



(BILLING CODE: 3510-DS-P)

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-967/C-570-968]

Aluminum Extrusions from the People's Republic of China: Initiation of Anti-Circumvention Inquiries

AGENCY: Enforcement & Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the Aluminum Extrusions Fair Trade Committee (the petitioner), the Department of Commerce (Commerce) is initiating anti-circumvention inquiries to determine whether extruded aluminum products that are exported from the Socialist Republic of Vietnam (Vietnam) by China Zhongwang Holdings Ltd. and its affiliates (collectively, Zhongwang) are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China).

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

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SUPPLEMENTARY INFORMATION:

Background

On January 9, 2018, pursuant to sections 781(b) and (c) and 19 CFR 351.225(h) and (i) of the Tariff Act of 1930, as amended (the Act), the petitioner requested that Commerce initiate anti-circumvention inquiries on imports of certain aluminum extrusions from Vietnam by

Zhongwang.¹ In its request, the petitioner contends that Zhongwang's Vietnamese aluminum extrusions are circumventing the scope of the *Orders*,² because the aluminum extrusions at issue are Chinese extrusions being completed in Vietnam and the processes involved (re-melting and re-extruding) constitute a minor alteration. Therefore, the petitioner requests that Commerce address this alleged circumvention by initiating both a "merchandise completed or assembled in other foreign countries" anti-circumvention inquiry pursuant to section 781(b) of the Act, as well as a "minor alterations" anti-circumvention inquiry pursuant to section 781(c) of the Act.³

Scope of the *Orders*

The merchandise covered by the *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent

¹ See Petitioner's Circumvention Request "Aluminum Extrusions from the People's Republic of China: Request for Anti-Circumvention Inquiry," dated January 9, 2018 (Anti-Circumvention Request).

² See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011), and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).

³ See Anti-Circumvention Request, at 23-50.

but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (i.e., without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, i.e., prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, etc.), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (e.g., by welding or fasteners) to form

subassemblies, i.e., partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled “as is” into a finished product. An imported product will not be considered a “finished goods kit” and therefore excluded from the

scope of the *Orders* merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters (“mm”) or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of the *Orders* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00,

7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS

subheadings are provided for convenience and customs purposes, the written description of the scope of the *Orders* is dispositive.

Merchandise Subject to the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover extruded aluminum products that meet the description of the *Orders* exported from Vietnam by Zhongwang.⁴ Commerce intends to consider whether these inquiries should apply to all exports of extruded aluminum products from Vietnam that meet the description of the *Orders*.

Allegations Supporting Initiation of Anti-Circumvention Proceeding: Merchandise Completed or Assembled in Other Foreign Countries

Section 781(b)(1) of the Act provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to an order is completed or assembled in a foreign country other than the country to which the order applies. In conducting an anti-circumvention inquiry under section 781(b)(1) of the Act, Commerce will evaluate whether: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an AD or CVD duty order or finding; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country is minor or insignificant; (D) the value of the

⁴ The petitioner provided names of known, and potential, entities involved in Zhongwang's import and export of Vietnamese aluminum extrusions. The entities involved in the exportation Vietnamese aluminum extrusions are Chinese, Mexican, Singaporean, U.S., and Vietnamese affiliates of Zhongwang. Through the course of inquiry, we intend to examine in addition to Zhongwang the following affiliated companies: Aluminicaste Fundicion de Mexico (Aluminicaste); Dalian Liwan Trade Co., Ltd.; Tianjin Boruxin Trading Co., Ltd.; Dragon Luxe Limited; Perfectus Aluminum Inc, Perfectus Aluminum Acquisitions LLC Pencheng Aluminum Enterprise Inc. USA; Transport Aluminum Inc.; Aluminum Source Inc.; Aluminum Industrial Inc.; Global Aluminum (USA) Inc.; Aluminum Shapes, LLC; Century American Aluminum Inc.; and American Apex Aluminum Inc.; Global Vietnam Aluminum Co., Ltd. (GVA); Global Tower Worldwide Ltd.. We also intend to examine whether any Zhongwang's affiliates are the producers of the merchandise at issue.

merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) action is appropriate to prevent evasion of such order or finding.

A. Merchandise of the Same Class or Kind

The petitioner claims that the aluminum extrusions exported to the United States from Vietnam are the same class or kind as that covered by the *Orders*.⁵ The petitioner provided evidence to show that the merchandise from Vietnam enters the United States under the same tariff classification as subject merchandise.⁶

B. Completion of Merchandise in a Foreign Country

The petitioner notes that section 781(b)(1)(B)(ii) of the Act requires that “{Commerce} must also assess whether, prior to importation into the United States, the merchandise in the third country is completed from merchandise produced in the country subject to the antidumping or countervailing duty order.”⁷ In its request, the petitioner submitted evidence of Zhongwang’s long history of using its extensive network of global affiliates to circumvent and evade the *Orders*. According to the petitioner, Zhongwang began shipping subject merchandise from its affiliates in the United States and China to Vietnam for reprocessing after Commerce made a scope ruling on Zhongwang’s pallets.⁸ The petitioner also provided information which indicates that imports into Vietnam, and imports into the United States, of aluminum extrusions from Vietnam significantly increased after the imposition of the *Orders*.⁹

C. Minor or Insignificant Process

⁵ See Anti-Circumvention Request, at 25; see also sections 781(b)(1)(A)(i) and (iii) of the Act.

⁶ See Anti-Circumvention Request, at 25 and Exhibits 20, and 23.

⁷ *Id.* at 25-26 and Exhibits 2, 6, 9, 10, 12 13, and 29.

⁸ *Id.* at 26-27 and Exhibits 9, 13, 16, 30, 31, and 32.

⁹ *Id.* at 28 and Exhibit 20.

The petitioner maintains that the process for completing Vietnamese aluminum extrusions from Zhongwang's Chinese aluminum extrusions is minor or insignificant.¹⁰ Under section 781(b)(2) of the Act, Commerce considers the five factors set out below to determine whether the process of assembly or completion is minor or insignificant. The petitioner argues that processing done in Vietnam is minor and must be viewed relative to: (1) the value of the aluminum extrusions produced in China, (2) the AD/CVD duties avoided, and (3) the export tax rebate received from exporting aluminum extrusions from China to Vietnam.¹¹

(1) Level of Investment

The petitioner contends that the level of investment by Zhongwang in Vietnam is insignificant when compared to the value of investment in China to produce the billets and extrusions in the first place.¹² In support of its argument, the petitioner points to Zhongwang's 2016 financial report which indicates that the level of investment by Zhongwang in China consists of 90 aluminum extrusion production lines and orders for an additional 99 extrusion presses.¹³ The petitioner also submitted evidence that Zhongwang built a "world-leading" aluminum tilt smelting and casting facility at its extrusion facility and possesses the largest customized aluminum extrusions product die design manufacturing center in Asia.¹⁴ According to the petitioner, the level of Zhongwang's investment in its Vietnamese affiliate GVA is minimal when compared to Zhongwang's total aluminum extrusions investments across its company and all of its affiliates.¹⁵ Additionally, the petitioner asserts that Zhongwang's level of investment is minimal when compared to China's semi-finished aluminum goods export rebate

¹⁰ *Id.* at 28.

¹¹ *Id.* 28-39

¹² *Id.* at 29-30.

¹³ *Id.* at 30 and Exhibit 33.

¹⁴ *Id.*

¹⁵ *Id.*

that it received on aluminum extrusions exports from China and the avoidance of 400 percent AD/CVD duties on U.S. imports.¹⁶

(2) Level of Research and Development

The petitioner states that, in comparison with Zhongwang's Chinese operations, the level of research and development (R&D) in Vietnam is minimal.¹⁷ The petitioner points out that Zhongwang's financial reports indicate that it invested heavily in R&D in China.¹⁸ The petitioner also points to Zhongwang's financial reports, which show an integrated production line and its 1,288 R&D and quality control personnel (which account for 7.7 percent of all Zhongwang employees).¹⁹ The petitioner also states that, conversely, Zhongwang's Vietnamese operation (as well as those of and other Vietnamese extruders) consists of merely re-melting and re-extruding; neither of which requires unique technology or significant R&D.²⁰

(3) Nature of Production Process

According to the petitioner, the production process undertaken by Vietnamese producers of aluminum extrusions provides minimal value added.²¹ The petitioner points out that the that the process requires re-melting the Chinese aluminum extrusions in a furnace and then pushing the reheated extrusion through a die for a desired end shape; the costs incurred by Vietnamese extruders for the process are labor, energy, and overhead, which account for allegedly only 8.8 percent of total extrusion cost.²² In contrast, the petitioner provides information suggesting that 90 percent of the cost of production of aluminum extrusions in China is the metal material (*i.e.*,

¹⁶ *Id.* at 30-31 and Exhibit 33.

¹⁷ *Id.* at 31.

¹⁸ *Id.* at 31 and Exhibit 33.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 32.

²² *Id.* at 32-33 and Exhibits 32 and 34.

aluminum ingot, aluminum scrap, and additional elements) which is extruded for export to Vietnam.²³

(4) Extent of Production Facilities in Vietnam

The petitioner provided information indicating that production facilities in Vietnam are more limited compared to facilities in China.²⁴ The petitioner states that Zhongwang is using its affiliate GVA to keep its Chinese facilities running at full production and to continue flooding the world with extrusions, now from Vietnam.²⁵

(5) Value of Processing in Vietnam

The petitioner asserts that producing aluminum extrusions in China accounts for a large percentage of the total value of the aluminum extrusions reprocessed in Vietnam.²⁶ Using a cost of production model with standard consumption rates and surrogate costs for the production of billets and extrusions, the petitioner states that the value of reprocessing performed in Vietnam is a small fraction of the value of merchandise shipped to the United States.²⁷ The petitioner argues that the vast majority of the value of the merchandise consists of the processing done in China and the value of the aluminum itself. Additionally, the petitioner argues that, from a qualitative analysis standpoint, primary direct material inputs (*i.e.*, Chinese aluminum extrusions) converted by producers in Vietnam show no other significant costs incurred by Vietnamese producers.²⁸ Thus, petitioner concludes that the value of the merchandise produced in China comprises the vast majority of total value of the inquiry merchandise shipped to the United States.²⁹

²³ *Id.* at 33 and Exhibits 32 and 34.

²⁴ *Id.* at 34-35.

²⁵ *Id.* at 35, and Exhibit 16.

²⁶ *Id.* at 35.

²⁷ *Id.* at 35, and Exhibit 35.

²⁸ *Id.* at 36.

²⁹ *Id.* at 36-37.

D. Additional Factors to Consider in Determining whether Action Is Necessary

Section 781(b)(3) of the Act directs Commerce to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, such as: “{1} the pattern of trade, including sourcing patterns, {2} whether the manufacturer or exporter of the merchandise ... is affiliated with the person who uses the merchandise ... to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and {3} whether imports into the foreign country of the merchandise ... have increased after the initiation of the investigation which resulted in the issuance of such order or finding.”

(1) Pattern of Trade

In its request, the petitioner provides evidence that Vietnam’s imports of aluminum extrusions from China, as well as Vietnam’s exports of aluminum extrusions to the United States, have surged since the petitions were filed for the original investigations of aluminum extrusions from China.³⁰ The petitioner points to Zhongwang’s 2017 interim financial report, which reveals that the “sales volume of {Zhongwang}’s deep processing business” decreased by 80.7 percent compared to the same period in 2016 “due to the declined sales volume of deep-processed product exporting to the United States ... caused by the increasingly heating up trade friction in aluminum industry between U.S. and China.”³¹ Thus, the petitioner concludes that there is a pattern of trade of Vietnam imports of Chinese aluminum extrusions and export of inquiry merchandise which indicates circumvention of the *Orders*.

(2) Affiliation

The petitioner provided the following to support its allegation that GVA is affiliated with

³⁰ *Id.* at 38.

³¹ *Id.* at 38-39 and Exhibit 36.

Zhongwang: (1) Zhongwang's employees have been seconded to GVA;³² (2) containers of Zhongwang's aluminum from China can be traced to GVA in Vietnam;³³ (3) most of GVA's imports into Vietnam come from Zhongwang;³⁴ (4) GVA is owned in part by Jacky Cheung, who has been involved with Zhongwang affiliated companies PCA/Perfectus and Alumincaste;³⁵ and (5) GVA is a supplier to Zhongwang's U.S. affiliate PCA/Perfectus.³⁶ The petitioner concludes that the evidence supports its allegation that GVA is affiliated with Zhongwang in an effort to circumvent the *Orders*.

(3) Increase of Aluminum Extrusions Shipments from China to Vietnam After Initiations of the AD and CVD Investigations of Aluminum Extrusions from China

The petitioner presented evidence indicating that imports of aluminum extrusions from China to Vietnam have increased since the initiation of the investigations of aluminum extrusions from China.³⁷ No other factual information on the record contradicts this claim.

Allegations Supporting Initiation of Anti-Circumvention Proceeding: Minor Alterations

Section 781(c)(1) of the Act provides that Commerce may find circumvention of an AD or CVD order when products which are of the class or kind of merchandise subject to an AD or CVD order have been "altered in form or appearance in minor respects . . . whether or not included in the same tariff classification." Section 781(c)(2) of the Act provides an exception that "{p}aragraph 1 shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the {AD or CVD} order{.}"

³² *Id.* at 39

³³ *Id.*

³⁴ *Id.* at 39-40 and Exhibits 2 and 3.

³⁵ *Id.* at 40 and Exhibits 2, 3, 10, and 14.

³⁶ *Id.* at 40 and Exhibits 3 and 16.

³⁷ *Id.* at 40 and Exhibits 17 and 18.

Although the statute is silent as to what factors to consider in determining whether alterations are properly considered “minor,” the legislative history of this provision indicates there are certain factors which should be considered before reaching an anti-circumvention determination. In conducting an anti-circumvention inquiry under section 781(c) of the Act, Commerce has generally relied upon “such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported product.”³⁸ Commerce will examine these factors in evaluating an allegation of minor alteration under section 781(c) of the Act and 19 CFR 351.225(i). Still, because each case is highly dependent on the facts on the record, each must be analyzed in light of the specific facts. Moreover, although not specified in the statute, Commerce has also considered additional factors as part of its anti-circumvention analysis, including the circumstances under which the products at issue entered the United States, and the timing and quantity of said entries during the circumvention review period.³⁹

A. Overall Physical Characteristics

The petitioner contends that the aluminum extrusions being imported into the United States from Vietnam are indistinguishable in any meaningful sense from subject extrusions produced in China.⁴⁰ Indeed, the petitioner provided evidence that the aluminum “pallets” exported from China to GVA in Vietnam are the same as subject merchandise as determined by

³⁸ See S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987) (“In applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article”).

³⁹ See, e.g., *Brass Sheet and Strip from West Germany; Negative Preliminary Determination of Circumvention of Antidumping Duty Order*, 55 FR 32655 (August 10, 1990) (*Brass Sheet and Strip from West Germany Prelim*), unchanged in *Brass Sheet and Strip from Germany; Negative Final Determination of Circumvention of Antidumping Duty Order*, 56 FR 65884 (December 19, 1991); see also *Small Diameter Graphite Electrodes from the People’s Republic of China: Initiation of Anticircumvention Inquiry*, 77 FR 37873, 37876 (June 25, 2012).

⁴⁰ See Anti-Circumvention Request, at 42.

Commerce in two separate scope rulings.⁴¹ Additionally, the petitioner provided evidence showing that aluminum extrusions from Vietnam are entering the United States under the same HTS subheadings as subject Chinese extrusions.⁴² As such, the petitioner argues that the only difference between Chinese aluminum extrusions and extrusions from Vietnam is that the extrusions from Vietnam are being re-extruded from Chinese subject merchandise.

B. Expectations of the Ultimate Users

The petitioner alleges that the expectations of the purchasers, and ultimate use of aluminum extrusions from Vietnam, are the same as those of products produced in China.⁴³ The petitioner cites to Commerce's scope ruling on pallets that aluminum "pallets" could not be differentiated from aluminum extrusions based on their end use because the "pallets" at issue were not functional as ordinary pallets.⁴⁴ The petitioner avers that the "pallets" (or other extruded aluminum products that have been re-melted and re-extruded) would serve the same expected end use, because the underlying aluminum in these extrusions is exactly the same.⁴⁵ The petitioner provided evidence that aluminum extrusion producers in Vietnam do not distinguish between aluminum billet feedstock produced in one location from another when marketing their extrusions to the public.⁴⁶ Therefore, the petitioner argues that the end-users of these products do not distinguish between those produced entirely in China and those re-extruded in Vietnam.

C. Channels of Marketing

⁴¹ *Id.* at 42 and Exhibits 2, 3, and 20.

⁴² *Id.* at 42 and Exhibit 20

⁴³ *Id.* at 43.

⁴⁴ *Id.* (citing Memorandum, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Certain Aluminum Pallets," dated December 7, 2016; and Memorandum, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Certain Aluminum Pallets," dated June 13, 2017).

⁴⁵ *Id.* at 43.

⁴⁶ *Id.* at 43 and Exhibits 22, 37, and 38.

The petitioner maintains that there is no difference between the channels of marketing for aluminum extrusions from China and for aluminum extrusion from Vietnam.⁴⁷ For example, the petitioner provided evidence that the marketing pages of companies' websites do not differentiate between the aluminum extrusions produced in Vietnam and those produced in China and melted and re-extruded in Vietnam.⁴⁸ The petitioner alleges that if there were a difference between those extrusions, then one would expect companies to highlight the difference.⁴⁹

D. Cost of Modification

The petitioner claims that the cost of the minor alterations to make aluminum extrusions in Vietnam is small when compared to the total cost of production and the total value of the aluminum extrusions.⁵⁰ As discussed above, the petitioner contends that, since the Vietnamese producers are only melting and re-extruding the aluminum, the production which takes place in Vietnam amounts to minimal additional processing.⁵¹ The petitioner alleges that this processing (*i.e.*, re-melting and re-extruding) takes place in two steps: (1) GVA melts the Chinese extrusion into a billet, and (2) GVA extrudes the billet.⁵² It claims that GVA avoids the metal costs of billet production in Vietnam by simply melting aluminum extrusions that are already at the desired aluminum alloy.⁵³ According to the petitioner, this allows GVA to save over 90 percent of the cost of producing a billet, which comprises 80 percent of the cost of producing an extrusion.⁵⁴ For that reason, the petitioner avers that the remaining processing which takes place in Vietnam is 10 percent of total aluminum extrusions; these costs are broken down between

⁴⁷ *Id.* at 44.

⁴⁸ *Id.* at 44 and Exhibits 22, 37, and 38.

⁴⁹ *Id.* at 44 and Exhibit 22.

⁵⁰ *Id.* at 44.

⁵¹ *Id.*

⁵² *Id.* at 44-45 and Exhibits 32 and 34.

⁵³ *Id.* at 44-46 and Exhibits 32 and 34.

⁵⁴ *Id.*

labor, energy, and additional overhead, and are insignificant in comparison to the AD/CVD duties avoided.⁵⁵

E. Additional Factors to Consider in Determining whether Action Is Necessary

In addition to the factors described above, Commerce has considered additional factors in determining whether a producer or exporter has used a minor alteration to circumvent an order.⁵⁶

i. Circumstance Under Which the Subject Products Entered the United States

The petitioner states that, at the completion of the original investigations, the China-wide AD/CVD rate was nearly 400 percent.⁵⁷ According to the petitioner, these considerable margins give Zhongwang a tremendous financial incentive to circumvent the *Orders*, thereby not incurring the costs associated with the duties levied on the entries of subject merchandise.⁵⁸ The petitioner alleges that Zhongwang has a long history of evading the *Orders*.⁵⁹

ii. Timing of Entries

The petitioner asserts that the timing of the entries of Vietnamese aluminum extrusions shows that Zhongwang has attempted to circumvent the *Orders*.⁶⁰ To support its contention, the petitioner provided import data showing that aluminum extrusions shipments to Vietnam from China, and aluminum extrusion shipments to the United States from Vietnam, both increased after the imposition of the *Orders* in 2011.⁶¹

Analysis of the Allegations

⁵⁵ *Id.* at 46-47 and Exhibit 34.

⁵⁶ *See, e.g., Brass Sheet and Strip from West Germany Prelim*, 55 FR at 32655, 32658.

⁵⁷ *See Anti-Circumvention Request*, at 47-48.

⁵⁸ *Id.* at 48.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at 48-50 and Exhibits 9, 17, and 20.

Based on our analysis of the information provided by the petitioner, Commerce finds that there exists a sufficient basis to initiate anti-circumvention inquiries, pursuant to sections 781(b) and (c) of the Act. Commerce will determine whether the merchandise subject to the inquiries (identified in the “Merchandise Subject to the Anti-Circumvention Inquiries” section, above) involves merchandise either completed or assembled in other foreign countries which can be considered subject to the *Orders*, and/or represents a minor alteration to subject merchandise in such minor respects that it should be subject to the *Orders*.

Commerce will not order the suspension of liquidation of entries of any additional merchandise at this time. However, in accordance with 19 CFR 351.225(l)(2), if Commerce issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption, on or after the date of initiation of the inquiries.

In the event we issue a preliminary affirmative determination of circumvention pursuant to section 781(b) of the act (Merchandise Completed or Assembled in Other Foreign Countries), we intend to notify the International Trade Commission, in accordance with section 781(b)(1) of the Act and 19 CFR 351.225(f)(7)(i)(B), if applicable.

Commerce will, following consultation with interested parties, establish a schedule for questionnaires and comments on the issues. Commerce intends to issue its final determination within 300 days of this initiation, in accordance with section 781(f) of the Act.

This notice is published in accordance with sections 781(b) and (c) of the Act and 19 CFR 351.225(h) and (i).

Dated: February 26, 2018.

Prentiss Lee Smith,
Deputy Assistant Secretary
for Policy and Negotiations.

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