (Vanguard RFI).

<sup>81</sup> *Id.*

address on March 6, 2023.<sup>82</sup> CBP also sent the RFI to Vanguard via FedEx.<sup>83</sup> Vanguard acknowledged receipt of the RFI and indicated that it would respond to the RFI, but would need an extension of time to do so.<sup>84</sup> Although Vanguard did not properly request an extension of time to respond to the RFI, on March 23, 2023, CBP reissued the RFI to LDL with a new deadline.<sup>85</sup> Subsequent to the reissuance of the RFI, Vanguard requested an extension of time to respond<sup>86</sup> and CBP granted an extension,<sup>87</sup> but Vanguard never responded to CBP's RFI.

On March 24, 2023, CBP also issued an RFI via FedEx to [ *Supplier Name* ] (Supplier 2) in Malaysia.<sup>88</sup> Based on data in CBP systems, LDL entered covered merchandise from this entity during the POI.<sup>89</sup> Although CBP sent the RFI to Supplier 2 using the address listed on documents (*i.e.*, an invoice and packing list from Supplier 2 and the associated certificate of origin and bill of lading) in CBP's Document Image System (DIS) for one of LDL's entries from Supplier 2,<sup>90</sup> FedEx reported the RFI could not be delivered to Supplier 2 because of an "incorrect address."<sup>91</sup> As CBP was unable to find an alternate address for Supplier 2, the RFI was never delivered to this entity.

### *LDL's RFI and Supplemental RFI Responses*

LDL reported that it registered as a California-based company in June 2021 and that its first import occurred in [ *month, year* ].<sup>92</sup> LDL is 100 percent owned by LianLian Ding, who serves as its CEO, and its secretary is Shumin Zhang.<sup>93</sup> LDL stated that it is a small trading company with a [ # ] employee and that LianLian Ding performs all duties.<sup>94</sup> LDL reported that its business address and only office was originally located at 13523 Portofino Ct., Chino

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<sup>82</sup> See CBP Email to Vanguard, "FW: EAPA Cons. Case 7785 - CBP Request for Information" (Mar. 6, 2023) (CBP March 6, 2023, Email to Vanguard).

<sup>83</sup> See CBP Memorandum, "EAPA Cons. Case No. 7785 – FedEx Shipment and Delivery Information for Request for Information to Vanguard Metal Fabrication Sdn. Bhd." (Mar. 17, 2023) (CBP March 17, 2023, Memorandum – FedEx to Vanguard).

<sup>84</sup> See CBP Memorandum, "EAPA Cons. Case No. 7785 – Certain Emails from Vanguard Metal Fabrication Sdn. Bhd. Regarding Response to Request for Information" (Mar. 24, 2023) (CBP March 24, 2023, Memorandum Containing Emails from Vanguard) at Attachments 1, 2, and 3.

<sup>85</sup> See CBP Email to Vanguard, "EAPA Cons. Case 7785 - - Reissuance of CBP Request for Information to Vanguard" (Mar. 23, 2023) (CBP March 23, 2023, Email Reissuing RFI to Vanguard); *see also* CBP March 24, 2023, Memorandum Containing Emails from Vanguard.

<sup>86</sup> See Letter from Vanguard, "Cast Iron Soil Pipe Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Extension Request for Information Request Response" (Mar. 31, 2023).

<sup>87</sup> See CBP Email to Vanguard, "EAPA 7785 - Granting of Partial Extension Request - Vanguard Metal Fabrication" (Mar. 31, 2023) (CBP March 31, 2023, Email Granting Partial Extension to Vanguard).

<sup>88</sup> See CBP Letter to Supplier 2, "EAPA Cons. Case 7785 - Request for Information" (Mar. 24, 2023) (Supplier 2 RFI); *see also* CBP Memorandum, "EAPA Cons. Case No. 7785 – FedEx Shipment and Delivery Information for Request for Information to [ *Supplier Name* ] (Supplier 2)" (Jun. 13, 2023) (Supplier 2 Memorandum) at Attachment 2. CBP did not have an email address for Supplier 2.

<sup>89</sup> See Import Data for LDL.

<sup>90</sup> See Supplier 2 Memorandum at Attachment 1. CBP noted the invoice and packing list referenced invoice number [ # ].

<sup>91</sup> *Id.* at Attachment 4.

<sup>92</sup> See LDL RFI Response at 5. LDL's Corporation – Statement of Information shows that LDL was incorporated in July 2021. *Id.* at Appendix 1.

<sup>93</sup> *Id.* at 5 and Appendix 1.

<sup>94</sup> *Id.* at 5-6.

Hills, CA 91709, LianLian Ding's [ *description* ], but on April 9, 2023, its business and office address changed to 2485 Cottonwood Trail, Chino Hills, CA 91709.<sup>95</sup>

LDL reported that during the POI, it had only one supplier of CISP and CISPF, Vanguard Metal Fabrication SDN BHD, and stated that the supplier's address was 2518-B, Lorong Perusahaan 2, Prai Industrial Estate, 13600, Perai, Penang, Malaysia.<sup>96</sup>

In its RFI response, LDL did not provide the information that CBP requested regarding LDL's accounting and financial practices, including financial documents (*e.g.*, chart of accounts, trial balance, audited financial statements, *etc.*) and banking information (*i.e.*, bank names, account numbers, and bank statements) related to the purchase and sales of covered merchandise.

Instead, LDL stated the following:

The financial and cost accounting information are not available at this time. Because LDL is small in size, with [ *number of employees and whether it maintains financial records* ]. Though much of this information could possibly be determined based on past documentation, it is not currently available.<sup>97</sup>

In the supplemental RFI, CBP asked LDL to respond to the same questions regarding its accounting and financial practices.<sup>98</sup> LDL provided the following responses, *inter alia*:

LDL is a small and young company. It has yet to develop accounting and financial reporting practices. Further, because of its small size, it maintains [ *business practices and employee information* ]. Currently, its transactions are [ *description of transactions* ]. LDL handles these transactions on a case-by-case basis, and does not currently maintain sophisticated records, and there is no need for LDL to keep an accounting record.<sup>99</sup>

As mentioned above, LDL does not maintain financial documents. Therefore, in the ordinary course of business, it does not prepare a chart of accounts, trial balance, financial statements, or financial reports. Since LDL is a [ *company description and tax information* ].<sup>100</sup>

LDL's banking information remains unavailable. Because LDL is small in size, [ *employee information and financial practices information* ]. The only records LDL maintains are the purchase orders and commercial invoices related to the entries.<sup>101</sup>

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<sup>95</sup> *Id.* at 5-7 and Appendix 1.

<sup>96</sup> *Id.* at 12, 14, and 16.

<sup>97</sup> *Id.* at 9-10; *see also Id.* at 13.

<sup>98</sup> *See* LDL Supplemental RFI at 8-9 (Part III, questions 1-6).

<sup>99</sup> *See* LDL Supplemental RFI Response at 2.

<sup>100</sup> *Id.* at 3.

<sup>101</sup> *Id.* at 4; *see also Id.* at 9.

Regarding the request for a reconciliation of LDL's sales of covered merchandise during the POI to the total sales listed in LDL's financial statements (profit and loss/income statement), LDL similarly stated that such information was not available because it does not keep financial or accounting records due to its small size but added that "much of this information could possibly be determined on past documentation."<sup>102</sup>

LDL stated that it sold merchandise with a [ #s ] percent markup from its purchase price and submitted a copy of its price list.<sup>103</sup> LDL stated that it does not maintain its own product codes, but, rather, uses its customers' product codes and does not have a key for the specific meaning of these codes.<sup>104</sup> In the supplemental RFI, CBP asked LDL to provide the name of the entity that created the product codes and prices in the price list, and LDL replied that it determined them.<sup>105</sup>

LDL reported that it utilizes a commercial invoice as its agreement for sales, and that the only document it creates and maintains is the commercial invoice.<sup>106</sup> However, in its supplemental RFI response, LDL stated that it creates the purchase orders issued to Vanguard, and that it determines the products and quantities to order [ *business transaction information and details concerning the placement of orders* ].<sup>107</sup>

In the RFI, CBP requested that LDL provide supporting documentation for ten selected entries of covered merchandise, including sales negotiation correspondence, purchase orders, country of origin certificates, invoices, packing lists, U.S. Customs entry forms (CBP Form 7501), mill certificates, bills of lading and other shipping documents, payment records, and accounting records. LDL did not provide a complete set of documents for any entry. Instead, LDL only provided the commercial invoice and a packing list from Vanguard to LDL, certificate of origin, bill of lading, entry summary, and commercial invoice from LDL to the customer (listed as [ *customer name* ]).<sup>108</sup> In response to specific questions in the supplemental RFI, LDL provided the purchase orders that LDL issued to Vanguard for the ten entries<sup>109</sup> and mill test certificates "associated with the CISP and CISPF" for seven of the ten entries.<sup>110</sup> In the supplemental RFI, CBP also requested that LDL provide, for the selected entries, the underlying documentation (e.g., emails, sales negotiation correspondence, etc.) between LDL and its customer and LDL and Vanguard for LDL's purchase orders to Vanguard. LDL responded that it mostly communicates with its customer and Vanguard directly through WeChat (a Chinese instant messaging, social media, and mobile payment application) or phone calls because it finds email communication is "too slow," and thus, has no copy of the negotiation process with its customer or Vanguard.<sup>111</sup> In addition, CBP asked for payment records for LDL's purchases from Vanguard and LDL's sales to the customer for the selected entries; LDL replied that the payment

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<sup>102</sup> See LDL RFI Response at 17 and LDL Supplemental RFI Response at 10-11.

<sup>103</sup> See LDL RFI Response at 10 and Appendix 2.

<sup>104</sup> *Id.* at 11.

<sup>105</sup> See LDL Supplemental RFI Response at 4-5.

<sup>106</sup> See LDL RFI Response at 11.

<sup>107</sup> See LDL Supplemental RFI Response at 5.

<sup>108</sup> See LDL RFI Response at Appendix 5 (documentation for nine of the entries) and LDL Supplemental RFI Response at Exhibit S-3 (documentation for the tenth entry). LDL did not provide the certificate of origin for one entry, the bill of lading for one entry, and the invoices from LDL to its customer for two entries.

<sup>109</sup> See LDL Supplemental RFI Response at Exhibit S-2.

<sup>110</sup> *Id.* at 8 and Exhibit S-5.

<sup>111</sup> *Id.* at 6.

records “are unavailable.”<sup>112</sup> In the supplemental RFI, CBP also requested a full set of supporting documentation for two additional entries of covered merchandise. LDL did not provide a complete set of documents for the two entries; rather, it provided only the commercial invoice and packing list from the supplier, [ *Supplier 2* ], to LDL, certificate of origin, bill of lading, and entry summary for each entry.<sup>113</sup>

LDL stated in its RFI response that its CEO, LianLian Ding, is responsible for the classification of merchandise.<sup>114</sup> For five of the ten selected entries noted above, CBP asked LDL to explain why it had declared all merchandise on the entry summary as “cast pipe fittings” or “cast iron pipe fittings,” since the other documentation provided showed that the entry consisted of different merchandise, such as “cast iron pipe” only or both “cast iron pipe” and “cast iron pipe fittings.”<sup>115</sup> For each instance, LDL replied that it was “not certain why the merchandise was declared incorrectly. It is possible that LDL declared it incorrectly because the customs broker reported the incorrect HTS code during the declaration.”<sup>116</sup> The HTS numbers declared on the entry summaries for nine of the selected entries did not reflect any of the HTS numbers listed in the scope of the AD/CVD orders on CISP and CISPF, but, rather, the following HTS numbers: 7303.00.0090, 7307.11.0030, 7307.19.9060, and 7307.19.9080.<sup>117</sup> In the supplemental RFI, CBP requested that LDL explain how it determined which HTS number(s) to declare on the entry summary, and LDL responded that it “relied on its experienced Customs Broker for the HTS codes used on the 7501 Entry Summary.”<sup>118</sup>

In its RFI response, LDL stated that it does not utilize product catalogs or brochures, as it generally deals with repeat customers that know what they want to purchase from LDL.<sup>119</sup> However, LDL submitted email correspondence (which it characterized as sample “negotiation emails”) between LDL and Vanguard regarding prices that referenced a Vanguard product catalog.<sup>120</sup> CBP asked LDL to provide a copy of the Vanguard product catalog, and LDL submitted the referenced catalog in its supplemental RFI response.<sup>121</sup> The catalog indicates that Vanguard’s “Cast Iron Soil Pipe Products” consist of “NO-HUB Pipe” and “NO-HUB Fittings” (*i.e.*, CISP and CISPF) that are “{d}esigned and produced to conform to” ASTM A-888 and CISPI 301 standards.<sup>122</sup>

Regarding the production capability of the supplier for CISP and CISPF, LDL stated in its RFI response that it “required a factory profile from the supplier prior to importing the covered merchandise” and that it “verified the supplier’s production capacities and certifications by

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<sup>112</sup> *Id.* at 9.

<sup>113</sup> *Id.* at Exhibit S-7.

<sup>114</sup> See LDL RFI Response at 2-3.

<sup>115</sup> See LDL RFI Response at Appendix 5 and LDL Supplemental RFI at 11-12 (Part IV, question 10 a, c, d, e, and i). The five entries are [ # ]0523; [ # ]7925; [ # ]8845; [ # ]4307; and [ # ]9885.

<sup>116</sup> See LDL Supplemental RFI Response at 6-8.

<sup>117</sup> See LDL RFI Response at Appendix 5. For the tenth selected entry, the HTS number declared on the entry summary was [ # ]. See LDL Supplemental RFI Response at Exhibit S-3.

<sup>118</sup> See LDL Supplemental RFI Response at 10.

<sup>119</sup> See LDL RFI Response at 11.

<sup>120</sup> *Id.* at 13 and Appendix 6.

<sup>121</sup> See LDL Supplemental RFI Response at Exhibit S-6.

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

viewing the supplier's production equipment and production lines via video."<sup>123</sup> In the supplemental RFI, CBP asked LDL to provide a copy of the video it viewed. In response, LDL provided two videos and described the contents as follows:

The first video shows the casting process for the merchandise, where a liquid is put in the casting machine and subjected to a high speed. A machine is then used to pull the merchandise from the case and then transports the removed merchandise down a track to the next stage of production.

The second video depicts the cutting, trimming, grinding, and coating of the merchandise. Following casting, the pipes are moved through a machine that ensure the uniformity of length by cutting the pipe. The machine then transported the pipe to a mill to grind the interior. Subsequently the pipe was coated by a machine with interior and exterior coating, and then employees touched-up the pipe with paint.<sup>124</sup>

The production videos, which are only two minutes and 13 seconds total in length, are the same videos that LDL submitted as part of its CF-28 responses.<sup>125</sup> As noted in the discussion of LDL's CF-28 responses, the videos do not appear to show the entire production process for CISP. The videos fail to demonstrate the [*first step of production*] process, which is the first step of the production process according to the Vanguard production process spreadsheet in LDL's CF-28 responses<sup>126</sup> (*i.e.*, what LDL described in its supplemental RFI response as the "casting process for the merchandise, where a liquid is put in the casting machine").<sup>127</sup> In one of the videos, the markings "Hubless Pipe," "ASTM A888," and "CISPI 301" can be seen on the pipe<sup>128</sup> (*i.e.*, markings that correspond with CISP and the types of products listed in Vanguard's product catalog). The marking "[*letter*]," which appears to be a reference to [*customer name*], the customer listed on LDL's commercial invoices, is also visible on the pipe.<sup>129</sup> The videos do not contain any information regarding the supplier's production capacities. The videos also do not present any information pertaining to the production of CISPF.

LDL stated in its RFI response that it did not require periodic monitoring of overseas factories' production due to the COVID-19 pandemic.<sup>130</sup> In the supplemental RFI, CBP asked whether LDL had visited the overseas factories or otherwise reviewed the factories' capacities after the lifting of COVID-19 restrictions. LDL replied that it had not, stating that "{f}rom the beginning, LDL has viewed the factory's production equipment and production lines through video. LDL firmly holds the view that the supplier has the capacity to produce the subject merchandise."<sup>131</sup> LDL also cited health concerns as a reason for not conducting an overseas visit.<sup>132</sup>

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<sup>123</sup> See LDL RFI Response at 1 and 14; see also LDL Supplemental RFI Response at 10.

<sup>124</sup> See LDL Supplemental RFI Response at 1 and cover letter, page 3.

<sup>125</sup> *Id.* at videos 1 and 2; see also CF-28 Responses at "First Part Production" and "Second Part Production" videos.

<sup>126</sup> See CF-28 Responses at Exhibit 3.

<sup>127</sup> See LDL Supplemental RFI Response at videos 1 and 2 and cover letter, page 3.

<sup>128</sup> *Id.* at video 1.

<sup>129</sup> *Id.*

<sup>130</sup> See LDL RFI Response at 15.

<sup>131</sup> See LDL Supplemental RFI Response at 10.

<sup>132</sup> *Id.*

As noted above, CBP requested supporting documentation for two additional entries of covered merchandise in the supplemental RFI. The documents submitted by LDL in response to this request show the name of the supplier was [ *Supplier 2* ] and list its address as [ *address* ];<sup>133</sup> this address is identical to the address used on the RFI issued to Supplier 2.<sup>134</sup> The fact that LDL entered merchandise from Supplier 2 contradicts LDL's statement that Vanguard was its only supplier of CISP and CISFP during the POI.<sup>135</sup> However, the invoice numbers on the documents submitted for the two entries from Supplier 2 are [ # ] and [ # ], *i.e.*, invoice numbers with identifying information (presumably referring to “[ *customer name* ]”) and formatted like Vanguard's invoice numbers.<sup>136</sup> Also, the Supplier 2 invoices and packing lists have the same format as Vanguard's<sup>137</sup> and, in some cases, even referenced the same purchase order numbers, product descriptions, and product codes.<sup>138</sup> This indicates that the merchandise originated from, or was tied to, Vanguard.

Regarding its customers, LDL stated that it has “[ *information on customers* ].”<sup>139</sup> The commercial invoice from LDL to the customer, which LDL provided for eight of the ten sample entries discussed above, list the customer's name as [ *customer name* ] and the customer's address as [ *address* ].<sup>140</sup>

LDL stated in its RFI response that it has no affiliates.<sup>141</sup> In the supplemental RFI, CBP referred to certain information on the record and asked LDL to fully describe its relationship to Copperfit.<sup>142</sup> LDL responded that it realized it “[ *relationship information* ],” and that its “[*relationship information*] with Copperfit is limited to a [ *relationship information* ] the relationship between a supplier and a customer.”<sup>143</sup> LDL stated that the [ *relationship information* ] is between [ *names and titles; relationship information* ].<sup>144</sup> LDL also stated that “[t]he only corporate relationship between LDL and Copperfit is that Copperfit is the ultimate purchaser of the subject merchandise from LDL.”<sup>145</sup> Additionally, LDL reported that it and Winfield Products are both tenants at 1689 Mission Blvd., Pomona, CA 91766 and that “Winfield Products is not a d/b/a for Copperfit,” but, instead, “it is a d/b/a for [ *company name* ], a business that sells [ *product description and scope of business* ].”<sup>146</sup>

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<sup>133</sup> See LDL Supplemental RFI Response at Exhibit S-7.

<sup>134</sup> See Supplier 2 RFI.

<sup>135</sup> See LDL RFI Response at 12, 14, and 16.

<sup>136</sup> Compare LDL Supplemental RFI Response at Exhibit S-7 with LDL RFI Response at Appendix 5 and LDL Supplemental RFI Response at Exhibit S-3.

<sup>137</sup> *Id.*

<sup>138</sup> See, e.g., Supplier 2 invoice and packing list for entry [ # ]9904 in Exhibit S-7 of LDL Supplemental RFI Response and Vanguard invoice and packing list for entry [ # ]2379 in Appendix 5 of LDL RFI Response (both listing purchase order numbers [ # ] and [ # ] and multiple product descriptions and corresponding product codes that are identical).

<sup>139</sup> See LDL RFI Response at 18.

<sup>140</sup> *Id.* at Appendix 5.

<sup>141</sup> *Id.* at 7-8.

<sup>142</sup> See LDL Supplemental RFI at 14-15 (Part VI, question 2a).

<sup>143</sup> See LDL Supplemental RFI Response at 12.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

In response to a question about the roles of LDL and Copperfit, LDL stated that it “is the importer of CISP and CISPF” and that it sold the CISP and CISPF to Copperfit.”<sup>147</sup> LDL explained that it does not have warehouses, but that “entries of CISP and CISPF are transported directly to the ultimate customer once they arrive at 1689 Mission Boulevard, Pomona, CA 91766.”<sup>148</sup>

### *Submissions of Factual Information*

On May 5, 2023, the Alleger submitted comments on and rebuttal factual information to LDL’s RFI response.<sup>149</sup> The Alleger provided information showing that two of the addresses associated with LDL (*i.e.*, 13523 Portofino Ct., Chino Hills, CA and 2485 Cottonwood Trail, Chino Hills, CA) are residential homes.<sup>150</sup> Thus, the Alleger asserted, neither location has facilities to receive shipments of pipe and fittings, and, in fact, invoices and other documents submitted by LDL reveal that its place of business is 1689 Mission Blvd., Pomona, CA, which is the location of Copperfit’s Winfield Products operation.<sup>151</sup> According to the Alleger, this contradicts LDL’s claims that it is an independent company that “does not have any affiliates,’ ‘is not part of a group,’ and ‘is not under “common control”” with any other entity.”<sup>152</sup> The Alleger also asserted that LDL’s revised corporate registration not only reflects a change to LDL’s registered address, but also the removal of the person (*i.e.*, the individual previously listed as LDL’s Secretary and agent) who is linked to Copperfit.<sup>153</sup>

On June 15, 2023, the Alleger submitted comments on and rebuttal factual information to LDL’s supplemental RFI response.<sup>154</sup> The Alleger’s rebuttal factual information consisted of the following:

- The ASTM International webpage for the ASTM A888-17 standard for CISP and CISPF.<sup>155</sup> The Alleger asserted that the ASTM A888-17 standard requires both chemical and tensile tests, and since the mill test certificates submitted by LDL do not show any tensile testing, they do not appear to be from actual production that meet those requirements.<sup>156</sup>

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<sup>147</sup> *Id.* at 13.

<sup>148</sup> *Id.*

<sup>149</sup> See Letter from the Alleger, “EAPA Case No. Cons. 7785, Cast Iron Soil Pipe: Comments on LDL RFI Response” (May 5, 2023).

<sup>150</sup> *Id.* at 5-6 and Exhibits 1 and 2.

<sup>151</sup> *Id.* at 5-6, citing LDL RFI Response at Appendix 5.

<sup>152</sup> *Id.* at 3-4 and 6, citing LDI RFI Response at 7-8.

<sup>153</sup> *Id.* at 6, citing LDL RFI Response at Appendix 1 and Allegations at 5 and Exhibits 4-6.

<sup>154</sup> See Letter from the Alleger, “EAPA Case No. Cons. 7785, Cast Iron Soil Pipe: Rebuttal Information to LDL’s Supplemental Response” (Jun. 15, 2023) (Alleger June 15, 2023, Rebuttal Information). As explained above in footnote 78, LDL originally submitted its supplemental RFI response to CBP on June 12, 2023. However, because that response did not fully comply with the instructions regarding the business confidential treatment of certain information and contained a filing error, CBP rejected LDL’s June 12, 2023, submission, but granted LDL an opportunity to resubmit its supplemental RFI response upon correcting the specified issues. LDL submitted its supplemental RFI response in proper form on June 22, 2023.

<sup>155</sup> *Id.* at Exhibit 1.

<sup>156</sup> *Id.* at 3, citing LDL Supplemental RFI Response at Exhibit S-5.

- The product catalog and pages from the website for New Age, a U.S. cast iron soil pipe and fittings distributor.<sup>157</sup> According to the Alleger, this information shows that the Vanguard product catalog submitted by LDL in its supplemental RFI response is actually New Age’s, with Vanguard’s name and logo superimposed over New Age’s.<sup>158</sup>
- A printout from Winfield Products’ website, which lists Steve Williams as “VP Sales” and his email address as “stevew@copperfit.com,” and a printout from Steve Williams’ LinkedIn page, where he lists himself as “VP Sales” of “Copperfit – Winfield.”<sup>159</sup> The Alleger claimed this information confirms the intertwining of Copperfit and Winfield Products.<sup>160</sup>

Finally, on June 23, 2023, CBP placed information regarding CISPI on the record of the EAPA investigation.<sup>161</sup> This information consisted of the home page of CISPI’s website and the CISPI brochure available from that website.<sup>162</sup> The CISPI brochure indicates, *inter alia*, the pertinent ASTM and CISPI specifications for CISP and CISPF (*i.e.*, ASTM A 74, ASTM A 888, CISPI 301, and CISPI 310).<sup>163</sup>

### **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.”<sup>164</sup> “Covered merchandise” is defined as “merchandise that is subject to a CVD order... and/or an AD order.”<sup>165</sup> “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.”<sup>166</sup> As discussed in this determination, the record of this investigation indicates there is substantial evidence that LDL 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 AD/CVD orders on CISP and CISPF from China even absent the application of adverse inferences.

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<sup>157</sup> *Id.* at Exhibits 2 and 3.

<sup>158</sup> *Id.* at 4, citing LDL Supplemental RFI Response at Exhibit S-6.

<sup>159</sup> *Id.* at Exhibits 4 and 5.

<sup>160</sup> *Id.* at 4, citing LDL Supplemental RFI Response at 12-13.

<sup>161</sup> See CBP Memorandum, “EAPA Cons. Case No. 7785 – Placement of Information on the Record regarding the Cast Iron Soil Pipe Institute (CISPI)” (Jun. 23, 2023) (CBP June 23, 2023, Memorandum).

<sup>162</sup> *Id.* at Attachments 1 and 2.

<sup>163</sup> *Id.* at Attachment 2.

<sup>164</sup> See also 19 C.F.R. § 165.27(a) (implementing 19 U.S.C. § 1517).

<sup>165</sup> See 19 C.F.R. § 165.1.

<sup>166</sup> *Id.*

## *Adverse Inferences*

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.<sup>167</sup> 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.<sup>168</sup>

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....”<sup>169</sup>

### 1. Vanguard

As discussed above, CBP provided Vanguard, the claimed producer in Malaysia, with multiple opportunities to respond to the RFI. CBP sent the RFI to Vanguard using both email and FedEx.<sup>170</sup> Vanguard acknowledged receipt of the RFI and indicated that it would “actively cooperate” with the EAPA investigation but stated it would need an extension of time to do so.<sup>171</sup> Although CBP granted two extensions of time to Vanguard to respond to the RFI, Vanguard never submitted a response.<sup>172</sup>

Accordingly, CBP finds that Vanguard failed to act to the best of its ability in this EAPA investigation by its lack of cooperation and responsiveness to CBP’s RFI pertaining to, *inter alia*, Vanguard’s accounting and financial practices and the production, sale, and exportation of covered merchandise exported to the United States. Due to Vanguard’s failure to respond to the RFI, the record does not contain any information directly from Vanguard regarding production capacity for CISP and CISPF or a complete list of plant equipment used in CISP and CISPF production. Additionally, CBP officials were unable to verify any of the information that LDL provided through an on-site verification of Vanguard. Therefore, CBP is drawing inferences adverse to Vanguard 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

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<sup>167</sup> See 19 U.S.C. § 1517(c)(2); see also 19 C.F.R. § 165.5(a).

<sup>168</sup> See 19 U.S.C. § 1517(c)(3)(B) and 19 C.F.R. § 165.6(c).

<sup>169</sup> See 19 C.F.R. § 165.6(a).

<sup>170</sup> See CBP March 6, 2023, Email to Vanguard and CBP March 17, 2023, Memorandum – FedEx to Vanguard.

<sup>171</sup> See CBP March 24, 2023, Memorandum Containing Emails from Vanguard at Attachments 1, 2, and 3.

<sup>172</sup> See CBP March 23, 2023, Email Reissuing RFI to Vanguard and CBP March 31, 2023, Email Granting Partial Extension to Vanguard.

detailed below, in the Allegations, the preliminary on-site visits, LDL's CF-28 responses, the cargo examinations, LDL's supplemental RFI response, and factual information submitted by the Allegor. Specifically, CBP is relying on the information described below that indicates a lack of CISP and CISPF production by Vanguard in Malaysia:

- Information in the allegations shows that Vanguard appears to be owned and controlled by a Chinese national, Peng Liu, who is a salesperson for a Chinese cast iron producer, Sandstein.<sup>173</sup> In addition, the allegations contain photographs from Vanguard's website that are identical to, or show the same production and workers as, photographs on Sandstein's website,<sup>174</sup> as well as photographs of CISP from Vanguard's website dated "2010/10/15," which is almost a decade before Vanguard's establishment in 2019, and photographs from Vanguard's website of CISPF that are clearly embossed with "China."<sup>175</sup>
- CBP officials conducted preliminary on-site visits to four addresses associated with Vanguard in Malaysia and found that no factory existed at any of those four locations.<sup>176</sup> Two of the addresses that CBP officials visited<sup>177</sup> were virtually identical to the address listed for Vanguard on documents provided in LDL's CF-28 responses and LDL's RFI and supplemental RFI responses.<sup>178</sup> At the third address,<sup>179</sup> a woman informed a CBP official that her company handles all of Vanguard's paperwork for Malaysia, and that Vanguard consisted of only two individuals, one Chinese national located in China and a partner located in the United States.<sup>180</sup> The fourth address<sup>181</sup> was at a multi-story residential building with no Vanguard production presence.<sup>182</sup>
- In its CF-28 responses and supplemental RFI response, LDL submitted production videos for Vanguard purporting to show the cast iron pipe production process, but they do not

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<sup>173</sup> See Allegations at 1, 7-8, 11-12, Exhibit 2, pages 3-4, and Exhibits 7 and 8.

<sup>174</sup> *Id.* at 8-11, Exhibit 3, pages 2-3 and 10, and Exhibit 7, pages 1, 3, and 7-12.

<sup>175</sup> *Id.* at 12 and Exhibit 3, pages 13-21.

<sup>176</sup> See Site Visit Memorandum.

<sup>177</sup> The first address that CBP officials visited was Lot 103, Lorong Perusahaan Dua, Prai Industrial Estate, Prai, Pulau Pinang, Malaysia 13600, and the second address was 2518-B, Lorong Perusahaan 2, Kawasan Perusahaan Bebas Perai, Perai, Pulau Pinang, Malaysia 13600. *Id.* at Attachment 1. The first address is Vanguard's "Business Address" according to Vanguard's business registration. See Allegations at Exhibit 2. The second address is listed in the [source] data as Vanguard's shipping address. See Allegations at Exhibit 1.

<sup>178</sup> The address for Vanguard, as shown on documents in those submissions, is 2518-B, Lorong Perusahaan 2, Prai Industrial Estate, 13600, Perai, Penang, Malaysia. See CF-28 Responses, LDI RFI response, and LDL Supplemental RFI Response generally. In some instances, "Pulau Pinang" is used instead of "Penang" and "Prai" is used instead of "Perai." See, e.g., CF-28 Responses at Exhibits 4-7, 12, 14, 15, and 20.

<sup>179</sup> The third address, which is Vanguard's "Registered Address" based on its business registration, was 60 Sri Bahari Road, George Town, Pulau Pinang, Malaysia 10050. See Allegations at Exhibit 2 and Site Visit Memorandum at Attachment 2.

<sup>180</sup> See Site Visit Memorandum at Attachment 2.

<sup>181</sup> The fourth address, 46-15-16, Jalan Van Praagh, 11600 George Town, Pulau Pinang Malaysia, is listed in Vanguard's business registration as the address for Lim Saw Im, Vanguard's secretary and a director. See Allegations at Exhibit 2 and Site Visit Memorandum at Attachment 2.

<sup>182</sup> See Site Visit Memorandum at Attachment 2.

appear to show the entire production process, particularly the first step, [*first step of production process*].<sup>183</sup> LDL did not provide any videos for the production of CISP. <sup>184</sup>

- In its CF-28 responses, LDL submitted raw material invoices for pig iron addressed to Vanguard that listed a vendor whose address appears to be for a bus stop rather than an actual building and which appears to have no Internet-based evidence of existence.<sup>185</sup>
- During the cargo examinations for two of LDL's entries from Vanguard, CBP found that the merchandise in both entries were in violation of country-of-origin marking requirements.<sup>186</sup>
- LDL submitted mill test certificates for products described as being produced under the ASTM A888-17 standard for CISP and CISP. <sup>187</sup> despite the ASTM A888-17 standard requiring such testing.<sup>188</sup> This indicates the mill test certificates are not authentic.
- The Vanguard product catalog submitted by LDL<sup>189</sup> appears to be the product catalog of U.S. cast iron soil pipe and fittings distributor New Age, with Vanguard's name and logo merely superimposed over New Age's.<sup>190</sup>

Accordingly, in applying an inference adverse to Vanguard and selecting from among the facts otherwise available in making the determination as to evasion, CBP determines that Vanguard does not produce any CISP or CISP in Malaysia and instead all CISP and CISP exported by Vanguard to LDL originated in China and was transshipped through Malaysia.

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<sup>183</sup> Compare CF-28 Responses at "First Part Production" and "Second Part Production" videos and LDL Supplemental RFI Response at videos 1 and 2 with CF-28 Responses at Exhibit 3. In its supplemental RFI response, LDL claimed the first video depicted the "casting process for the merchandise, where a liquid is put in the casting machine," but this is not evident from either video. See LDL Supplemental RFI Response at cover letter, page 3.

<sup>184</sup> See CF-28 Responses and LDL Supplemental RFI Response generally.

<sup>185</sup> See CF-28 Responses at Exhibits 18 and 19 and CBP February 1, 2023, Memorandum on Raw Material Supplier.

<sup>186</sup> See Cargo Exam Memorandum for Entry [ # ]8081 and Cargo Exam Memorandum for Entry [ # ]8123. CBP notes that some of the merchandise in entry [ # ]8123 consisted of [*description of merchandise*], which is non-covered merchandise, and that entry [ # ]8123 consisted primarily of floor drains, which may not be covered by the AD/CVD orders on CISP from China. Although at least a portion of entry [ # ]8123 does not contain covered merchandise, the fact remains that LDL imported merchandise from Vanguard that did not have the requisite country-of-origin markings.

<sup>187</sup> See CF-28 Responses at Exhibits 12 and 24 and Attachment 2 and LDL Supplemental RFI Response at Exhibit S-5.

<sup>188</sup> See Alleger June 15, 2023, Rebuttal Information at Exhibit 1.

<sup>189</sup> See LDL Supplemental RFI Response at Exhibit S-6; see also Allegations at Exhibit 3, pages 22-40.

<sup>190</sup> See Alleger June 15, 2023, Rebuttal Information at Exhibit 2.

## 2. Supplier 2

As noted above, CBP issued an RFI to [ *Supplier 2* ], another Malaysian supplier from which LDL entered covered merchandise during the POI.<sup>191</sup> CBP sent the RFI to Supplier 2 via FedEx using the address shown for Supplier 2 on documents in CBP's DIS for one of LDL's entries from Supplier 2;<sup>192</sup> however, FedEx reported the RFI could not be delivered to Supplier 2 because of an "incorrect address."<sup>193</sup> As CBP was unable to find an alternate address (or an email address) for Supplier 2, the RFI was never delivered to this entity. Nevertheless, in its supplemental RFI response, LDL submitted documentation for two entries from Supplier 2 that had the same address as that used by CBP to issue the RFI.<sup>194</sup> As explained previously, the invoice numbers for the entries from Supplier 2 have [ *identifying information* ] and the same format as Vanguard's invoice numbers; the invoices and packing lists from Supplier 2 are formatted like Vanguard's; and the Vanguard and Supplier 2 invoices and packing lists include references to some of the same purchase order numbers, product descriptions, and product codes.<sup>195</sup> Given the inability to corroborate the existence of Supplier 2 using the address on documents submitted to CBP and the similarities in the documentation from both Vanguard and Supplier 2, it appears that the merchandise LDL entered from Supplier 2 came from, or was tied to, Vanguard.

CBP finds that [ *Supplier 2* ] failed to act to the best of its ability in this EAPA investigation by its lack of cooperation and responsiveness to CBP's RFI. Due to Supplier 2's non-response, the record does not contain any direct information regarding the production of the merchandise that LDL imported from Supplier 2, and CBP officials were not able to verify any of the information that LDL provided through an on-site verification of Supplier 2. As a result, CBP is drawing inferences adverse to Supplier 2 and will select from among the facts otherwise available to make the determination as to evasion. In making its determination, due to [ *Supplier 2* ]'s apparent nexus to Vanguard, CBP is relying on the information detailed above for Vanguard to determine, by extension, that all CISP and CISPF exported by Supplier 2 originated in China and was transshipped through Malaysia.

## 3. LDL

Unlike Vanguard and [ *Supplier 2* ], LDL did submit responses to CBP's RFI and supplemental RFI. However, as discussed below, LDL did not provide a significant amount of information or documentation requested by CBP, and LDL's responses also contain numerous inconsistencies.

First and foremost, as detailed above, LDL did not provide in its RFI and supplemental RFI responses any of the information requested by CBP pertaining to LDL's accounting and financial practices, including financial documents (*e.g.*, chart of accounts, trial balance, audited financial

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<sup>191</sup> See Import Data for LDL and Supplier 2 RFI. Data in CBP systems show that LDL entered merchandise from Supplier 2 under the same HTS numbers as the HTS numbers used for LDL's entries of covered merchandise from Vanguard. See Import Data for LDL.

<sup>192</sup> See Supplier 2 Memorandum at Attachments 1 and 2; see also *Id.* at Attachment 3.

<sup>193</sup> *Id.* at Attachment 4.

<sup>194</sup> See LDL Supplemental RFI Response at Exhibit S-7.

<sup>195</sup> Compare LDL Supplemental RFI Response at Exhibit S-7 and Supplier 2 Memorandum at Attachment 1 with LDL RFI Response at Appendix 5 and LDL Supplemental RFI Response at Exhibit S-3.

statements, *etc.*) and banking information (*i.e.*, bank names, account numbers, and bank statements) related to the purchase and sales of covered merchandise. Rather, LDL stated in its RFI response that “financial and cost accounting information are not available at this time” and that because it is “small in size,” LDL [ *information about financial records* ].<sup>196</sup> In its supplemental RFI response, LDL clarified that it does not prepare a chart of accounts, trial balance, financial statements, or financial reports in the ordinary course of business.<sup>197</sup> However, despite LDL’s claim of being a “small and young” company,<sup>198</sup> it seems implausible that as an importer of record, LDL [ *information about financial records* ]. Further, LDL stated that while “much of this {financial and cost accounting} information could possibly be determined based on past documentation, it is not currently available.”<sup>199</sup> Likewise, in response to CBP’s request for a reconciliation of LDL’s sales of CISP and CISPf to the total sales listed in its financial statements, LDL stated the information was not available because it does not maintain financial or accounting records due to its small size, but also stated that “much of this information could possibly be determined on past documentation.”<sup>200</sup> As such, LDL admitted that much of this information could possibly be determined, but chose not to make an effort to determine the information and provide it to CBP. Similarly, LDL stated that information regarding its bank accounts and its bank statements are “unavailable.”<sup>201</sup> Again, it seems improbable that LDL, as an importer of record, does not have any bank accounts or bank statements; thus, it is likely LDL could have provided this information, but simply chose not to do so.

In addition, LDL did not provide much of the documentation that CBP requested for twelve specific entries listed in the RFI and supplemental RFI. For each entry, LDL submitted the commercial invoice and packing list from the supplier and the entry summary, and, for most of the entries, the certificate of origin, bill of lading, and commercial invoice from LDL to [ *customer name* ].<sup>202</sup> LDL also provided the purchase orders that LDL issued to Vanguard for the ten entries specified in the RFI<sup>203</sup> and mill test certificates for seven of the ten entries.<sup>204</sup> However, LDL did not provide any payment records for its purchases from Vanguard and LDL’s sales to the customer for the selected entries, stating the payment records “are unavailable.”<sup>205</sup> Moreover, for the selected entries, LDL did not provide any underlying documentation (*e.g.*, emails, sales negotiation correspondence, *etc.*) between LDL and its customer, and between LDL and Vanguard, for LDL’s purchase orders to Vanguard; LDL claimed it has no copy of the negotiation process with its customer or Vanguard because it mostly communicates with the customer and Vanguard directly through WeChat or phone calls because it finds email communication “too slow.”<sup>206</sup> However, LDL’s claim is belied by the fact that it provided email

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<sup>196</sup> See LDL RFI Response at 9-10.

<sup>197</sup> See LDL Supplemental RFI Response at 3.

<sup>198</sup> *Id.* at 2.

<sup>199</sup> See LDL RFI Response at 9-10.

<sup>200</sup> See LDL RFI Response at 17 and LDL Supplemental RFI Response at 10-11.

<sup>201</sup> See LDL RFI Response at 9-10 and 13 and Supplemental RFI Response at 4 and 9.

<sup>202</sup> See LDL RFI Response at Appendix 5 and LDL Supplemental RFI Response at Exhibits S-3 and S-7.

<sup>203</sup> See LDL Supplemental RFI Response at Exhibit S-2.

<sup>204</sup> *Id.* at 8 and Exhibit S-5.

<sup>205</sup> *Id.* at 9.

<sup>206</sup> *Id.* at 6.

correspondence with the supplier (which it characterized as sample “negotiation emails”) about the price.<sup>207</sup>

Among the inconsistencies in LDL’s RFI and supplemental RFI responses, LDL first reported that the only document it creates and maintains is the commercial invoice,<sup>208</sup> but later stated that it creates the purchase orders issued to Vanguard, basing the ordered products and quantities on [business transaction information & details concerning placement of orders].<sup>209</sup> LDL also claimed it does not use product catalogs, yet the sample negotiation emails included in its RFI response referenced a product catalog,<sup>210</sup> which LDL provided when requested by CBP in the supplemental RFI.<sup>211</sup>

In addition, regarding its customers, LDL stated that it has “[information on customers],”<sup>212</sup> and the name “[customer name]” was listed on the commercial invoices from LDL to the customer.<sup>213</sup> In its supplemental RFI response, LDL stated that Winfield Products is not a dba name for Copperfit, but for [company name], a business that sells [product description and scope of business].<sup>214</sup> This distinction between “[company name]” and “[company name]” directly contradicts the information LDL provided in its RFI response about “[customer name].”

LDL also reported that Vanguard was the only supplier of covered merchandise during the POI,<sup>215</sup> yet information in CBP systems<sup>216</sup> and documentation submitted by LDL for two entries<sup>217</sup> demonstrate that LDL also entered covered merchandise from [Supplier 2] during the POI.<sup>218</sup> As discussed previously, the invoice numbers for the entries from Supplier 2 have [identifying information]; Supplier 2’s invoice numbers, invoices, and packing lists have the same format as Vanguard’s; and, in some cases, the Vanguard and Supplier 2 invoices and packing lists reference the same purchase order numbers, product descriptions, and product codes.<sup>219</sup> Therefore, it appears that the merchandise LDL imported from Supplier 2 came from, or was tied to, Vanguard, but LDL did not attempt to explain Supplier 2’s role in the transactions or furnish any information about Supplier 2 in conjunction with the documentation submitted for the two entries.<sup>220</sup>

Based on the foregoing, CBP finds that LDL failed to cooperate and comply to the best of its ability in this EAPA investigation by refusing to provide certain information and by providing conflicting information in its responses. Due to LDL’s failure to provide complete and consistent responses, CBP does not have information on the record such as bank statements,

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<sup>207</sup> See LDL RFI Response at 13 and Appendix 6.

<sup>208</sup> *Id.* at 11.

<sup>209</sup> See LDL Supplemental RFI Response at 5.

<sup>210</sup> See LDL RFI Response at 11, 13, and Appendix 6.

<sup>211</sup> See LDL Supplemental RFI Response at Exhibit S-6.

<sup>212</sup> See LDL RFI Response at 18.

<sup>213</sup> *Id.* at Appendix 5.

<sup>214</sup> See LDL Supplemental RFI Response at 12.

<sup>215</sup> See LDL RFI Response at 12, 14, and 16.

<sup>216</sup> See Import Data for LDL and Supplier 2 Memorandum at Attachment 1.

<sup>217</sup> See LDL Supplemental RFI Response at Exhibit S-7.

<sup>218</sup> Data in CBP systems demonstrate that LDL entered merchandise from Supplier 2 under the same HTS numbers as the HTS numbers utilized for LDL’s entries of covered merchandise from Vanguard. See Import Data for LDL.

<sup>219</sup> Compare LDL Supplemental RFI Response at Exhibit S-7 and Supplier 2 Memorandum at Attachment 1 with LDL RFI Response at Appendix 5 and LDL Supplemental RFI Response at Exhibit S-3.

<sup>220</sup> See LDL Supplemental RFI Response at 12 and generally.

payment information, sales negotiation correspondence, and other entry-related documentation that would enable CBP to determine that LDL's entries of covered merchandise originated from Malaysia. Therefore, CBP is drawing inferences adverse to LDL 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 discussed above with respect to LDL, as well as Vanguard, to determine that LDL's entries of CISP and CISPF were not manufactured in Malaysia, but rather, consist of China-origin CISP and CISPF that was transshipped through Malaysia.

### *Transshipment*

While CBP is applying an adverse inference with respect to LDL, the record contains ample evidence to determine there is substantial evidence of evasion without the application of an adverse inference to LDL. LDL acknowledged that it purchased covered merchandise from Vanguard,<sup>221</sup> and photographs show that LDL imported CISP from Vanguard.<sup>222</sup> However, as detailed above, the information on the record makes clear that Vanguard did not produce CISP and CISPF in Malaysia. During the preliminary on-site visits in Malaysia, CBP officials found that no factory existed at any of the four addresses associated with Vanguard.<sup>223</sup> The production videos that LDL submitted for Vanguard purporting to show the cast iron pipe production process do not appear to show the entire production process, notably the first step, [*first step of production process*].<sup>224</sup> The raw material invoices for pig iron addressed to Vanguard list a vendor whose address appears to be for a bus stop rather than an actual building and which appears to have no Internet-based evidence of existence.<sup>225</sup> The Vanguard mill test certificates that LDL provided for selected entries appear to be inauthentic because they do not show any tensile testing, even though such testing is required by the ASTM A888-17 standard.<sup>226</sup> The Vanguard product catalog appears to be the product catalog of U.S. cast iron soil pipe and fittings distributor New Age, with Vanguard's name and logo simply superimposed over New Age's,<sup>227</sup> and likewise inauthentic. Finally, Vanguard's website contains photographs that are identical to, or show the same production and workers as, photographs on the website of Chinese cast iron producer Sandstein,<sup>228</sup> as well as photographs of CISP dated "2010/10/15" (nearly a decade before Vanguard's establishment in 2019) and photographs of CISPF that clearly have "China" embossed on them.<sup>229</sup>

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<sup>221</sup> See LDL RFI Response at 12, 14, and 16 and LDL Supplemental RFI Response at 8 and 13.

<sup>222</sup> See Cargo Exam Memorandum for Entry [ # ]8081 at Attachments 1 (depicting pipe with the markings "Hubless Pipe {A}STM A888 CISPI") and 3 (depicting pipe with the markings "Hu{ble}ss Pipe ASTM A888 CISPI 301"); see also Import Data for LDL (showing that LDL imported the merchandise in entry [ # ]8081 from Vanguard).

<sup>223</sup> See Site Visit Memorandum.

<sup>224</sup> Compare CF-28 Responses at "First Part Production" and "Second Part Production" videos and LDL Supplemental RFI Response at videos 1 and 2 with CF-28 Responses at Exhibit 3.

<sup>225</sup> See CF-28 Responses at Exhibits 18 and 19 and CBP February 1, 2023, Memorandum on Raw Material Supplier.

<sup>226</sup> See CF-28 Responses at Exhibits 12 and 24 and Attachment 2 and LDL Supplemental RFI Response at Exhibit S-5 (containing the mill test certificates) and Alleger June 15, 2023, Rebuttal Information at Exhibit 1 (containing the ASTM International webpage for the ASTM A888-17 standard for CISP and CISPF).

<sup>227</sup> Compare LDL Supplemental RFI Response at Exhibit S-6 and Allegations at Exhibit 3, pages 22-40 with Alleger June 15, 2023, Rebuttal Information at Exhibit 2.

<sup>228</sup> See Allegations at 8-11, Exhibit 3, pages 2-3 and 10, and Exhibit 7, pages 1, 3, and 7-12.

<sup>229</sup> *Id.* at 12 and Exhibit 3, pages 13-21.

Based on the aforementioned record evidence, CBP finds that LDL's entries of CISP and CISPF from Vanguard (and by extension, from Supplier 2) were not produced in Malaysia. Further, based on the application of an inferences adverse to Vanguard and Supplier 2, CBP has determined that all CISP and CISPF exported by Vanguard and Supplier 2 to LDL originated in China and was transshipped through Malaysia. Accordingly, CBP determines there is substantial evidence that the CISP and CISPF entered by LDL during the POI from Vanguard and Supplier 2 was of Chinese origin and transshipped through Malaysia.

### *Misclassification*

There is substantial evidence on the record demonstrating that LDL misclassified the CISP and CISPF it imported into the United States. As noted previously, CBP systems demonstrate during the POI, LDL's imports of CISP and CISPF were not entered under any of the HTS numbers in the scope of the AD/CVD orders on CISP and CISPF,<sup>230</sup> but under HTS numbers [ #s ].<sup>231</sup> The documentation that LDL submitted for nine entries from Vanguard show that the HTS numbers declared on the entry summaries were the following: 7303.00.0090, 7307.11.0030, 7307.19.9060, and 7307.19.9080,<sup>232</sup> *i.e.*, HTS numbers that are not included in the scope of the AD/CVD orders on CISP and CISPF.

LDL does not dispute that it entered covered merchandise from Vanguard during the POI. Instead, LDL refers to the entries at issue in this EAPA investigation as "covered merchandise," "subject merchandise," and "CISP and CISPF" throughout its RFI and supplemental RFI responses.<sup>233</sup> LDL specifically referred to the ten entries for which CBP requested support documentation in the RFI as "covered merchandise."<sup>234</sup> Also, when providing support documentation for two entries from Supplier 2, LDL did not claim that the imported merchandise was not covered merchandise.<sup>235</sup> In addition, information on the record clearly demonstrates that the entries at issue in this EAPA investigation by LDL consisted of covered merchandise. Photographs from one of the cargo examinations depict pipe with the markings "Hubless Pipe {A}STM A888 CISPI" and "Hu{ble}ss Pipe ASTM A888 CISPI 301," and the videos submitted by LDL show pipe marked "Hubless Pipe ASTM A888 CISPI 301" (*i.e.*, markings that denote covered merchandise).<sup>236</sup> Additionally, the Vanguard product catalog referenced in sample negotiation emails and submitted by LDL<sup>237</sup> indicate that Vanguard's "Cast Iron Soil Pipe

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<sup>230</sup> Again, the HTS number listed in the scope of the AD/CVD orders on CISP from China is 7303.00.0030. *See CISP AD Order*, 84 FR at 19,036 and *CISP CVD Order*, 84 FR at 19,040. The HTS numbers included in the scope of the AD/CVD orders on CISPF from China are 7307.11.0045, 7324.29.0000 and 7307.92.3010. *See CISPF AD Order*, 83 FR at 44,570 and *CISPF CVD Order*, 83 FR at 44,566.

<sup>231</sup> *See* Receipt Report for EAPA 7785 and Receipt Report for EAPA 7786; *see also* Import Data for LDL.

<sup>232</sup> *See* LDL RFI Response at Appendix 5. *See also* LDL Supplemental RFI Response at Exhibits S-3 (showing the HTS number declared on the entry summary for the tenth selected entry from Vanguard was [ # ]) and S-7 (showing the HTS numbers declared on the entry summaries for two entries from Supplier 2 were [ #s ]).

<sup>233</sup> *See, e.g.*, LDL RFI Response at 14 and LDL Supplemental RFI Response at 10, 12, and 13.

<sup>234</sup> *See* LDL RFI Response at 12.

<sup>235</sup> *See* LDL Supplemental RFI Response at 12.

<sup>236</sup> *See* Cargo Exam Memorandum for Entry [ # ]8081 at Attachments 1 and 3; CF-28 Responses at "Second Part Production" video; and LDL Supplemental RFI Response at video 1.

<sup>237</sup> *See* LDL RFI Response at Appendix 6 and LDL Supplemental RFI Response at Exhibit S-6.

Products” consist of “NO-HUB Pipe” and “NO-HUB Fittings” (*i.e.*, CISP and CISPF) that are “{d}esigned and produced to conform to” ASTM A-888 and CISPI 301 standards.<sup>238</sup>

LDL stated that LianLian Ding, its CEO, is responsible for the classification of merchandise.<sup>239</sup> However, in response to CBP’s questions about the HTS numbers declared for certain entries, LDL responded that it relied on its customs broker to report the HTS numbers on the entry summaries and the broker may have reported the wrong HTS code.<sup>240</sup> As the importer of record, LDL is responsible for ensuring that it declares the correct HTS number(s) on its entries of merchandise into the United States. Because LDL entered CISP and CISPF into the United States but did not use the correct HTS numbers when importing such merchandise, CBP finds there is substantial evidence on the record demonstrating that LDL entered covered merchandise into the United States through evasion by misclassification.

### *Written Arguments*

On July 6, 2023, the Alleger and LDL submitted written arguments.<sup>241</sup> On July 24, 2023, the Alleger and LDL submitted responses to the written arguments.<sup>242</sup>

#### Issue 1: Adverse Inferences

The Alleger contends CBP should apply adverse inferences in making its determination as to evasion because LDL refused to fully cooperate with CBP.<sup>243</sup> The Alleger argues that LDL refused to provide banking information requested by CBP, including bank statements and even the name(s) of the bank(s) it used,<sup>244</sup> and also declined to provide a sales reconciliation.<sup>245</sup> The Alleger also asserts LDL’s claim that it does not keep business records and its statement that ““there is no need for LDL to keep an accounting record”” are other ways in which LDL stonewalled CBP’s requests for information.<sup>246</sup>

The Alleger argues that LDL also refused to provide records of its negotiations with its customer and Vanguard; according to the Alleger, LDL’s explanation that it communicated by phone because email was too slow is implausible in modern business practices.<sup>247</sup> The Alleger asserts that LDL also did not submit many of the documents requested by CBP for specified entries, such as sales-negotiation correspondence, customer contracts or purchase orders, sales journals,

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<sup>238</sup> See LDL Supplemental RFI Response at Exhibit S-6.

<sup>239</sup> See LDL RFI Response at 2-3.

<sup>240</sup> See LDL Supplemental RFI Response at 6-8 and 10.

<sup>241</sup> See Letter from the Alleger, “EAPA Consol. Case Nos. 7785 & 7786, Cast Iron Soil Pipe and Cast Iron Soil Pipe Fittings from China: Submission of Written Argument” (Jul. 6, 2023) (Alleger Written Argument) and Letter from LDL, “Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Written Arguments” (Jul. 6, 2023) (LDL Written Argument).

<sup>242</sup> See Letter from the Alleger, “EAPA Consol. Case Nos. 7785 & 7786, Cast Iron Soil Pipe and Cast Iron Soil Pipe Fittings from China: Response to Written Argument” (Jul. 24, 2023) (Alleger Response to Written Argument) and Letter from LDL, “Cast Iron Soil Pipes and Cast Iron Soil Pipe Fittings from China Shipped Through Malaysia: Rebuttal to Alleger’s Written Arguments” (Jul. 24, 2023) (LDL Response to Written Argument).

<sup>243</sup> See Alleger Written Argument at 9-13.

<sup>244</sup> *Id.* at 9-10, citing LDL RFI Response at 10 and 13.

<sup>245</sup> *Id.* at 10 and 12, citing LDL RFI Response at 17 and LDL Supplemental RFI Response at 11.

<sup>246</sup> *Id.* at 10, citing LDL Supplemental RFI Response at 2-3 and 9.

<sup>247</sup> *Id.* at 11-12, citing LDL Supplemental RFI Response at 6.

and payment records.<sup>248</sup> Moreover, the Alleger claims that LDL changed its answers on certain points, citing LDL's responses regarding product codes as an example.<sup>249</sup> Finally, the Alleger contends LDL made unsupported and unbelievable claims about its relationship with Copperfit, thereby attempting to mislead CBP.<sup>250</sup>

Furthermore, the Alleger asserts that CBP should apply adverse inferences because Vanguard did not cooperate with CBP at all in this investigation.<sup>251</sup> The Alleger contends that although Vanguard acknowledged receipt of CBP's RFI and indicated it would cooperate with CBP, Vanguard never responded to CBP.<sup>252</sup> As a result, the Alleger argues, the record lacks crucial information that would allow CBP to assess the validity of the claims that Vanguard produced the CISP and CISPF from raw materials in Malaysia.<sup>253</sup> The Alleger maintains that CBP should determine as an adverse inference that the CISP and CISPF was produced in China and transshipped through Malaysia.<sup>254</sup>

LDL did not respond to the Alleger's written arguments on this issue.<sup>255</sup>

#### CBP Response:

As explained above, CBP is drawing inferences adverse to Vanguard, Supplier 2, and LDL due to their failure to cooperate and comply to the best of their abilities in this EAPA investigation. Accordingly, CBP is selecting from among the facts otherwise available to determine that LDL's entries of CISP and CISPF from Vanguard and Supplier 2 were not manufactured in Malaysia but instead consist of China-origin CISP and CISPF that was transshipped through Malaysia.

#### Issue 2: Location of Production of the CISP and CISPF

The Alleger asserts the record contains substantial evidence that the CISP and CISPF imported by LDL was not manufactured in Malaysia, but in China, and, thus, evasion occurred.<sup>256</sup> Most importantly, the Alleger avers, when CBP attempted to visit the claimed locations for Vanguard in Malaysia, no cast iron production facility could be located; rather, CBP learned that Vanguard consists of just two individuals, only one of whom was located in Malaysia.<sup>257</sup> The Alleger maintains LDL's RFI and CF-28 responses also demonstrate that production did not occur in Malaysia, as those submissions lacked much of the documentation that a manufacturer would typically maintain and contained a supplier invoice with an address pointing to a bus stop.<sup>258</sup> In addition, the Alleger argues that the mill test certificates submitted by LDL appear to be

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<sup>248</sup> *Id.* at 12, citing LDL Supplemental RFI Response at 11 and Exhibit S-7.

<sup>249</sup> The Alleger states that LDL initially reported it does not maintain its own product codes but uses those of its customers, but subsequently reported that it determined the product codes itself. *Id.*, citing LDL RFI Response at 11 and LDL Supplemental RFI Response at 5.

<sup>250</sup> *Id.*

<sup>251</sup> *Id.* at 13-16.

<sup>252</sup> *Id.* at 13-14.

<sup>253</sup> *Id.* at 14.

<sup>254</sup> *Id.* at 14-16.

<sup>255</sup> See LDL Response to Written Argument.

<sup>256</sup> See Alleger Written Argument at 16-18.

<sup>257</sup> *Id.* at 16-17.

<sup>258</sup> *Id.* at 17.

fraudulent, since they lack any evidence of the tensile testing required by the ASTM A888-17 standard referenced therein.<sup>259</sup> Moreover, the Alleger contends the Vanguard product catalog submitted by LDL was not actually from Vanguard, but was fabricated from U.S. CISP and CISPF distributor New Age's catalog, with Vanguard's name and logo superimposed over New Age's.<sup>260</sup> As such, the Alleger claims that Vanguard could not have produced the CISP and CISPF, and given the ties between Vanguard and Sandstein in China, argues that the merchandise was manufactured in China.<sup>261</sup>

LDL did not respond to the Alleger's written arguments on this issue.<sup>262</sup>

#### CBP Response:

As explained above, CBP is drawing inferences adverse to the claimed Malaysian producer, Vanguard, as well as Supplier 2, due to their lack of cooperation and responsiveness to CBP's requests for information in this EAPA investigation. In drawing adverse inferences, CBP is selecting from among the facts otherwise available to make the determination as to evasion and relying on record information to find that LDL's entries of CISP and CISPF were not manufactured in Malaysia. This includes: information in the allegations showing that Vanguard appears to be owned and controlled by a Chinese national, as well as photographs on Vanguard's website; the non-existence of a factory at any of the four addresses associated with Vanguard in Malaysia that CBP officials visited; production videos that do not appear to show the entire production process for CISP; raw material invoices with a vendor whose address appears to be for a bus stop rather than an actual building and that appears to have no Internet-based evidence of existence; the lack of proper country-of-origin markings on merchandise in two entries subject to cargo examination; mill test certificates that do not show any tensile testing, despite the relevant ASTM standard requiring such testing; and the product catalog that LDL submitted for Vanguard, which appears to be the product catalog of a U.S. distributor with Vanguard's name and logo superimposed over the U.S. distributor's. Based on this information, CBP determines that LDL's entries of CISP and CISPF from Vanguard and Supplier 2 were not manufactured in Malaysia but consist of China-origin CISP and CISPF that was transshipped through Malaysia.

#### Issue 3: LDL's Status as a Corporate Entity

LDL states that since its inception in 2021, it has operated as a trading company, importer of record, and middleman for international transactions.<sup>263</sup> LDL asserts it is a legitimate corporate entity, and claims that being a young company and having a limited customer and supplier base does not mean it is a corporate front for another entity.<sup>264</sup> LDL contends that it served as the

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<sup>259</sup> *Id.*, citing LDL Supplemental RFI Response at 8 and Exhibit S-5 and Alleger June 15, 2023, Rebuttal Information at Exhibit 1. The Alleger states that ASTM A888-17 requires both chemical and tensile tests. *Id.*, citing Alleger June 15, 2023, Rebuttal Information at Exhibit 1.

<sup>260</sup> *Id.* at 17-18, citing LDL Supplemental RFI Response at Exhibit S-6 and Alleger June 15, 2023, Rebuttal Information at Exhibit 2.

<sup>261</sup> *Id.* at 18.

<sup>262</sup> See LDL Response to Written Argument.

<sup>263</sup> See LDL Written Argument at 2, citing LDL RFI Response at 6-7 and 9.

<sup>264</sup> *Id.* at 2-3, citing LDL RFI Response at 5 and Appendices 1 and 5.

importer of record for the entries at issue in this EAPA investigation, and thus, if CBP determines evasion has occurred, LDL is liable for the duties, not its customer.<sup>265</sup>

LDL argues that although [ *name and title* ] is the [ *relationship info.* ] of [ *name and title* ], neither of these two individuals has control over the day-to-day operations of, or a position or salary with, the other's company.<sup>266</sup> LDL claims that [ *name* ] asked Nelson Li to help communicate with CBP on behalf of LDL.<sup>267</sup> LDL maintains that while a [ *relationship info.* ] relationship between two individuals potentially indicates affiliation between these companies, it does not establish that LDL is a corporate front for its customer.<sup>268</sup>

LDL states that the address where it was first incorporated and the address where it later moved are residential in nature.<sup>269</sup> As a middleman facilitating imports, LDL claims it can maintain its primary business address at a residence since it does not need to maintain a warehouse to store merchandise.<sup>270</sup> LDL states that it instructs the manufacturer "to ship all merchandise directly to the customer or to 1689 Mission Boulevard Pomona, CA 91766, where it is then shipped immediately to the customer."<sup>271</sup> LDL states that it also maintains an office at 1689 Mission Blvd., Pomona, CA 91766, where it and Winfield Products are both tenants.<sup>272</sup>

LDL also avers the lack of catalogs, brochures, product codes, and price changes does not mean it is a corporate front.<sup>273</sup> LDL contends it has not changed its product offerings since its inception in 2021, and, thus, its customer knows what products LDL can obtain from the manufacturer and does not need catalogs or brochures.<sup>274</sup> LDL asserts that its prices have not changed because purchase prices from the manufacturer have remained consistent as has LDL's markup.<sup>275</sup> Finally, regarding product codes, LDL claims that knowledge of what merchandise those codes refer to is not necessary for LDL to conduct its regular business.<sup>276</sup>

The Alleger argues that in other EAPA investigations involving CISP and CISPF, CBP found the entity behind the evasion scheme established corporate fronts to hide the actual party behind the evasion, and specifically cites EAPA consolidated case 7621 (EAPA 7621).<sup>277</sup> Likewise, the Alleger asserts LDL is not a legitimate business entity but a corporate front to mask Copperfit's role in the evasion of the AD/CVD orders on CISP and CISPF.<sup>278</sup>

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<sup>265</sup> *Id.* at 3.

<sup>266</sup> *Id.* at 4, citing LDL RFI Response at Appendix 1 and LDL Supplemental RFI Response at 1 and 12.

<sup>267</sup> *Id.*, citing LDL Supplemental RFI Response at 1 and 12.

<sup>268</sup> *Id.*

<sup>269</sup> *Id.* at 4-5, citing LDL RFI Response at 5 and 7.

<sup>270</sup> *Id.* at 5.

<sup>271</sup> *Id.*, citing LDL Supplemental RFI Response at 13.

<sup>272</sup> *Id.*, citing LDL Supplemental RFI Response at 12-13.

<sup>273</sup> *Id.* at 5-7.

<sup>274</sup> *Id.* at 5-6, citing RFI Response narrative generally and Supplemental RFI Response narrative generally.

<sup>275</sup> *Id.* at 6, citing LDL RFI Response at 10.

<sup>276</sup> *Id.*, citing LDL RFI Response at 11 and Appendix 2.

<sup>277</sup> See Alleger Written Argument at 18-19, citing CBP Memorandum for EAPA Consolidated Case 7621, "Notice of Determination as to Evasion" (Sep. 6, 2022) at 8-9, 19-22 (EAPA 7621 Notice of Determination as to Evasion).

<sup>278</sup> *Id.* at 19.

The Alleger claims that Shumin Zhang, who registered LDL and is LDL’s corporate secretary, is linked to Xingang Li and Nelson Li, Copperfit’s secretary and CEO, respectively.<sup>279</sup> Citing email communications pertaining to a cargo examination, the Alleger contends that Copperfit responded to CBP, referring to the merchandise as “our shipment.”<sup>280</sup> Similarly, the Alleger asserts, Nelson Li of Copperfit responded to CBP on LDL’s behalf, using LDL’s email, calling the EAPA investigation “our case” and stating that “we are still talking to a legal counsel.”<sup>281</sup> The Alleger argues LDL’s explanation that Nelson Li responded to CBP because LDL’s owner was in China is not plausible, given that email can be sent from China, and the response was indicative of someone involved in LDL’s operations.<sup>282</sup>

The Alleger contends that LDL does not operate at its own location but at that of Winfield Products, which is a dba for Copperfit.<sup>283</sup> The Alleger argues the webpage that LDL provided for Winfield Products does not support LDL’s claim that Winfield Products is separate from Copperfit.<sup>284</sup> The Alleger asserts Winfield Products’ website lists Steve Williams as its “VP Sales” with an email address [steve.w@copperfit.com](mailto:steve.w@copperfit.com).<sup>285</sup> Steve Williams lists “Copperfit – Winfield” as his employer, and Copperfit’s website shows “Winfield” in large script under “Our Affiliates.”<sup>286</sup>

According to the Alleger, other indicators that LDL does not operate as an independent trading company include a lack of accounting records;<sup>287</sup> LDL’s admission that it does not have its own product codes;<sup>288</sup> and a lack of product catalogs and brochures and its statement that returning customers know what they want to purchase from LDL.<sup>289</sup> The Alleger argues actual documentation that would establish the actual parties behind the evasion, such as bank statements showing if LDL or Copperfit paid Vanguard (or possibly Sandstein in China), or actual negotiation or purchase documents between LDL and Copperfit, is absent from the record.<sup>290</sup>

Pursuant to 19 C.F.R. § 165.28, in addition to the actions taken directly under EAPA, the Alleger urges CBP to initiate or continue any appropriate actions separate from this EAPA investigation against “all the individuals actually behind the evasion” and to utilize all the tools at its disposal in doing so.<sup>291</sup>

In response the Alleger’s written arguments, LDL reiterates it is not a corporate front for another company and argues this EAPA investigation is entirely distinguishable from EAPA 7621, where

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<sup>279</sup> *Id.*, citing Allegations at 5 and Exhibit 6.

<sup>280</sup> *Id.* at 20, citing Notice of Interim Measures at 10.

<sup>281</sup> *Id.*, citing CBP Memorandum, “EAPA Cons. Case No. 7785 – Certain Emails from LDL Trading Company Regarding Response to Request for Information” (Mar. 24, 2023) at Attachments 1 and 2 (emphasis Alleger’s).

<sup>282</sup> *Id.* at 21, citing LDL Supplemental RFI Response at 12.

<sup>283</sup> *Id.* at 19, citing Allegations at 4-5.

<sup>284</sup> *Id.* at 21, citing LDL Supplemental RFI Response at 13 and Exhibit S-8.

<sup>285</sup> *Id.* at 21-22, citing Alleger June 15, 2023, Rebuttal Information at Exhibit 4.

<sup>286</sup> *Id.* at 22, citing Alleger June 15, 2023, Rebuttal Information at Exhibit 5 and Allegations at Exhibit 6.

<sup>287</sup> *Id.* at 19.

<sup>288</sup> *Id.* at 19-20, citing LDL RFI Response at 11.

<sup>289</sup> *Id.* at 20, citing LDL RFI Response at 11.

<sup>290</sup> *Id.* at 22.

<sup>291</sup> *Id.* at 18 and 22-23, citing *Investigation of Claims of Evasion of Antidumping and Countervailing Duties*, 81 Fed. Reg. 56,477, 56,478 (Aug. 22, 2016); 18 U.S.C. § 542; 19 U.S.C. § 1592; and 19 U.S.C. § 1001.

CBP determined all the importers were linked to each other and that the Lino Group worked with the exporter to set up shell companies as importers of record to assist with the transshipment of merchandise.<sup>292</sup> LDL asserts that although it may be [ *relationship information* ] with Copperfit, both companies operate independently, and there is no evidence Copperfit has been establishing shell companies as its importers of record to shield it from liability for transshipment of covered merchandise.<sup>293</sup> Rather, LDL states, it is the only importer of record for the covered merchandise here.<sup>294</sup>

LDL insists the [ *relationship info.* ] connection between [ *name* ] of LDL and [ *name* ] of Copperfit does not signify there is a relationship of control or power between the companies or that one company is a mask for the other.<sup>295</sup> LDL claims Nelson Li did not respond to CBP's inquiries simply because LDL's owner was in China, but also because [ *name* ] asked him to help communicate with CBP.<sup>296</sup> LDL asserts it was reasonable for Copperfit to refer to the merchandise as "our shipment," since Copperfit ordered the merchandise through LDL, paid LDL for the merchandise, and took delivery of it; LDL merely served as the middleman trading company for the transaction.<sup>297</sup>

LDL states that it has an office space at the same location as Winfield Products (*i.e.*, 1689 Mission Boulevard, Pomona, CA 91766) and does not maintain a warehouse there,<sup>298</sup> but rather the merchandise is delivered to 1689 Mission Boulevard where it is directly transported to the ultimate customer.<sup>299</sup> LDL also asserts Winfield Products is not a dba for Copperfit but for [ *company name* ], a business that sells [ *product description and scope of business* ], and maintains Copperfit and [ *company name* ] are not the same company.<sup>300</sup> LDL contends it never stated that Winfield Products and Copperfit are unaffiliated, but only clarified the relationship between the companies and described Winfield Products' business scope in its supplemental RFI response.<sup>301</sup>

LDL claims it is not surprising that the customer would have knowledge of LDL's products, because LDL only deals with the importation of covered merchandise and has not modified its product offerings since its inception in 2021.<sup>302</sup> Regarding accounting and business records, LDL claims it provided documentation showing pricing discussions between itself and Vanguard before the POI, which demonstrates LDL had a relationship with Vanguard and it was not Copperfit controlling the order and importation process.<sup>303</sup> LDL also maintains it is a small trading company that does not keep regular financial records and it was not able to prepare

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<sup>292</sup> See LDL Response to Written Argument at page 2, citing EAPA 7621 Notice of Determination as to Evasion at 8-9 and 24.

<sup>293</sup> *Id.* at 2-3, citing EAPA 7621 Notice of Determination as to Evasion at 24 and 26 and LDL Supplemental RFI Response at 1 and 12.

<sup>294</sup> *Id.* at 3.

<sup>295</sup> *Id.* at 4, citing LDL Supplemental RFI Response at 1 and 12.

<sup>296</sup> *Id.* at 5, citing LDL Supplemental RFI Response at 1 and 12.

<sup>297</sup> *Id.*, citing LDL RFI Response at 6-7, 12, and 18, and LDL Supplemental RFI Response at 11-13.

<sup>298</sup> *Id.* at 6-7, citing LDL Supplemental RFI Response at 12-13.

<sup>299</sup> *Id.* at 7, citing LDL Supplemental RFI Response at 12-13 and LDL RFI Response at 19. CBP notes that the LDL RFI Response does not contain a page 19, so CBP is not certain what the actual citation is.

<sup>300</sup> *Id.*, citing LDL Supplemental RFI Response at 12-13.

<sup>301</sup> *Id.* at 7-8, citing LDL Supplemental RFI Response at 12-13.

<sup>302</sup> *Id.* at 6, citing LDL RFI Response generally and at 6-7, 12, and 18, and LDL Supplemental RFI Response generally.

<sup>303</sup> *Id.* at 8, citing LDL RFI Response at Appendices 5 and 6.

financial documents, like its banking statements, in the timeframe of the EAPA investigation.<sup>304</sup> With respect to product codes, LDL argues it clarified in its supplemental RFI response that it had created those codes.<sup>305</sup>

In response to LDL's written arguments, the Alleger asserts the record contains ample evidence showing that LDL does not operate as a legitimate independent entity, reiterating examples from its written arguments.<sup>306</sup> The Alleger argues that while LDL claimed it only functions from a residential location, LDL also claimed it maintains an office at the same location as Winfield Products, without providing any evidence for its tenancy.<sup>307</sup> However, the Alleger contends, purchase orders and other sales documents list Winfield Products' address, not LDL's residential address.<sup>308</sup> The Alleger urges CBP to reject LDL's attempt to take sole responsibility for evasion and take additional actions against all persons and entities behind the evasion.<sup>309</sup>

CBP Response:

The purpose of this EAPA investigation is to determine whether the importer of record, LDL, evaded the AD/CVD orders on CISP and CISPF when it entered CISP and CISPF into the customs territory of the United States during the POI. As discussed in this determination notice, the record of this investigation establishes there is substantial evidence that LDL entered covered merchandise into the United States through evasion, resulting in the avoidance of applicable AD/CVD cash deposits or other security. With respect to the Alleger's request that CBP initiate or continue any appropriate actions separate from this proceeding against "all the individuals actually behind the evasion," any such actions, if undertaken, would be wholly separate and distinct from this EAPA investigation, and will not be addressed in this determination as to evasion. Additionally, CBP declines to draw any conclusions regarding LDL's relationship with Copperfit in this EAPA investigation.

### **Determination as to Evasion**

The previously discussed facts on the record of this investigation establish there is substantial evidence that LDL imported Chinese-origin CISP and CISPF into the United States through evasion, specifically by transshipment through Vanguard and Supplier 2 in Malaysia and misclassification.<sup>310</sup> Additionally, by application of adverse inferences and even without its use, relying on information in the Allegations, the preliminary on-site visits, LDL's CF-28 responses, the cargo examinations, LDL's RFI and supplemental RFI responses, and factual information submitted by the Alleger, CBP determines that all the CISP and CISPF exported by Vanguard and Supplier 2 and imported by LDL was of Chinese origin. Furthermore, evidence on the

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<sup>304</sup> *Id.*, citing LDL RFI Response at 5-6 and 10 and Appendix 5 and LDL Supplemental RFI Response at 2-5 and 8.

<sup>305</sup> *Id.* at 9, citing LDL RFI Response at 11 and LDL Supplemental RFI Response at 4-5.

<sup>306</sup> See Alleger Response to Written Argument at 3-6.

<sup>307</sup> *Id.* at 4, citing LDL Supplemental RFI Response at 12.

<sup>308</sup> *Id.* at 4-5, citing LDL Supplemental RFI Response at Exhibits S-2, S-4, and S-7.

<sup>309</sup> *Id.* at 6-7, citing 19 C.F.R. § 165.28; 18 U.S.C. § 542; 19 U.S.C. § 1592; and 19 U.S.C. § 1001.

<sup>310</sup> As noted previously, during the cargo examination for entry [ # ]8123, CBP found that the cargo included cast iron floor drains. See Cargo Exam Memorandum for Entry [ # ]8123 at Attachment 1. CBP notes that floor drains may not be covered by the AD/CVD orders on CISPF from China. Additionally, based on the entry documentation and CBP's observations during the cargo examination, this entry also included some non-covered merchandise, *[description of merch]*. *Id.*

record indicates that LDL entered the Chinese-origin CISP and CISPF into the United States from Vanguard and Supplier 2 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 and also by misclassifying covered merchandise as not subject to the AD/CVD orders on CISP and CISPF from China. The CISP and CISPF that LDL entered from Vanguard and Supplier 2 during the POI should have been subject to the AD/CVD rates on CISP and CISPF from China.

**Actions Taken Pursuant to the Affirmative Determination as to Evasion**

In light of CBP's determination that substantial evidence demonstrates that LDL 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 LDL 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 LDL'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.<sup>311</sup>

Sincerely,



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

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<sup>311</sup> See 19 U.S.C. § 1517(h).