

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-053

Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain aluminum foil (aluminum foil) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less-than-fair value (LTFV). The period of investigation is July 1, 2016, through December 31, 2016. The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of this notice. We invite interested parties to comment on this preliminary determination.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Tom Bellhouse or Michael J. Heaney,

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DC 20230; telephone (202) 482-2057 and (202) 482-4475, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this LTFV investigation on March 30, 2017.¹ For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and electronic version of Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is aluminum foil from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

Scope Comments

In accordance with the preamble to the Department's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, "scope").⁴

¹ *See Certain Aluminum Foil from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 82 FR 15691 (March 30, 2017) (*Initiation Notice*).

² *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China," dated concurrently with this notice (Preliminary Decision Memorandum).

³ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁴ *See Initiation Notice*, 82 FR at 15692.

We received comments from three interested parties on April 18, 2017,⁵ as well as rebuttal scope comments filed by The Aluminum Association Trade Enforcement Working Group (the petitioner) on April 28, 2017.⁶ We received no other comments on scope since publication of the *Initiation Notice*. The Department has decided preliminarily to not modify the scope language as it appeared in the *Initiation Notice*.⁷

Methodology

The Department is conducting this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (the Act). We calculated export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value (NV) in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.⁸ Policy Bulletin 05.1 describes this practice.⁹

⁵ See Letter from MAHLE Behr Troy Inc., “Comments on Scope of the Investigation: Certain Aluminum Foil from the People’s Republic of China,” dated April 18, 2017; *see also* Letter from Valeo North America, Inc., “Aluminum Foil from the People’s Republic of China: Request for Confirmation of Scope Exclusion for Automotive Fin Stock,” dated April 18, 2017, *and* Letter from Jiangsu Zhongji Lamination Materials Co., (HK) Ltd., Jiangsu Zhongji Lamination Materials Co., Ltd., and Jiangsu Zhongji Lamination Materials Stock Co., Ltd., “Certain Aluminum Foil from the People’s Republic of China: Request that Aluminum Foil of a Thickness Below .0003” Be Excluded from the Scope or Treated as a Separate Class or Kind of Merchandise,” dated April 18, 2017.

⁶ See Letter from the Petitioner, “Certain Foil from the People’s Republic of China Petitioners’ Scope Rebuttal Comments,” dated April 28, 2017.

⁷ See Memorandum to James Maeder, “Certain Aluminum Foil from the People’s Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated October 26, 2017.

⁸ See *Initiation Notice*, 82 FR at 15695.

⁹ See Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available on the Department’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Preliminary Determination

The preliminary weighted-average antidumping margins are as follows:

Producer	Exporter	Weighted-Average Margin	Cash Deposit Adjusted for Subsidy Offset
Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd./ Hangzhou Teemful Aluminum Co., Ltd./ Inner Mongolia Liansheng New Energy Material Joint-Stock Co., Ltd./ Hangzhou Five Star Aluminum Co., Ltd./ Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd./ Walson (HK) Trading Co., Limited/ Hangzhou Dingsheng Import & Export Co., Ltd. ¹⁰	Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd./ Hangzhou Teemful Aluminum Co., Ltd./ Inner Mongolia Liansheng New Energy Material Joint-Stock Co., Ltd./ Hangzhou Five Star Aluminum Co., Ltd./ Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd./ Walson (HK) Trading Co., Limited/ Hangzhou Dingsheng Import & Export Co., Ltd.	162.24 percent	149.64 percent
Jiangsu Zhongji Lamination Materials Stock Co., Ltd./ Jiangsu Huafeng Aluminium Industry Co., Ltd. ¹¹	Jiangsu Zhongji Lamination Materials Co., (HK) Ltd.	96.81 percent	86.27 percent
Jiangsu Alcha Aluminum Co., Ltd.	Alcha International Holdings Limited	138.16 percent	126.59 percent
Baotou Alcha Aluminum Co., Ltd.	Alcha International Holdings Limited	138.16 percent	126.59 percent
Jiangyin Dolphin Pack Ltd. Co.	Jiangyin Dolphin Pack Ltd. Co.	138.16 percent	126.59 percent
Granges Aluminum (Shanghai) Co., Ltd.	Granges Aluminum (Shanghai) Co., Ltd.	138.16 percent	126.59 percent
Huaфон Nikkei Aluminium Corporation	Huaфон Nikkei Aluminium Corporation	138.16 percent	126.59 percent

¹⁰ The Department preliminarily determines that Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd., Hangzhou Teemful Aluminium Co., Ltd., Hangzhou Five Star Aluminium Co., Ltd., Inner Mongolia Liansheng New Energy Material Joint-Stock Co., Ltd., Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd., Walson (HK) Trading Co., Limited, and Hangzhou Dingsheng Import & Export Co., Ltd. are a single entity (collectively, Dingsheng). *See* Preliminary Decision Memorandum.

¹¹ The Department preliminarily determines that Jiangsu Zhongji Lamination Materials Stock Co., Ltd. and Jiangsu Huafeng Aluminium Industry Co., Ltd. are a single entity (collectively, Zhongji). *See* Preliminary Decision Memorandum.

Suntown Technology Group Limited	Hunan Suntown Marketing Limited	138.16 percent	126.59 percent
Luoyang Longding Aluminium Industries Co., Ltd.	Luoyang Longding Aluminium Industries Co., Ltd.	138.16 percent	126.59 percent
Shandong Yuanrui Metal Material Co., Ltd.	Shandong Yuanrui Metal Material Co., Ltd.	138.16 percent	126.59 percent
Suntown Technology Group Limited	SNTO International Trade Limited	138.16 percent	126.59 percent
North China Aluminum Co., Ltd., Hunan Suntown Marketing Limited, and Guangxi Baise Xinghe Aluminum Industry Co., Ltd.	Suzhou Manakin Aluminum Processing Technology Co., Ltd.	138.16 percent	126.59 percent
Xiamen Xiashun Aluminium Foil Co. Ltd.	Xiamen Xiashun Aluminium Foil Co. Ltd.	138.16 percent	126.59 percent
Yantai Donghai Aluminum Foil Co., Ltd.	Yantai Jintai International Trade Co., Ltd.	138.16 percent	126.59 percent
Yinbang Clad Material Co., Ltd.	Yinbang Clad Material Co., Ltd.	138.16 percent	126.59 percent
Zhejiang Zhongjin Aluminum Industry Co., Ltd.	Zhejiang Zhongjin Aluminum Industry Co., Ltd.	138.16 percent	126.59 percent
PRC-WIDE ENTITY		162.24 percent	151.70 percent

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of aluminum foil from the PRC as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. The suspension of liquidation will remain in effect until further notice.

Disclosure and Public Comment

We will disclose to interested parties the calculations performed in this proceeding within five days of the date of announcement of this preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments on the preliminary determination described above may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this proceeding.¹² Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹³

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁴ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.¹⁵ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

¹² See 19 CFR 351.309 (b)(2)(c)(i).

¹³ See 19 CFR 351.309, *see also* 19 CFR 351.303 (for general filing requirements).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ See 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.¹⁶ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.¹⁷

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Respondents Dingsheng and Zhongji requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination, *i.e.*, issue its final determination no later than 135 days after the publication of the preliminary determination in the *Federal Register*, and that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.¹⁸

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii),

¹⁶ See 19 CFR 351.303(b)(2)(i).

¹⁷ See 19 CFR 351.303(b)(1).

¹⁸ See Letter from Dingsheng, "Dingsheng's Request to Extend the Final Determination in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated September 6, 2017; see also Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Request to Postpone Final Determination," dated September 6, 2017.

because: (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than February 22, 2018, and are extending the provisional measures from a four-month period to a period not greater than six months.¹⁹

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (ITC) of our preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Determination of Non-Market Economy Status

As part of this investigation, the Department initiated an inquiry into whether the PRC should continue to be treated as a nonmarket economy (NME) country under the antidumping and countervailing duty laws. The Department provided an opportunity for the public to comment and submit information with respect to the PRC on the six factors enumerated by section 771(18)(B) of the Act, which the Department must take into account in making a market/nonmarket economy determination. The Department has completed its inquiry and concludes that the PRC is a NME country because it does not operate sufficiently on market principles to permit the use of prices and costs in that country for purposes of the Department's antidumping analysis.²⁰ Having already solicited and considered comments from the public, the

¹⁹ See 19 CFR 351.210(b)(2) and (e).

²⁰ See Memorandum to Gary Taverman, "China's Status as a Non-Market Economy," dated October 26, 2017.

Department will not revisit its analysis or consider further comments from interested parties on its conclusion that the PRC is a NME country in the final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(I) of the Act and 19 CFR 351.205(c).

/S/ Gary Taverman

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

October 26, 2017

Date

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

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 - A. Non-Market Economy Country
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- X. Disclosure and Public Comment
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Appendix II

Scope of the Investigation

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on only one side of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6000, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000. Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.