



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-806]

Silicon Metal from the People's Republic of China: Preliminary Rescission of the Antidumping Duty Administrative Review; 2017-2018

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Yunnan Fuyang Trade Co., Ltd. (Fuyang), the sole company under review, did not make a *bona fide* sale for antidumping purposes during the period of review (POR) June 1, 2017 through May 31, 2018. Thus, Commerce is preliminarily rescinding this review. We invite interested parties to comment on these preliminary results.

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

FOR FURTHER INFORMATION CONTACT: Eli Lovely, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1593.

SUPPLEMENTARY INFORMATION:

[Background](#)

Commerce published the notice of initiation of this review on August 10, 2018.¹ On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the closure of the federal government from December 22, 2018 through January 28, 2019.² Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended these preliminary results by 120 days, until August 9, 2019.³ For a complete discussion of the background of this review, *see* the Preliminary Decision Memorandum.⁴

Scope of the Order

The product covered by the order is silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight, and silicon metal with a higher aluminum content containing between 89 and 96 percent silicon by weight. The subject merchandise is currently classifiable under item numbers 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (HTSUS) as a chemical product, but is commonly referred to as a metal. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.⁵

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act and (2) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. The topics

¹ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 39688 (August 10, 2018) (*Initiation Notice*).

² *See* Memorandum to the Record from 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, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

³ *See* Memorandum, “Antidumping Duty Administrative Review of Silicon Metal from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated March 12, 2019.

⁴ *See* Decision Memorandum for the Preliminary Rescission of the Antidumping Duty Administrative Review of Silicon Metal from the People’s Republic of China; 2017-2018 (Preliminary Decision Memorandum), dated concurrently with, and hereby adopted by, this notice.

⁵ For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

discussed in the Preliminary Decision Memorandum are listed in the Attachment 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 <http://access.trade.gov> and is available in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Bona Fides Analysis

As discussed in the *Bona Fide Sales Analysis Memorandum*,⁶ Commerce preliminarily finds that the sale made by Fuyang serving as the basis for this review is not a *bona fide* sale for antidumping purposes. Commerce reached this conclusion based on the totality of the following circumstances regarding Fuyang's reported sale: the price and quantity of the U.S. sale; concerns regarding the resale's profitability and the arm's-length nature of the transaction; the limited number of sales (*i.e.*, one sale) that Fuyang reported during the POR; and other factors relevant as to whether the sale under review is likely to typical of future sales.

Preliminary Rescission of Review

Because the non-*bona fide* sale was the only reported sale of subject merchandise during the POR, we find that Fuyang had no reviewable transactions during this POR. Accordingly, we are preliminarily rescinding this administrative review.⁷ Given that the factual information used in our *bona fides* analysis of Fuyang's sale involves business proprietary information, see the

⁶ See Memorandum, "2017-2018 Antidumping Duty Administrative Review of Silicon Metal from the People's Republic of China: Preliminary *Bona Fide* Sales Analysis for Yunnan Fuyang Trade Co., Ltd.," dated concurrently with this notice (*Bona Fide* Sale Analysis Memorandum).

⁷ See 19 CFR 351.213(d)(3).

Bona Fide Sales Analysis Memorandum for a full discussion of the basis for our preliminary determination.

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of review.⁸ Rebuttals to case briefs may be filed no later than five days after the briefs are filed.⁹ All rebuttal comments must be limited to comments raised in the case briefs.¹⁰

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement & Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.¹¹ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹² Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper

⁸ See 19 CFR 351.309(c)(ii).

⁹ See 19 CFR 351.309(d)(1).

¹⁰ See 19 CFR 351.309(d)(2).

¹¹ See 19 CFR 351.310(c).

¹² See 19 CFR 351.310(d).

form) with the APO/Dockets Unit in Room 18022, and stamped with the date and time of receipt by 5 p.m. ET on the due date.¹³

Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs received, no later than 120 days after the date these preliminary results of review are published, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

If Commerce proceeds to a final rescission of this administrative review, the assessment rate to which Fuyang's shipments will be subject will not be affected by this review. If Commerce does not proceed to a final rescission of this administrative review, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer-specific) assessment rates based on the final results of this review.

Cash Deposit Requirements

If Commerce proceeds to a final rescission of this administrative review, Fuyang's cash deposit rate will continue to be the China-wide entity rate of 139.49 percent. If Commerce does not proceed to a final rescission of this administrative review, but calculates a dumping margin for Fuyang, we will instruct CBP to collect a cash deposit, effective upon the publication of the final results, at the dumping rate calculated for Fuyang.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this

¹³ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: August 6, 2019

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Recommendation

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