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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(C-570-054)

Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (the ITC), Commerce is issuing a countervailing duty (CVD) order on certain aluminum foil (aluminum foil) from the People's Republic of China (China). In addition, Commerce is amending its final CVD determination with respect to aluminum foil from China, to correct ministerial errors.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3813.

SUPPLEMENTARY INFORMATION:

Period of Investigation: The period of investigation (POI) is January 1, 2016, through December 31, 2016.

Background

In accordance with sections 705(a), 705(d), and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on March 5, 2018, Commerce published in the

Federal Register an affirmative final determination in the CVD investigation of aluminum foil from China.¹ Interested parties submitted timely filed allegations that Commerce made certain ministerial errors in the final CVD determination of aluminum foil from China. Section 705(e) of the Act and 19 CFR 351.224(f) define ministerial errors as errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial. We reviewed the allegations and determined that we made certain ministerial errors. *See* “Amendment to the Final Determination” section below for further discussion.

On April 9, 2018, the ITC notified Commerce of its affirmative determination pursuant to section 705(b)(1)(A)(i) and section 705(d) of the Act, that an industry in the United States is materially injured by reason of subsidized imports of aluminum foil from China.²

Scope of the Order

The merchandise covered by this order is aluminum foil from China. For a complete description of the scope of this order, *see* the Appendix to this notice.

Amendment to the Final Determination

On March 5, 2018, the petitioners³ and Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. (Dingsheng HK) timely alleged that the *Final Determination* contained certain ministerial errors, and requested that Commerce correct such errors. No rebuttal comments were submitted.

¹ *See Certain Aluminum Foil from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018) (*Final Determination*), and accompanying Issues and Decision Memorandum (Final Decision Memorandum).

² *See* Letter from the ITC to Commerce, dated April 9, 2018; *see also Aluminum Foil from China* (Investigation Nos. 701-TA-570 and 731-TA-1346 (Final), USITC Publication 4771, April 2018).

³ The petitioners to this investigation are the Aluminum Association Trade Enforcement Working Group (the petitioners).

Commerce reviewed the record and, on April 3, 2018, agreed that the errors referenced in the petitioners' and Dingsheng HK's allegations constitute ministerial errors within the meaning of 705(e) of the Act and 19 CFR 351.224(f).⁴ Commerce found that it made errors in calculating Dingsheng HK's benefit under the Policy Lending for Aluminum Foil and Government Provision of Primary Aluminum for Less Than Adequate Remuneration programs, and these errors were contrary to our methodological intention.⁵ Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Determination* to reflect the correction of the ministerial errors described above. Based on our correction of the ministerial errors in Dingsheng HK's calculation, the subsidy rate for Dingsheng HK increased from 19.98 percent *ad valorem* to 20.10 percent *ad valorem*.⁶ Because the "all-others" rate is based, in part, on Dingsheng HK's *ad valorem* subsidy rate, the correction noted above also increases the "all-others" rate determined in the *Final Determination* from 18.56 percent *ad valorem* to 18.62 percent *ad valorem*.⁷ Because the rates for Loften Aluminum (Hong Kong) Limited and Manakin Industries, LLC, were derived in part from the rates from Dingsheng HK, the correction also changes the rate for these companies from 80.97 percent *ad valorem* to 80.52 percent *ad valorem*.

Countervailing Duty Orders

In accordance with section 705(b)(1)(A)(i) and 705(d) of the Act, the ITC has notified Commerce of its final determination in this investigation, in which it found that an industry in

⁴ See Memorandum "Ministerial Error Allegations Concerning Final Affirmative Countervailing Duty Determination," dated April 3, 2018.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

the United States is materially injured by reason of subsidized imports of aluminum foil from China. Therefore, in accordance with section 705(c)(2) of the Act, we are issuing this CVD order. Because the ITC determined that imports of aluminum foil from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, Commerce will direct United States Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties equal to the net countervailable subsidy rates, for all relevant entries of aluminum foil from China. Upon further instruction by Commerce, countervailing duties will be assessed on unliquidated entries of aluminum foil from China entered, or withdrawn from warehouse, for consumption on or after August 14, 2017, the date of publication of the *Preliminary Determination*.⁸

Amended Cash Deposits and Suspension of Liquidation

In accordance with section 706 of the Act, we will instruct CBP to suspend liquidation on all relevant entries of aluminum foil from China, as further described below. These instructions suspending liquidation will remain in effect until further notice. Commerce will also instruct CBP to require cash deposits equal to the amounts as indicated below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise,

⁸ See *Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 37844 (August 14, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum). However, as described further below, entries that occurred after the expiration of the provisional measures period, and prior to publication of the ITC's final injury determination, are not subject to countervailing duties.

a cash deposit equal to the subsidy rates listed below.⁹ The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

| Company | Subsidy Rate |
|---|---------------|
| Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. ¹⁰ | 20.10 percent |
| Jiangsu Zhongji Lamination Materials Co., Ltd. ¹¹ | 17.14 percent |
| Loften Aluminum (Hong Kong) Limited | 80.52 percent |
| Manakin Industries, LLC ¹² | 80.52 percent |
| All-Others | 18.62 percent |

Provisional Measures

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary CVD determination may not remain in effect for more than four months. In the underlying investigation, Commerce published the *Preliminary Determination* on August 14, 2017. Therefore, the four-month period beginning on the date of the publication of the Preliminary Determination ended on December 12, 2017. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury

⁹ See section 706(a)(3) of the Act.

¹⁰ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Dingsheng HK: Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.; Hangzhou Teemful Aluminum Co., Ltd.; Hangzhou Five Star Aluminum Co., Ltd.; Hangzhou DingCheng Aluminum Co., Ltd.; Luoyang Longding Aluminum Co., Ltd.; Hangzhou Dingsheng Industrial Group Co., Ltd.; Hangzhou Dingsheng Import & Export Co., Ltd.; and Walson (HK) Trading Co., Limited.

¹¹ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Zhongji: Shantou Wanshun Package Material Stock Co., Ltd.; Jiangsu Huafeng Aluminum Industry Co., Ltd.; and Jiangsu Zhongji Lamination Materials Co., (HK) Ltd.

¹² As discussed in the Preliminary Decision Memorandum, Commerce finds that Manakin Industries and Suzhou Manakin Aluminum Processing Technology Co., Ltd., effectively function by joint operation as a trading company. Therefore, the rate for Manakin Industries also applies to Suzhou Manakin Aluminum Processing Technology Co., Ltd. For additional information, see Preliminary Decision Memorandum and Final Decision Memorandum.

determination. Therefore, in accordance with section 703(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to duties, unliquidated entries of aluminum foil from China made on or after December 12, 2017. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the Federal Register.

Notification to Interested Parties

This notice constitutes the CVD order with respect to aluminum foil from China pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This order and amended final determination are published in accordance with section 706(a) and 19 CFR 351.211(b).

/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

April 12, 2018

Date

Appendix

Scope of the Order

The merchandise covered by this order 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, including aluminum foil to which lubricant has been applied to one or both sides of the foil.

Excluded from the scope of this order is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on one side or both sides 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 the order 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 order is dispositive.

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