DEPARTMENT OF COMMERCE
International Trade Administration
[A-570-967, C-570-968]
Aluminum Extrusions From the People’s Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that extruded aluminum products that are made from aluminum previously extruded in the People’s Republic of China (China) and are exported from the Socialist Republic of Vietnam (Vietnam), regardless of producer, exporter, or importer, constitute merchandise completed or assembled in other foreign countries and are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from China. Commerce also preliminarily intends to rescind its minor alterations anti-circumvention inquiry.


SUPPLEMENTARY INFORMATION:

Background
Based on a request from the Aluminum Extrusions Fair Trade Committee (the petitioner), on March 5, 2018, Commerce initiated anti-circumvention inquiries pursuant to sections 781(b) and (c) of the Tariff Act of 1930, as amended (the Act), regarding imports of certain aluminum extrusions from Vietnam by China Zhongwang Holdings Ltd. and its affiliates.

The merchandise covered by the Orders is aluminum extrusions from the People’s Republic of China. The merchandise subject to the Orders is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7606.90.90. While the HTSUS subheadings are not dispositive, the written description of the scope is dispositive.

Scope of the Orders
The merchandise covered by the Orders is aluminum extrusions from the People’s Republic of China. The merchandise subject to the Orders is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7606.90.90. While the HTSUS subheadings are not dispositive, the written description of the scope is dispositive.
The subject merchandise entered as 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 8419.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the Orders is dispositive.10

**Methodology**

Commerce is conducting these anti-circumvention inquiries cover extruded aluminum products that are made from aluminum previously extruded in China that meet the description of the Orders and are exported from Vietnam, regardless of producer, exporter or importer (inquiry merchandise).11

**Suspension of Liquidation**

In accordance with 19 CFR 351.225(h), Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of inquiry merchandise regardless of producer, exporter, or importer, based on evidence provided by the petitioner and adverse facts available. In addition, if we affirm our preliminary determination in our final determination, pursuant to section 781(b) of the Act, we intend to rescind the minor alterations anti-circumvention inquiry pursuant to section 781(c) of the Act.
Intent To Consider Certification Requirement

In light of Commerce’s preliminary finding of circumvention, we are considering whether to require importers and exporters of certain aluminum extrusions, which claim their merchandise is not subject to the Orders, to certify that their aluminum extrusions are made from aluminum not previously extruded in China. Interested parties are invited to comment on the proposed certifications in their case briefs.

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the due date for filing case briefs. Parties who submit case or rebuttal briefs are requested to submit with the argument: (a) A statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities. Parties submitting briefs should do so using Commerce’s electronic filing system, ACCESS. Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. A written request for a hearing must be received successfully in its entirety in ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Hearing requests should contain the party’s name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. 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 time and location to be determined.

Final Determination

Pursuant to section 781(f) of the Act, the final determination with respect to this anti-circumvention inquiry, including the results of Commerce’s analysis of any written comments, will be issued no later than June 7, 2019, unless extended.

This preliminary affirmative anti-circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Orders
IV. Merchandise Subject to the Anti-Circumvention Inquiries
V. Analytical Framework for Merchandise Completed or Assembled in Other Foreign Countries
VI. Use of Facts Available With an Adverse Inference

Appendix II

Certification Eligibility and Requirements

A. Eligibility for the Certification
(1) Importers and exporters of aluminum extrusions from the Socialist Republic of Vietnam (Vietnam) that were completed in Vietnam using aluminum not previously extruded in the People’s Republic of China (China) are eligible for the certification process detailed below and in the preliminary determination.
B. Certification Requirements for Importers and Exporters of Aluminum Extrusions Completed in Vietnam Using Aluminum Not Previously Extruded in China
(1) For entries of aluminum extrusions completed in Vietnam that were entered, or withdrawn from warehouse, for consumption on or after March 5, 2018 (the date of initiation of this anticircumvention inquiry), for which the importer claims the aluminum extrusions were made in Vietnam using aluminum not previously extruded in China, the importer and exporter are required to meet the certification and documentation requirements detailed below in order for no AD and/or CVD cash deposit to be required on such entries.
(2) The importer is required to complete and maintain the importer certification, attached as Appendix III. Where the importer uses an agent or broker to facilitate the entry process, it must obtain and provide the entry number as part of the certification. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.
(3) The exporter is required to complete and maintain the exporter certification, attached as Appendix IV. The exporter certification should be completed by the party selling the merchandise completed in Vietnam to the United States, which is not necessarily the producer of the product.
(4) The exporter is further required to provide the importer with a copy of the exporter certification.
(5) The importer is also required to maintain a copy of the exporter certification.
(6) The importer and exporter are also required to maintain sufficient documentation (as indicated in the certifications) supporting their certifications.
(7) The importer and exporter are required to maintain the certifications and supporting documentation for a period of five years from the date of entry or a period of three years after the conclusion of any litigation in United States courts regarding such entries.
(8) Although the importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process, the importer and the exporter will be required to present the certifications and supporting documentation to Commerce and/or CBP, as applicable, upon request by the respective agency.
(9) The claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP.
C. Certification Timing Requirements for Importers and Exporters of Aluminum Extrusions Completed in Vietnam Using Aluminum Not Previously Extruded in China
(1) For unliquidated entries of merchandise (a) shipped and/or (b) entered, or withdrawn from warehouse, for consumption during the period, March 5, 2018 (the date of initiation of this anti-circumvention inquiry), through the 29th day after the date of publication of the preliminary determination in the Federal Register, for which certifications are required:
(a) The importers and exporters each have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof. Importer and exporter certifications for these entries should be completed, signed and dated within 45 days of publication of the preliminary determination in the Federal Register.

Accordingly, the relevant bullet in the certification should be edited to reflect that the certification was completed within this time frame. For example, the bullet in the importer certification that reads: “This certification was completed by the time of filing the entry summary,” could be edited as follows: “The shipments/products referenced herein entered before the mm/dd/yyyy publication of the Preliminary Determination Federal Register notice. This certification was completed on mm/dd/yyyy, within 45 days of the Federal Register notice publication.”
Similarly, the bullet in the exporter certification that reads, “This certification was completed by the time of shipment,” could be edited as follows: “The shipments/products referenced herein shipped before the mm/dd/yyyy publication of the Preliminary Determination Federal Register notice. This certification was completed on mm/dd/yyyy, within 45 days of the Federal Register notice publication.”

(b) Additionally, the exporter must provide the importer a copy of the exporter certification within 45 days of the publication of the preliminary determination in the Federal Register.

(2) For subject merchandise (1) shipped and/or entered, or withdrawn from warehouse, for consumption on or after the date that is 30 days after publication of the preliminary determination in the Federal Register, for which certifications are required:

(a) The importer certification must be completed, signed, and dated by the deadline for filing of the entry summary for the relevant importation; and

(b) The exporter certification must be completed, signed, dated and provided to the importer by the time of shipment of the relevant entries.

D. Importers and Exporters Not Eligible for the Certification Process

(1) Importers and exporters of aluminum extrusions from the Socialist Republic of Vietnam (Vietnam):

• That were completed (including extruded) in Vietnam using aluminum previously extruded in China and/or mill certificates, productions records, and/or documentation, are subject to verification by CBP and/or Commerce;

• That were completed (including extruded) in Vietnam using aluminum previously extruded in China and/or that do not meet the certification requirements detailed above are not eligible for the certification process detailed above and in the preliminary determination.

(2) For aluminum extrusions completed in Vietnam from aluminum previously extruded in China and, thus, subject to the anti-dumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People’s Republic of China, A–570–967 and C–570–968, Commerce has established the following third-country case numbers in the Automated Commercial Environment (ACE): A–552–998 and C–552–999.

(3) For unliquidated entries (and entries for which liquidation has not become final) for which certifications are required:

(a) The importer certification must be completed, signed, and dated by the deadline for filing of the entry summary; and

(b) The exporter certification must be completed, signed, dated and provided to the importer by the time of shipment of the relevant entries.

Appendix III

 Importer Certification

I hereby certify that:

• My name is [INSERT COMPANY OFFICIAL’S NAME] and I am an official of [INSERT NAME OF IMPORTING COMPANY];

• I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the aluminum extrusions completed in Vietnam that entered under entry number(s) [INSERT ENTRY NUMBER(S)] and are covered by this certification. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own records. For example, the importer should have “direct personal knowledge” of the importation of the product (e.g., the name of the exporter) in its records;

• I have personal knowledge of the facts regarding the production of the imported products covered by this certification. “Personal knowledge” includes facts obtained from another party, e.g., correspondence received by the importer (or exporter) from the producer regarding the source of the substrate used to produce the imported products;

• The aluminum extrusions completed (including extruded) in Vietnam do not contain aluminum previously extruded in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier;

• I understand that [INSERT NAME OF IMPORTING COMPANY] is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

• I understand that [INSERT NAME OF IMPORTING COMPANY] is required to maintain a copy of the exporter’s certification, (attesting to the production and/or export of the imported merchandise identified above), for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

• I understand that (1) the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

○ Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and

○ the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits (as appropriate) equal to the rates determined by Commerce;

• I understand that agents of the importer, such as brokers, are not permitted to make this certification;

• This certification was completed by the time of filing the entry summary; and

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL
TITLE
DATE

Appendix IV

 Exporter Certification

I hereby certify that:

• My name is [INSERT COMPANY OFFICIAL’S NAME HERE] and I am an official of [INSERT NAME OF EXPORTING COMPANY];

• I have direct personal knowledge of the facts regarding the production and exportation of the aluminum extrusions identified below. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have “direct personal knowledge” of the producer’s identity and location;

• The aluminum extrusions completed (including extruded) in Vietnam do not contain aluminum previously extruded in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier;

• I understand that [INSERT NAME OF EXPORTING COMPANY] is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such another;

• I understand that [INSERT NAME OF EXPORTING COMPANY] is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
I understand that (INSERT NAME OF EXPORTING COMPANY) must provide this Exporter Certification to the U.S. importer by the time of shipment.

I understand that (INSERT NAME OF EXPORTING COMPANY) is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

1. Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and
2. The requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits (as applicable) equal to the rates as determined by Commerce;

This certification was completed by the time of shipment; and

I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature
NAME OF COMPANY OFFICIAL
TITTLE
DATE

DEPARTMENT OF COMMERCE
International Trade Administration

[A–570–909]

Certain Steel Nails From the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

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

SUMMARY: As a result of this sunset review, the Department of Commerce (Commerce) finds that revocation of the antidumping duty order on certain steel nails (nails) from the People’s Republic of China (China) would be likely to lead to a continuation or recurrence of dumping at the levels indicated in the “Final Report, Office Sunset Review” section of this notice.


Background

On August 1, 2008, Commerce published in the Federal Register the antidumping duty order on nails from China.1 On December 3, 2018, Commerce published the notice of initiation of the five-year review of the China Nails Order, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).2 On December 4, 2018, Commerce received a Notice of Intent to Participate in this review from a domestic interested party Mid Continent Steel & Wire, Inc. (Mid Continent) within the deadline specified in 19 CFR 351.218(d)(1)(i).3 Mid Continent claimed interested party status under section 771(9)(C) of the Act, as manufacturer of a domestic like product in the United States.4 On January 2, 2019, Mid Continent provided a timely and complete substantive response for this review within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).5 We received no substantive responses from any other interested parties, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(i)(C)(2), Commerce conducted an expedited (120-day) sunset review of the China Nails Order.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.6 If the tolled deadline falls on a non-business day, in accordance with Commerce’s practice, the deadline will become the next business day. The revised deadline for this final determination is now May 13, 2019.

Scope of the Order

The merchandise covered by the China Nails Order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round, flat, and wire and nails that are cut. Certain steel nails may be of one piece construction, or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this order are currently classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 7317.00.55, 7317.00.65, 7317.00.75, 7907.00.6000, 7318.29.0000, and 8206.00.0000.7

Excluded from the scope of this order are steel roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type 1, Style 20 nails. Also excluded from the scope are the following steel nails: (1) Non-collated (i.e., hand-driven or bulk), two-piece steel nails having plastic or steel washers (caps) already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral Shank, an actual length of 0.500” to 8”, inclusive;

---

1 See Notice of Antidumping Duty Order: Certain Steel Nails from the People’s Republic of China, 73 FR 44961 (August 1, 2008) (China Nails Order).
2 See Initiation of Five-Year (Sunset) Reviews, 83 FR 62296 (December 3, 2018).
4 Id. at 1–2.
6 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.
8 Commerce added the HTS categories 7318.29.0000 and 8206.00.0000 per a request by U.S. Customs and Border Protection on February 24, 2017.

---