

failure, during the consultations period, to maintain contemporaneous *ex parte* communication memoranda, in accordance with section 777(a)(3) of the Act, could not be adequately remedied by Commerce's delayed and incomplete supplementation of the record.<sup>6</sup>

The CIT found that Commerce's failure to follow the recordkeeping requirements of Section 777 of the Act cannot be described as "harmless."<sup>7</sup> The CIT found that this recordkeeping failure substantially prejudiced CSC Sugar.<sup>8</sup> On that basis, the CIT stated that the *CVD Amendment* must be vacated.<sup>9</sup>

The *CVD Amendment* remains in force until Commerce takes action to implement the CIT's ruling. The CIT's rules establish an automatic 30-day stay of proceedings to enforce a judgment.<sup>10</sup> Accordingly, Commerce intends to implement the CIT's ruling by November 18, 2019.<sup>11</sup>

Dated: October 25, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-096]

#### Aluminum Wire and Cable From the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

**SUMMARY:** The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of aluminum wire and cable from the People's Republic of China (China).

**DATES:** Applicable October 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Caitlin Monks or Nancy Decker, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230; telephone: 202-482-2670 or 202-482-0196, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

The petitioners in this investigation are Encore Wire Corporation (Encore) and Southwire Company, LLC (Southwire) (the petitioners). In addition to the Government of China (GOC), the mandatory respondents in this investigation are Shanghai Silin Special Equipment Co., Ltd. (Silin), Changfeng Wire & Cable Co., Ltd. (Changfeng), and Shanghai Yang Pu Qu Gong (Qu Gong). Qu Gong did not respond to our requests for information.

On April 8, 2019, Commerce published in the **Federal Register** the *Preliminary Determination* of this investigation.<sup>1</sup> On September 11, 2019, Commerce issued its Post-Preliminary Analysis.<sup>2</sup>

A summary of events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of comments from interested parties for this final determination, is provided in the Issues and Decision Memorandum.<sup>3</sup> The Issues and 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 <https://access.trade.gov> and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

##### Scope of the Investigation

The products covered by this investigation are aluminum wire and cable. For a complete description of the

<sup>1</sup> See *Aluminum Wire and Cable from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 13886 (April 8, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Memorandum, "Post-Preliminary Analysis of Countervailing Duty Investigation of Aluminum Wire and Cable from the People's Republic of China," dated September 11, 2019.

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Aluminum Wire and Cable from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

scope of this investigation, see Appendix I.

##### Period of Investigation

The period of investigation is January 1, 2017 through December 31, 2017.

##### Use of Adverse Facts Available

In making this final determination, Commerce is relying on facts otherwise available, including adverse facts available (AFA), pursuant to section 776(a) of the Tariff Act of 1930, as amended (the Act). For a full discussion of our application of AFA, see the *Preliminary Determination* and the Issues and Decision Memorandum.<sup>4</sup>

##### Analysis of Comments Received

In the Issues and Decision Memorandum, we address all issues raised in parties' case and rebuttal briefs. A list of the issues that parties raised, and to which we responded, is attached to this notice as Appendix II.

##### Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, minor corrections presented at verification, and our verification findings, we made changes to Changfeng's subsidy rate calculation, and we have now assigned Silin a rate based entirely on AFA. For a discussion of these changes, see the Issues and Decision Memorandum.

##### Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Tariff Act of 1930, as amended (the Act), we calculated an individual estimated subsidy rate for Changfeng and assigned to Qu Gong and Silin rates based entirely on AFA pursuant to section 776 of the Act.

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Changfeng is the only respondent for which we calculated an estimated weighted-average subsidy rate that is not zero, *de minimis*, or based entirely on facts otherwise available. Therefore,

<sup>4</sup> See *Preliminary Determination* PDM at "Use of Facts Otherwise Available and Adverse Inferences;" see also Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences."

<sup>6</sup> See *CSC Sugar II* at 4.

<sup>7</sup> *Id.* at 11-12.

<sup>8</sup> *Id.* at 12.

<sup>9</sup> *Id.*

<sup>10</sup> See CIT Rule 62(a) ("Except as stated in this rule or as otherwise ordered by the court, no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 30 days have passed after its entry.")

<sup>11</sup> See CIT Rule 6(a)(1). In this case, the 30th day after October 18 is Sunday, November 17.

for purposes of determining the all-others rate, and pursuant to section 705(c)(5)(A) of the Act, we are using the subsidy rate calculated for Changfeng.

Commerce determines the total estimated net countervailable subsidy rates to be the following:

Producer/exporter	Subsidy rate (percent)
Shanghai Silin Special Equipment Co., Ltd. <sup>5</sup>	165.63
Changfeng Wire & Cable Co., Ltd	33.44
Shanghai Yang Pu Qu Gong ...	165.63
All-Others	33.44

#### Disclosure

We intend to disclose to interested parties under Administrative Protective Order (APO), the calculations performed in connection with this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b).

#### Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from China that were entered or withdrawn from warehouse, for consumption, on or after April 8, 2019, *i.e.*, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after August 6, 2019, but to continue the suspension of liquidation of all entries from April 8, 2019 through August 5, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines

that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited as a result of the suspension of the suspension of liquidation will be refunded.

#### International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because Commerce's final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of aluminum wire and cable 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, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing 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, as discussed above in the "Continuation of Suspension of Liquidation" section.

#### Notification Regarding Administrative Protective Orders

This notice serves as a reminder to the parties subject to an 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, alternatively, conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

#### Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: October 18, 2019.

#### Carole Showers,

*Executive Director, Office Policy, Policy & Negotiations, Enforcement and Compliance.*

#### Appendix I

##### Scope of the Investigation

The scope of the investigation covers aluminum wire and cable, which is defined as an assembly of one or more electrical

conductors made from 8000 Series Aluminum Alloys (defined in accordance with ASTM B800), Aluminum Alloy 1350 (defined in accordance with ASTM B230/B230M or B609/B609M), and/or Aluminum Alloy 6201 (defined in accordance with ASTM B398/B398M), provided that: (1) At least one of the electrical conductors is insulated; (2) each insulated electrical conductor has a voltage rating greater than 80 volts and not exceeding 1,000 volts; and (3) at least one electrical conductor is stranded and has a size not less than 16.5 thousand circular mil (kcmil) and not greater than 1,000 kcmil. The assembly may: (1) Include a grounding or neutral conductor; (2) be clad with aluminum, steel, or other base metal; or (3) include a steel support center wire, one or more connectors, a tape shield, a jacket or other covering, and/or filler materials.

Most aluminum wire and cable products conform to National Electrical Code (NEC) types THHN, THWN, THWN-2, XHHW-2, USE, USE-2, RHH, RHW, or RHW-2, and also conform to Underwriters Laboratories (UL) standards UL-44, UL-83, UL-758, UL-854, UL-1063, UL-1277, UL-1569, UL-1581, or UL-4703, but such conformity is not required for the merchandise to be included within the scope.

The scope of the investigation specifically excludes aluminum wire and cable products in lengths less than six feet, whether or not included in equipment already assembled at the time of importation.

The merchandise covered by the investigation is currently classifiable under subheading 8544.49.9000 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheading 8544.42.9090. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

#### Appendix II

##### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Subsidies Valuation
- VII. Analysis of Programs
- VIII. Analysis of Comments
  - General Issues
  - Comment 1: Export Buyer's Credits
  - Comment 2: Other Subsidies
  - Comment 3: Benchmark for Aluminum Rod
  - Comment 4: Double Remedies for Aluminum Rod
  - Comment 5: Loan Calculations Issues Related to Silin and its Suppliers/Producers
  - Comment 6: Whether to Apply AFA to Silin
  - Comment 7: Whether to Apply Partial AFA to Qingdao Cable
  - Comment 8: Xinqi Cable's Electricity Benefit Calculation
  - Issues Related to Changfeng

<sup>5</sup> As discussed in the *Preliminary Determination* PDM, Commerce has assigned Silin's rate to the entity named as cross-owned in its affiliation questionnaire response: Jiangxi Silin International Cable Co., Ltd.

Comment 9: Whether to Apply AFA to Changfeng

Comment 10: Whether to Apply Partial AFA to Changfeng's Policy Loans

IX. Recommendation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XT022

Atlantic Highly Migratory Species; Advisory Panel

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; solicitation of nominations.

**SUMMARY:** NMFS solicits nominations for the Atlantic Highly Migratory Species (HMS) Advisory Panel (AP). NMFS consults with and considers the comments and views of the HMS AP when preparing and implementing Fishery Management Plans (FMPs) or FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. Nominations are being sought to fill approximately one-third (10) of the seats on the HMS AP for 3-year appointments. Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, and non-governmental organizations are considered for membership on the HMS AP.

**DATES:** Nominations must be received on or before November 29, 2019.

**ADDRESSES:** You may submit nominations and requests for the Advisory Panel Statement of Organization, Practices, and Procedures by any of the following methods:

- *Email:* [HMSAP.Nominations@noaa.gov](mailto:HMSAP.Nominations@noaa.gov). Include in the subject line the following identifier: "HMS AP Nominations."

- *Mail:* Peter Cooper, Highly Migratory Species Management Division, NMFS SF1, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Peter Cooper at (301) 427-8503.

SUPPLEMENTARY INFORMATION:

Introduction

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, as amended by the Sustainable Fisheries Act, Public Law 104-297, provided that the Secretary may establish Advisory Panels to assist in the collection and evaluation of information relevant to the development of any Fishery Management Plan (FMP) or FMP amendment for any highly migratory species fishery that is under the Secretary's authority. NMFS has consulted with the HMS AP on: Amendment 1 to the Billfish FMP (1999); the HMS FMP (1999); Amendment 1 to the HMS FMP (2003); the 2006 Consolidated HMS FMP (2006); and Amendments 1 (2009), 2 (2008), 3 (2010), 4 (2012), 5a (2013), 5b (2017), 6 (2015), 7 (2014), 8 (2013), 9 (2015), 10 (2017), and 11 (2018) to the 2006 Consolidated HMS FMP; among other relevant fishery management issues.

Procedures and Guidelines

*A. Nomination Procedures for Appointments to the Advisory Panel*

Nomination packages should include:

1. The name of the nominee and a description of his/her interest in HMS or HMS fisheries, or in particular species of sharks, swordfish, tunas, or billfish;
2. Contact information, including mailing address, phone, and email of the nominee;
3. A statement of background and/or qualifications;
4. A written commitment that the nominee shall actively participate in good faith, and consistent with ethics obligations, in the meetings and tasks of the HMS AP; and
5. A list of outreach resources that the nominee has at his/her disposal to communicate Qualifications for HMS AP Membership.

Qualification for membership includes one or more of the following: (1) Experience in HMS recreational fisheries; (2) experience in HMS commercial fisheries; (3) experience in fishery-related industries (*e.g.*, marinas, bait and tackle shops); (4) experience in the scientific community working with

HMS; and/or (5) representation of a private, non-governmental, regional, national, or international organization representing marine fisheries, or environmental, governmental, or academic interests dealing with HMS.

Tenure for the HMS AP

Member tenure will be for 3 years (36 months), with approximately one-third of the members' terms expiring on December 31 of each year. Nominations are sought for terms beginning January 2020 and expiring December 2022.

*B. Participants*

Nominations for the HMS AP will be accepted to allow representation from commercial and recreational fishing interests, academic/scientific interests, and the environmental/non-governmental organization community, who are knowledgeable about Atlantic HMS and/or Atlantic HMS fisheries. Current representation on the HMS AP, as shown in Table 1, consists of 12 members representing commercial interests, 12 members representing recreational interests, 4 members representing environmental interests, 4 academic representatives, and the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee Chairperson. Each HMS AP member serves a 3-year term with approximately one-third of the total number of seats (33) expiring on December 31 of each year. NMFS seeks to fill 3 commercial, 5 recreational, and 2 environmental organization vacancies by December 31, 2019. NMFS will seek to fill vacancies based primarily on maintaining the current representation from each of the sectors. NMFS also considers species expertise and representation from the fishing regions (Northeast, Mid-Atlantic, Southeast, Gulf of Mexico, and Caribbean) to ensure the diversity and balance of the AP. Table 1 includes the current representation on the HMS AP by sector, region, and species with terms that are expiring identified in bold. It is not meant to indicate that NMFS will only consider persons who have expertise in the species or fishing regions that are listed. Rather, NMFS will aim toward having as diverse and balanced an AP as possible.

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