

discontinue the suspension of liquidation and the collection of cash deposits of estimated ADs, to liquidate all unliquidated entries that were entered on or after the date of publication in the **Federal Register** of the notice of revocation of the *Order*, without regard to ADs, and to refund all AD cash deposits on all such merchandise, with applicable interest.

### Public Comment

Any interested party may request a hearing within 14 days of publication of this notice, in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.<sup>11</sup> Rebuttal comments, limited to issues raised in the case briefs, may be filed by no later than three days after the deadline for filing case briefs.<sup>12</sup> Any hearing, if requested, will normally be held two days after rebuttal briefs/comments are due, in accordance with 19 CFR 351.310(d)(1). Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case or rebuttal briefs in this CCR are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>13</sup>

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. An electronically-filed document must be received successfully in its entirety by no later than 5:00 p.m. Eastern Time on the date the document is due.

Unless extended, consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results if all parties agree to our preliminary findings.

<sup>11</sup> Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

<sup>12</sup> Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19: Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

### Notification to Interested Parties

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b) and 777(i) of the Act, and 19 CFR 351.216, 19 CFR 351.221(b)(1), (b)(4), and (c)(3), and 19 CFR 351.222(f)(2)(iv).

Dated: July 11, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement & Compliance.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-053, C-570-054]

### Certain Aluminum Foil From the People's Republic of China: Initiation of Circumvention Inquiries of the Antidumping Duty and Countervailing Duty Orders

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

**SUMMARY:** Based on available information, the Department of Commerce (Commerce) is self-initiating country-wide circumvention inquiries to determine whether imports of certain aluminum foil (aluminum foil), completed in the Republic of Korea (Korea) and the Kingdom of Thailand (Thailand) (collectively, the third countries) using inputs (*i.e.*, aluminum foil- and sheet-gauge products) manufactured in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum foil from China (collectively, the *Orders*).

**DATES:** Applicable July 18, 2022.

**FOR FURTHER INFORMATION CONTACT:** Erin Kearney at (202) 482-0167, AD/CVD Operations, Office VI or Shawn Gregor at (202) 482-3226, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### Background

On March 9, 2017, The Aluminum Association Trade Enforcement Working Group filed petitions seeking the imposition of AD and CVD duties on imports of aluminum foil from China.<sup>1</sup>

<sup>1</sup> See *Certain Aluminum Foil from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 15691 (March 30, 2017); see

Following Commerce's affirmative determinations of dumping and countervailable subsidies,<sup>2</sup> and the U.S. International Trade Commission's (ITC) finding of material injury,<sup>3</sup> Commerce issued the *Orders*.<sup>4</sup>

### Scope of the Orders

The merchandise covered by the *Orders* is certain aluminum foil from China, "having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width." All aluminum foil is covered by the *Orders* regardless of specification. Excluded from the scope of the *Orders* 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." For a full description of the scope of the *Orders*, see the "Scope of the *Orders*," in the appendix to this notice.

### Merchandise Subject to Circumvention Inquiries

The circumvention inquiries cover aluminum foil assembled and completed in Korea and Thailand, using Chinese-origin aluminum foil and/or sheet, that is subsequently exported from Korea and Thailand to the United States. Specifically, Commerce placed information on the administrative record, as attachments to its Initiation Memorandum, that indicates aluminum foil inputs produced in China undergo further processing in Korea and Thailand before being exported to the United States.<sup>5</sup> Commerce intends to

also *Certain Aluminum Foil from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 82 FR 15688 (March 30, 2017).

<sup>2</sup> See *Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018); see also *See Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 83 FR 17362 (April 19, 2018); *Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination*, 83 FR 9274 (March 5, 2018); and *Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 83 FR 17360 (April 19, 2018).

<sup>3</sup> See *Aluminum Foil from China*, 83 FR 16128 (April 13, 2018); see also *Aluminum Foil from China*, Inv Nos. 701-TA-570 and 731-TA-1436, USITC Pub. 4771 (Final).

<sup>4</sup> See *Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 83 FR 17362 (April 19, 2018); see also *Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 83 FR 17360 (April 19, 2018) (collectively, *Orders*).

<sup>5</sup> See Memorandum, "Aluminum Foil from the People's Republic of China: Initiation of

determine as part of this circumvention inquiry whether or not that further processing in Korea and Thailand is minor or insignificant and otherwise meets the circumvention criteria set forth in section 781(b) of the Act.

### Statutory and Regulatory Requirements To Initiate Circumvention Inquiries

Section 351.226(b) of Commerce's regulations states that if Commerce "determines from available information that an inquiry is warranted into the question of whether the elements necessary for a circumvention determination under section 781 of the Act exist," Commerce "may initiate a circumvention inquiry and publish a notice of initiation in the **Federal Register**." Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act) provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country, (B)

the level of research and development in the foreign country, (C) the nature of the production process in the foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.<sup>6</sup> Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular circumvention inquiry.<sup>7</sup>

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping and/or countervailing duty order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

### Available Information Supports Initiations of Circumvention Inquiries

Based on available information, we determine initiation of these circumvention inquiries are warranted to determine whether certain imports of aluminum foil, completed in the third countries using inputs manufactured in China, are circumventing the *Orders*.<sup>8</sup>

<sup>6</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103-316 (1994) at 893.

<sup>7</sup> See *Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

<sup>8</sup> See Initiation Memorandum. As explained in the Initiation Memorandum, the available information supports initiating these circumvention inquiries on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts supported initiation on a country-wide basis. See, e.g., *Quartz Surface Products from the People's Republic of China: Initiation of Scope and Circumvention Inquiries of the Antidumping Duty and Countervailing Duty Orders*, 87 FR 6844 (February 7, 2022); see also Oil

Commerce has made this determination in accordance with its analysis of the factors set forth in section 781(b) of the Act and 19 CFR 351.226(i).<sup>9</sup>

Pursuant to 19 CFR 351.226(f)(7), Commerce may "alter or extend" time limits under the circumvention inquiry as necessary to make certain all parties to each or both segments of the proceeding are able to file comments and factual information as necessary.

Consistent with the approach taken in prior circumvention inquiries that Commerce initiated on a country-wide basis, we intend to solicit information from certain companies in Korea and Thailand concerning their production of aluminum foil and their shipments thereof to the United States. A company's failure to completely respond to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

### Respondent Selection

Commerce intends to base respondent selection on responses to quantity and value questionnaires. Commerce intends to identify the companies to which it will issue the quantity and value questionnaire, in part, based on CBP data. Parties to which Commerce does not issue the quantity and value questionnaire may also respond to the quantity and value questionnaire, which will be available in ACCESS, by the

*Country Tubular Goods from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping and Countervailing Duty Orders*, 85 FR 71877, 71878-79 (November 12, 2020); *Stainless Steel Sheet and Strip from the People's Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping and Countervailing Duty Orders*, 85 FR 29401, 29402 (May 15, 2020); *Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 43585 (August 21, 2019); *Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted). Pursuant to section 19 CFR 351.226(m), even if Commerce initiates an inquiry on a country-wide basis, if it subsequently finds circumvention to exist, it is not required to apply its ultimate determination on a country-wide basis, but has the discretion to apply that circumvention determination as it deems appropriate.

<sup>9</sup> See Initiation Memorandum.

Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders (Initiation Memo)." This memo is a public document dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024, of the main Department of Commerce building.

applicable deadline. Commerce intends to place the CBP data on the record within five days of publication of the initiation notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after placement of the CBP data on the record of the relevant inquiry.

### Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), when Commerce self-initiates a circumvention inquiry under 19 CFR 351.226(b), Commerce will notify U.S. Customs and Border Protection (CBP) of the initiation and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be circumventing the order. Accordingly, Commerce will notify CBP of the initiation of the circumvention inquiry and direct CBP to continue to suspend (unliquidated) entries of the products subject to the circumvention inquiry that were already subject to the suspension of liquidation. In addition, Commerce will direct CBP to apply the cash deposit rate that would be applicable if the products were determined to be circumventing the *Orders*.

Should Commerce issue preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)–(4). In the event Commerce issues affirmative preliminary or final circumvention determinations that the products are circumventing the *Orders*, Commerce will instruct CBP to continue the suspension of liquidation of previously suspended entries and to apply the applicable cash deposit rate. Commerce will also instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the notice of initiation of the circumvention inquiry pursuant to paragraphs (l)(2)(ii) and (l)(3)(ii). In addition, pursuant to paragraphs (l)(2)(iii)(A) and (l)(3)(iii)(A), Commerce may instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, prior to the date of initiation of the circumvention inquiry, but not for such entries prior to November 4, 2021, the effective date of

these provisions in the *Final Rule*.<sup>10</sup> These rules will not affect CBP's authority to take any additional action with respect to the suspension of liquidation or related measures for these entries, as stated in 19 CFR 351.226(l)(5).

### Notification to Interested Parties

In accordance with section 19 CFR 351.226(b) and 781(b) of the Act, Commerce determines that available information supports initiating circumvention inquiries to determine whether certain imports of aluminum foil, assembled and completed in, and exported from, Korea and Thailand using inputs manufactured in China, are circumventing the *Orders*. Accordingly, Commerce is notifying all interested parties of the initiation of circumvention inquiries. In addition, we have included a description of the products that are the subject of these inquiries, and an explanation of the reasons for Commerce's decision to initiate these inquiries as provided above and in the accompanying Initiation Memorandum.

In accordance with 19 CFR 351.226(l)(2), if Commerce issues preliminary affirmative determinations, we will then instruct CBP to suspend liquidation and require a cash deposit of estimated antidumping and countervailing duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiries. Commerce intends to issue its final determinations within 300 days from the date of publication of the notice of initiation of a circumvention inquiry in the **Federal Register**.

This notice is published in accordance with 19 CFR 351.226(b) and section 781(b) of the Act.

Dated: July 11, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix

#### Scope of the Orders

The merchandise covered by the orders 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,

<sup>10</sup> *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300, 52345 (September 20, 2021) (*Final Rule*).

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 the orders 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 orders 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 these proceedings 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 the orders is dispositive.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Interim Procedures for Considering Requests Under the Commercial Availability Provision of the United States-Panama Trade Promotion Agreement

On behalf of the Committee for the Implementation of Textile Agreements (CITA), the Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 29, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.