

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-053]

**Certain Aluminum Foil From the People's Republic of China: Final Determination of Sales at Less Than Fair Value**

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

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of certain aluminum foil from the People's Republic of China (China) were being sold in the United States at less-than-fair value during the period of investigation (POI), July 1, 2016, through December 31, 2016.

**DATES:** Applicable March 5, 2018.

**FOR FURTHER INFORMATION CONTACT:** Tom Bellhouse or Michael J. Heaney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2057 or (202) 482-4475, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On November 2, 2017, Commerce published the preliminary determination of this investigation in the *Federal Register*.<sup>1</sup> We invited parties to comment on the *Preliminary Determination*. On January 31, 2018, we received case briefs from the following parties: The Aluminum Association Trade Enforcement Working Group and its individual members<sup>2</sup> (the petitioners); Hangzhou Dingsheng Import & Export Co. Ltd., Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd., Jiangsu Zhongji Lamination Materials Co., (HK) Ltd., Inner Mongolia Liansheng New Energy Material Joint-Stock Co., Ltd., Hangzhou Teemful Aluminium Co., Ltd., Hangzhou Five Star Aluminium Co., Ltd., and Walson (HK) Trading Co., Limited (collectively, Dingsheng); and Jiangsu Zhongji Lamination Materials Co., (HK) Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng

<sup>1</sup> See *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*, 82 FR 50858 (November 2, 2017) (*Preliminary Determination*), and the accompanying Preliminary Decision Memorandum.

<sup>2</sup> The individual members of The Aluminum Association Trade Enforcement Working-Group are JW Aluminum Company, Novelis Corporation, and Reynolds Consumer Products LLC.

Aluminium Industry Co., Ltd. (collectively, Zhongji).<sup>3</sup>

On February 6, 2018, we received rebuttal briefs from the petitioners, Dingsheng, and Zhongji.<sup>4</sup> Commerce held a hearing on February 9, 2018, at the request of Dingsheng and Zhongji.<sup>5</sup> Based on the events following the *Preliminary Determination* and an analysis of the comments received, Commerce has made changes to the *Preliminary Determination*.

**Scope Comments**

We invited parties to comment on Commerce's Preliminary Scope Memorandum.<sup>6</sup> Commerce has reviewed the briefs submitted by interested parties, considered the arguments therein, and has made changes to the scope of the investigation. For further discussion, see Commerce's Final Scope Decision Memorandum.<sup>7</sup>

**Scope of the Investigation**

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

**Verification**

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in December 2017, we conducted verification of the sales and factors of production information submitted by Dingsheng and Zhongji. We issued verification reports on January 24, 2018.<sup>8</sup> We used standard verification

<sup>3</sup> See Case Briefs submitted by the petitioners, Dingsheng, and Zhongji, dated January 31, 2018. Zhongji has indicated that subsequent to the period of investigation (POI), the name of the producer of subject merchandise was changed from "Jiangsu Zhongji Lamination Materials Stock Co., Ltd." to "Jiangsu Zhongji Lamination Materials Co., Ltd." As explained in the Issues and Decision Memorandum, we find in this instance that it is appropriate to recognize both names for the purposes of this final determination and related cash deposit instructions.

<sup>4</sup> See Rebuttal Briefs submitted by the petitioners, Dingsheng, and Zhongji, dated February 6, 2018.

<sup>5</sup> See Letters from Dingsheng and Zhongji requesting hearings, dated December 4, 2017.

<sup>6</sup> See Memorandum, "Certain Aluminum Foil from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 26, 2017, and filed to ACCESS on October 30, 2017.

<sup>7</sup> See Memorandum, "Certain Aluminum Foil from the People's Republic of China: Final Scope Decision Memorandum," dated concurrently with this memorandum.

<sup>8</sup> See Memorandum, "Verification of the Questionnaire Responses of Hangzhou Dingsheng Import & Export Co., Ltd., Jiangsu Dingsheng New Materials Joint Stock Co., Ltd., Dingsheng Aluminium Industries (Hong Kong) Trading Co., Limited, Walson (HK) Trading Co., Ltd, Hangzhou Teemful Aluminium Co., Ltd., Hangzhou Five Star Aluminium Co., Ltd and Inner Mongolia Liansheng

procedures, including an examination of relevant accounting and production records, and original source documents provided by Dingsheng and Zhongji.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice as Appendix I.

**Changes Since the Preliminary Determination**

Based on Commerce's analysis of the comments received and findings at verification, we made certain changes to our dumping margin calculations. For a discussion of these changes, see the Issues and Decision Memorandum.

**Adverse Facts Available**

Sections 776(a)(1) and (2) of the Act provide that if certain necessary information is not on the record or an interested party has withheld information that was requested or provided information that cannot be verified, Commerce may apply "facts otherwise available." Furthermore, if Commerce determines pursuant to section 776(b) that a respondent has not acted to the best of its ability in complying with a request for information, Commerce may apply an adverse inference in selecting the facts otherwise available. For this final determination, Commerce has determined that Dingsheng did not act to the best of its ability in providing Commerce with requested information that could be verified and that the application of partial adverse facts available is therefore warranted. For Commerce's analysis, see the Issues and Decision Memorandum at Comment 8.

**Combination Rates**

In the *Initiation Notice*, Commerce stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.<sup>9</sup> Accordingly, we have assigned combination rates to Dingsheng and Zhongji, along with 24 other companies receiving a separate rate.<sup>10</sup>

New Energy Material Joint Stock Co., Ltd. in the Antidumping Investigation of Certain Aluminum Foil from China," dated January 24, 2018; see also Verification of the Questionnaire Responses of Zhongji in the Antidumping Investigation of Aluminum Foil from the People's Republic of China," dated January 24, 2018.

<sup>9</sup> 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*).

<sup>10</sup> See Enforcement and Compliance Policy Bulletin No. 05.1 "Separate-Rates Practice and

**Final Determination**

Commerce determines, as provided in section 735 of the Act, that the following estimated weighted-average dumping margins exist for the period between July 1, 2016, through December 31, 2016:

Producer	Exporter	Weighted-average margin (percent)	Cash deposit adjusted for subsidy offset (percent)
Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd./Hangzhou Teemful Aluminum Co., Ltd./ Hangzhou Five Star Aluminum Co., Ltd./Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd./Walson (HK) Trading Co., Ltd.	Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd./Hangzhou Teemful Aluminum Co., Ltd./ Hangzhou Five Star Aluminum Co., Ltd./Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd./Walson (HK) Trading Co., Ltd.	106.09	94.73
Jiangsu Zhongji Lamination Materials Stock Co., Ltd/ Jiangsu Zhongji Lamination Materials Co., Ltd/ Jiangsu Huafeng Aluminium Industry Co., Ltd.	Jiangsu Zhongji Lamination Materials Co., (HK) Ltd ...	48.64	37.99
Jiangsu Alcha Aluminum Co., Ltd	Alcha International Holdings Limited	84.94	73.84
Baotou Alcha Aluminum Co., Ltd	Alcha International Holdings Limited	84.94	73.84
Jiangyin Dolphin Pack Ltd. Co	Jiangyin Dolphin Pack Ltd. Co	84.94	73.84
Granges Aluminum (Shanghai) Co., Ltd	Granges Aluminum (Shanghai) Co., Ltd	84.94	73.84
Huafon Nikkei Aluminium Corporation	Huafon Nikkei Aluminium Corporation	84.94	73.84
Suntown Technology Group Limited	Hunan Suntown Marketing Limited	84.94	73.84
Luoyang Longding Aluminium Industries Co., Ltd	Luoyang Longding Aluminium Industries Co., Ltd	84.94	73.84
Shandong Yuanrui Metal Material Co., Ltd	Shandong Yuanrui Metal Material Co., Ltd	84.94	73.84
Suntown Technology Group Limited	SNTO International Trade Limited	84.94	73.84
North China Aluminum Co., Ltd., Hunan Suntown Marketing Limited, and Guangxi Baise Xinghe Aluminum Industry Co., Ltd.	Suzhou Manakin Aluminum Processing Technology Co., Ltd.	84.94	73.84
Xiamen Xiashun Aluminium Foil Co. Ltd	Xiamen Xiashun Aluminium Foil Co. Ltd	84.94	73.84
Yantai Donghai Aluminum Foil Co., Ltd	Yantai Jintai International Trade Co., Ltd	84.94	73.84
Yinbang Clad Material Co., Ltd	Yinbang Clad Material Co., Ltd	84.94	73.84
Zhejiang Zhongjin Aluminum Industry Co., Ltd	Zhejiang Zhongjin Aluminum Industry Co., Ltd	84.94	73.84
PRC-wide entity		106.09	95.44

**Disclosure**

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).

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of subject merchandise, as described in the "Scope of the Investigation" section of this notice, from China that were entered or withdrawn from warehouse for consumption on or after November 2, 2017, the publication date of the *Preliminary Determination* in the *Federal Register*.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, Commerce will instruct CBP to require a cash deposit<sup>11</sup> equal to the amount by which the normal value exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through. For all combinations of Chinese exporters/producers of merchandise under consideration, the cash deposit rate will be equal to the dumping margin established for the China-wide entity.

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.<sup>12</sup> In the companion CVD

proceeding, Commerce found an export subsidy of 11.36 percent *ad valorem* for Dingsheng and an export subsidy of 10.65 percent *ad valorem* for Zhongji.<sup>13</sup> In this LTFV investigation, for the China-wide entity, which received an AFA rate, pursuant to section 776(b) of the Act, Commerce has adjusted the China-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding.<sup>14</sup> Thus, we will offset the China-wide rate of 106.09 by the countervailing duty rate attributable to export subsidies of Zhongji (*i.e.*, 10.65 percent) to calculate the cash deposit rate.<sup>15</sup> These adjustments are reflected in the final column of the rate chart, above. Furthermore, we are not adjusting the final determination for estimated domestic subsidy pass-through because the respondents failed to substantiate a

Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>11</sup> See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

<sup>12</sup> See sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, Commerce makes an adjustment for export subsidies in an LTFV investigation not in the calculation of the weighted-average dumping margin, but in the cash deposit instructions issued to U.S. Customs and Border Protection. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and

accompanying Issues and Decision Memorandum at Comment 1.

<sup>13</sup> See *Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination*, and accompanying Issues and Decision Memorandum. The final determination in this companion CVD proceeding is being released concurrently with this final determination.

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

<sup>15</sup> *Id.*

cost-to-price-link.<sup>16</sup> In the event that a countervailing duty order is issued and suspension of liquidation continues in the companion countervailing duty investigation on aluminum foil from China, Commerce will continue to instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate.

### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at less than fair value. Because the final determination in this proceeding is affirmative, the ITC will make its final determination, in accordance with section 735(b)(2) of the Act, as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain aluminum foil from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, then Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) 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.

### Return or Destruction of Proprietary Information

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction 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 terms of an APO is a violation subject to sanction.

### Notification to Interested Parties

This determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: February 26, 2018.

**Prentiss Lee Smith,**

*Deputy Assistant Secretary for Policy and Negotiations.*

### Appendix I

#### Contents of the Accompanying Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Scope Comments
- VI. Discussion of the Issues
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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, including aluminum foil to which lubricant has been applied to one or both sides of the foil.

Excluded from the scope of this investigation 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 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.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482-4735.

### Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

### Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for

<sup>16</sup> See Issues and Decision Memorandum.