C-570-968
POR: 1/01/16 – 12/31/2016
Public Document
E&C VI: TB/TW

March 8, 2018

MEMORANDUM TO: 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

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of Countervailing Duty Administrative Review, Rescission of Review, in Part, and Intent to Rescind, in Part; 2016

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (China). The period of review (POR) is January 1, 2016 through December 31, 2016. This administrative review was requested by the Aluminum Extrusions Fair Trade Committee, *et al.* (the petitioner) and Regal Ideas Inc.

This administrative review was initiated with respect to 219 companies; subsequently, review requests for 214 companies were timely withdrawn. Thus, five companies remain under review: (1) Liaoning Zhongwang Group Co. Ltd. (Liaoning); (2) Liaoyang Zhongwang Aluminum Profile Co. Ltd. (Liaoyang); (3) Guangdong Xin Wei Aluminum Products Co., Ltd.; (4) Xin Wei Aluminum Co. Ltd.; and (5) Xin Wei Aluminum Company Limited.

Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei Aluminum Co. Ltd., and Xin Wei Aluminum Company Limited certified that they had no shipments during the POR; therefore, we preliminarily intend to rescind the review with respect to these companies. The Government of China, Liaoning, and Liaoyang did not provide responses to our requests for information; therefore, we have relied on total adverse facts available (AFA) to determine the subsidy rates for Liaoning and Liaoyang.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise covered by this review. For the 214 companies for which this review is rescinded, we will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2016, through December 31, 2016, in accordance with 19 CFR 351.212(c)(l)(i).

Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we intend to issue the final results no later than 120 days after publication of these preliminary results.

II. <u>Background</u>

On May 26, 2011, we published the CVD *Order* on aluminum extrusions from China.[1] On May 1, 2017, we published a notice of opportunity to request administrative review of the CVD *Order* for calendar year 2016.[2] Based on timely requests for review of 219 companies,[3] and in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation for this administrative review on July 6, 2017.[4]

In the *Initiation Notice*, we stated our intent to select respondents based on CBP data for U.S. imports during the POR.[5] However, as explained in the *Initiation Notice*, as well as in memoranda subsequently placed on the record of this review,[6] because of data inconsistencies stemming from the wide variety of individual aluminum extrusion products included in the scope of the *Order*, we were precluded from relying on volume data in determining the largest Chinese exporters of subject merchandise. Instead, we issued quantity and value (Q&V) questionnaires to companies accounting for the largest import values, as reflected in the CBP data,[7] and posted a Q&V questionnaire to Commerce's web site. Between July 20, 2017, and August 25, 2017, Commerce received Q&V questionnaire responses from the following companies: (1) Changzheng Evaporator Co., Ltd.; (2) Guangzhou Jangho Curtain Wall System Engineering Co.,

---

[1] *See Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (*Order*).
[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 20315 (May 1, 2017).
[3] *See* Letter from the petitioner, "Aluminum Extrusions from the People's Republic of China: Request for Administrative Review," dated May 31, 2017 (Petitioner Review Request), and Letter from Regal Ideas Inc., "Aluminum Extrusions from the People's Republic of China: Request for Administrative Review," dated May 31, 2017 (Regal Review Request).
[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 31292 (July 6, 2017) (*Initiation Notice*).
[5] *See Initiation Notice*.
[6] *See* Memorandum, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Respondent Selection," dated September 26, 2017 (Respondent Selection Memorandum).
[7] *See* Memorandum, "Issuance of Quantity and Value Questionnaires," dated August 11, 2017 (Q&V Issuance Memorandum).

Ltd. and Jangho Curtain Wall Hong Kong Ltd. (collectively, Jangho); (3) Precision Metal Works Ltd.; (4) Jiangmen Jianghai District Foreign Economic Enterprise Corporation Limited (Jiangmen Jianghai); (5) Tai-Ao Aluminum (Taishan) Co., Ltd. (Tai-Ao); (6) Union Industry (Asia) Co., Limited; (7) Whirlpool Corporation; and (8) Whirlpool Microwave Products Development Ltd. Additionally, between July 20, 2017 and August 5, 2017, Commerce received no-shipment certification letters from the following companies: (1) Bracalente Metal Products (Suzhou) Co., Ltd.; (2) Danfoss Micro Channel Heat Exchangers (Jia Xing) Co., Ltd.; (3) Guangdong Xin Wei Aluminum Products Co., Ltd.; (4) IDEX Dinglee Technology (Tianjin) Co., Ltd.; (5) IDEX Health; (6) IDEX Technology Suzhou Co., Ltd.; (7) Ningbo Yili Import & Export, Co., Ltd.; (8) Permasteelisa Hong Kong Limited; (9) Permasteelisa South China Factory; (10) Sanhua (Hangzhou) Micro Channel Heat Exchange Co., Ltd.; (11) Xin Wei Aluminum Co.; (12) Xin Wei Aluminum Company Limited; and (13) Xin Wei Aluminum Co. Ltd.

On September 26, 2017, Commerce selected Jiangmen Jianghai and Tai-Ao for individual examination, based on information received in the Q&V responses.[8] On the same day, Commerce issued the Initial Questionnaire to Jiangmen Jianghai, Tai-Ao, and the Government of China, and instructed the Government of China to forward the Initial Questionnaire to the two mandatory respondents.[9]

On October 4, 2017, the petitioner withdrew its requests for review for 214 companies,[10] including the mandatory respondents, Jiangmen Jianghai and Tai-Ao.[11] On November 6, 2017, Commerce issued the Initial Questionnaire to the Government of China[12] and the remaining companies under review: (1) Guangdong Xin Wei Aluminum Products Co., Ltd.; (2) Xin Wei Aluminum Company Limited; (3) Xin Wei Aluminum Co. Ltd; (4) Liaoning; and (5) Liaoyang.[13] However, because Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei

[8] *See* Respondent Selection Memorandum.

[9] *See* Letter to Jiangmen Jianghai, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated September 26, 2017 (Jiangmen Jianghai Questionnaire); Letter to Tai-Ao, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated September 26, 2017 (Tai-Ao Questionnaire); and Letter to the GOC, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated September 26, 2017 (September 26, 2017 GOC Questionnaire);

[10] There are two companies for which the petitioner withdrew its requests for review, for which a review was also requested by another party. Therefore, all review requests were withdrawn with respect to 214 companies.

[11] *See* Letter from the petitioner "Aluminum Extrusions from the People's Republic of China: Withdrawal of Request for Administrative Review," dated October 4, 2017 (Petitioner's Withdrawal Letter).

[12] *See* Letter to the Government of China, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated November 6, 2017 (November 9, 2017 GOC Questionnaire). Commerce's questionnaire instructed the GOC to forward the Initial Questionnaire to the mandatory respondents.

[13] *See* Letter to Liaoning, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated November 6, 2017 (Liaoning Questionnaire); Letter to Liaoyang, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated November 6, 2017 (Liaoyang Questionnaire); Letter to Xin Wei, "2016 Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: Countervailing Duty Questionnaire," dated November 6, 2017 (Xin Wei Questionnaire). *See also* Memorandum, "2016 Administrative Review of the Countervailing Duty

Aluminum Company Limited, and Xin Wei Aluminum Co. Ltd had previously submitted a no shipment certification,[14] on November 9, 2017, we issued a letter acknowledging these companies' submission of a no-shipment certification and excused them from responding to the questionnaire.[15] We did not receive a response to the Initial Questionnaire from Liaoning, Liaoyang, or the Government of China.

Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018.[16] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Additionally, on January 24, 2018, and March 1, 2018, Commerce extended the deadline for the preliminary results until March 2, 2018, and March 9, 2018, respectively.[17]

III. <u>Rescission of Review, In Part</u>

For the 214 companies for which all review requests were timely withdrawn, we are rescinding the administrative review, pursuant to 19 CFR 351.213(d)(1). These companies are listed in Attachment II of the *Federal Register* notice issued concurrently with this decision memorandum.

IV. <u>Intent to Rescind Administrative Review, In Part</u>

In the *Initiation Notice*, we instructed the producers or exporters under review that had no exports, sales, or entries during the POR to notify Commerce within 30 days of publication of the notice.[18] We received no-shipment certifications from 13 companies. Of those 13 companies, ten no longer have outstanding requests for review as a result of the petitioner's timely withdrawal of review requests.[19] Because no party other than the petitioner requested a review

---

Order on Aluminum Extrusions from the People's Republic of China: Revised Questionnaire Recipients," dated October 31, 2017 (Revised Questionnaire Recipients Memorandum).

[14] *See* Xin Wei No-Shipments Certification.

[15] *See* Letter, "2016 Administrative Review of Aluminum Extrusions from the People's Republic of China: Xin Wei CVD Questionnaire," dated November 9, 2017 (Confirmation of Submission of Xin Wei No-Shipment Certification).

[16] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[17] *See* Memorandum, "Aluminum Extrusions from the People's Republic of China: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated January 24, 2018, and uploaded to ACCESS on January 25, 2018; *see also* Memorandum, "Aluminum Extrusions from the People's Republic of China: Second Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated March 1, 2018.

[18] *See Initiation Notice.*

[19] These companies are: (1) Bracalente Metal Products (Suzhou) Co., Ltd.; (2) Danfoss Micro Channel Heat Exchangers (Jia Xing) Co., Ltd.; (3) IDEX Dinglee Technology (Tianjin) Co., Ltd.; (4) IDEX Health; (5) IDEX Technology Suzhou Co., Ltd.; (6) Ningbo Yili Import & Export, Co., Ltd.; (7) Permasteelisa Hong Kong Limited; (8) Permasteelisa South China Factory; (9) Sanhua (Hangzhou) Micro Channel Heat Exchange Co., Ltd.; and (10) Xin Wei Aluminum Co.

of these companies, Commerce is rescinding the administrative review of these ten companies pursuant to 19 CFR 351.213(d)(1), as described above.[20]

The remaining three companies for which Commerce received timely no-shipment certifications, and for which there remain active requests for review, are: Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei Aluminum Company Limited, and Xin Wei Aluminum Co. Ltd.[21] Accordingly, we issued no-shipment inquiries to CBP requesting any information that might contradict the no-shipment claims. We did not receive a response from CBP that contradicted these no-shipment claims. Because there is no evidence on the record to indicate that these companies had entries of subject merchandise during the POR, pursuant to 19 CFR 351.213(d)(3), we preliminarily intend to rescind the review with respect to Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei Aluminum Co. Ltd., and Xin Wei Aluminum Company Limited. Absent any evidence of shipments being placed on the record, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the administrative review of these companies in the final results of review.

V. <u>Scope of the Order</u>

The merchandise covered by the *Order* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

---

[20] The petitioner requested a review of Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei Aluminum Co. and Xin Wei Aluminum Company Limited, and subsequently withdrew its request (*see* Petitioner Review Request and Petitioner's Withdrawal Letter). However, interested party Regal Ideas Inc. requested review of Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei Aluminum Co. Ltd., and Xin Wei Aluminum Company Limited (*see* Regal Review Request). Thus, outstanding review request exist for Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei Aluminum Co. Ltd., and Xin Wei Aluminum Company Limited, but not for Xin Wei Aluminum Co. In addition, Xin Wei submitted a no-shipments certification on behalf of all four companies, including and referring to Xin Wei Aluminum Products Co. as a separate company (*see* Xin Wei No-Shipments Certification). Therefore, we are rescinding the review with respect to Xin Wei Aluminum Co., and we preliminarily find that Guangdong Xin Wei Aluminum Products Co., Ltd., Xin Wei Aluminum Co. Ltd., and Xin Wei Aluminum Company Limited had no shipments.

[21] *See* Xin Wei No-Shipments Certification.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached *(e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a "finished goods kit." A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled "as is" into a finished product. An imported product will not be considered a "finished goods kit" and therefore excluded from the scope of the *Order* merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters ("mm") or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this *Order* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following 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 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

There have been numerous scope rulings issued with regard to this *Order*. For further information, refer to the listing of these scopes rulings at the webpage entitled, Final Scope Rulings on the website of Enforcement and Compliance located at http://enforcement.trade.gov/download/prc-ae/scope/prc-ae-scope-index.html.

VI. Use of Adverse Facts Available (AFA)

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person withholds information that has been requested; fails to provide information within the established deadlines or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides information that cannot be verified, as provided by section 782(i) of the Act.[22]

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Under the TPEA, numerous amendments to the AD and CVD laws were made.[23] The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.[24]

[22] On June 29, 2015, the Trade Preferences Extension Act of 2015, made numerous amendments to the antidumping (AD) and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. *See* Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws*). Accordingly, the amendments apply to this administrative review.
[23] *See* TPEA. *See also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws.*
[24] *Id.*

Section 776(b) of the Act provides that the Department may use AFA when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, the Department is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.[25] Furthermore, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the countervailing duty investigation, a previous administrative review, or other information placed on the record.[26]

Section 776(c) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.[27] Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[28] Furthermore, Commerce is not required to corroborate any CVD rate applied in a separate segment of the same proceeding.[29]

Finally, under section 776(d) of the Act, when applying an adverse inference, Commerce may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable to use.[30] The TPEA also makes clear that, when selecting facts available with an adverse inference, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[31]

Consistent with section 776(d) of the Act and our established practice, when choosing a rate to apply as AFA, we follow our CVD AFA hierarchy (discussed below).[32]

Application of Total AFA

As discussed in the "Background" section above, Liaoning and Liaoyang were selected as mandatory respondents in this review. However, neither Liaoning nor Liaoyang provided a response to the Initial Questionnaire. Additionally, the Government of China not did submit requested information related to Liaoning or Liaoyang in response to Commerce's Initial

[25] *See* section 776(b)(1)(B) of the Act; *see also* section 502(1)(B) of the TPEA.
[26] *See* section 776(b)(2) of the Act; *see also* 19 CFR 351.308(c).
[27] *See* section 776(c)(1) of the Act; *see also* 19 CFR 351.308(d).
[28] *See* SAA at 870.
[29] *See* section 776(c)(2) of the Act; *see also* section 502(2) of the TPEA.
[30] *See* section 776(d)(1) of the Act; *see also* section 502(3) of the TPEA.
[31] *See* section 776(d)(3) of the Act; *see also* section 502(3) of the TPEA.
[32] *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China*), and accompanying Issues and Decision Memorandum at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (*Essar Steel Ltd.*) (upholding "hierarchical methodology for selecting an AFA rate").

Questionnaire. Based upon Liaoning, Liaoyang, and the Government of China having provided no responses to our Initial Questionnaire, and the lack of any other information submitted on the record of the kind necessary to identify countervailable subsidies used by Liaoning or Liaoyang, or to calculate subsidy rates for Liaoning or Liaoyang, we preliminarily determine that necessary information is not on the record within the meaning of section 776(a)(1).

Moreover, we preliminarily determine that Liaoning, Liaoyang, and the Government of China have withheld information that was requested of them within the meaning of section 776(a)(2)(A) of the Act, and failed to provide information within the deadlines established and failed to provide information in the form and manner requested by Commerce within the meaning of section 776(a)(2)(B) of the Act. Finally, we preliminarily determine that, by not responding to our questions, Liaoning, Liaoyang, and the Government of China significantly impeded this review within the meaning of section 776(a)(2)(C) of the Act. Accordingly, given their failure to respond to Commerce's requests for information, Commerce must rely on "facts available" in making its preliminary determination with respect to all countervailable subsidy programs that Liaoning and Liaoyang could have used, in accordance with sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act.

Moreover, we preliminarily determine that AFA is warranted, pursuant to section 776(b) of the Act, because, by not responding to Commerce's questionnaires, Liaoning, Liaoyang, and the Government of China failed to cooperate to the best of their ability to comply with Commerce's requests for information in this administrative review.[33]

Selection of AFA Rates for Liaoning and Liaoyang

In applying AFA, we find that Liaoning and Liaoyang used and benefited from each of the programs which were previously found to be countervailable in prior segments of this preceding, unless we have subsequently found the program not to be countervailable.[34] We are, therefore, including these programs among those we look to in determining the AFA rate.[35] Further, we selected an AFA rate for each such program consistent with our CVD AFA hierarchy in determining the AFA subsidy rate that we applied to Liaoning and Liaoyang.

For the purpose of calculating the AFA rate for the preliminary results of review, Commerce preliminarily finds that all programs that have been previously countervailed in prior segments of this proceeding, remain countervailable—that is, they provide a financial contribution within the

[33] *See*, *e.g.*, *Aluminum Extrusions from the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review and Preliminary Intent to Rescind, in Part; 2015*, 82 FR 26438 (June 7, 2017) (Aluminum Extrusions 2015 Preliminary Results) and accompanying Decision Memorandum at 23-24 which were unchanged in *Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015*, 82 FR 57951 (December 8, 2017) and accompanying Issues and Decision Memorandum (Aluminum Extrusions 2015 Final Results).
[34] *See*, *e.g.*, *Certain Cold-Rolled Carbon Steel Flat Products from Korea; Final Affirmative CVD Determination*, 67 FR 62102 (October 3, 2002), and accompanying Issues and Decision Memorandum at "Methodology and Background Information;" *see also Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2017), at 60646-47.
[35] *See* Appendix I.

meaning of sections 771(5)(B)(i) and (D) of the Act, confer a benefit within the meaning of section 771(5)(B) of the Act, and are specific within the meaning of 771(5A) of the Act.

Furthermore, consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as the AFA rate in this review.[36] When selecting rates in an administrative review, we first determine if there is an identical program from any segment of the proceeding and use the highest calculated rate for any respondent for the identical program (excluding *de minimis* rates).[37] If no such identical program exists, we then determine if there is a similar or comparable program (based on the treatment of the benefit) within the same proceeding and apply the highest calculated rate for the similar program, excluding *de minimis* rates. Where there is no similar or comparable program in the proceeding at issue, we look outside the proceeding (but within the same country) for the highest non-*de minimis* calculated rate for the identical program. If there is no identical program in any other CVD proceeding involving the same country, we look for the highest non-*de minimis* rate for a similar/comparable program from another proceeding. If that option is not available, we apply the highest calculated rate from any non-company specific program, but we do not use a rate from a program if the industry in the proceeding cannot use that program.[38]

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[39] The SAA provides that to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.[40] However, Commerce is not required to corroborate any CVD rate applied in a separate segment of the same proceeding.[41]

The SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[42] Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had

---

[36] *See*, *e.g.*, *Shrimp from China*, and accompanying Issues and Decision Memorandum at 13; *see also Essar Steel Ltd.* (upholding "hierarchical methodology for selecting an AFA rate").
[37] For purposes of selecting AFA program rates, we normally treat rates less than 0.5% to be *de minimis*. *See*, *e.g.*, *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying Issues and Decision Memorandum at "Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "Grant Under the Elimination of Backward Production Capacity Award Fund."
[38] *See e.g.*, *Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78788 (December 31, 2014), and accompanying Issues and Decision Memorandum at 15-16. *See also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015), and accompanying Issues and Decision Memorandum at 14.
[39] *See* SAA, at 870.
[40] *Id*. at 870.
[41] *See* section 776(c)(2) of the Act; *see also* section 502(2) of the TPEA.
[42] *Id*. at 869-870.

cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[43]

Because we have found it appropriate to apply AFA to Liaoning, Liaoyang, and the Government of China due to their failure to cooperate in providing information in this proceeding, we have selected AFA rates for all subsidy programs listed below according to Commerce's CVD AFA hierarchy.[44] The rates selected in this review as AFA rates were also selected as AFA rates in the last administrative review and were previously corroborated to the extent practicable.[45] We are using those same rates as the AFA rates in this review. Because we are selecting CVD rates that were applied in a separate segment of the same proceeding, pursuant to section 776(c)(2) of the Act, we are not required to corroborate those rates in this review.[46]

Loan Programs
Export Buyer's Credit
Export Seller's Credit
Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
Policy Loans to Chinese Aluminum Extrusions Producers

Provision of Goods and Services for LTAR
Allocated Land-Use Rights for SOEs
Provision of Aluminum Extrusions for LTAR
Provision of Electricity for LTAR to FIEs Located in the Nanhai District of Foshan City
Provision of Glass for LTAR
Provision of Land-Use Rights and Fee Exemptions To Enterprises Located in the Zhaoqing New and High-Tech Industrial Development Zone (ZHTDZ) for LTAR
Provision of Land-Use Rights for LTAR for Enterprises Located in the Yongji Circular Economic Park
Provision of Land-Use Rights in the Liaoyang High-Tech Industry Development Zone
Provision of Land-Use Rights to Enterprises Located in the South Sanshui Science & Technology Industrial Park for LTAR
Provision of Primary Aluminum for LTAR
Provision of Steam Coal for LTAR

Purchase of Goods and Services for More than Adequate Remuneration (MTAR)
Purchases of Aluminum Extrusions for MTAR

Income Tax Programs
Preferential Tax Policies for the Development of Western Regions of China (aka, Go West Campaign)

---

[43] *See* section 776(d) of the Act.
[44] *See* Memorandum "Administrative Review of Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: AFA Calculation Memorandum for the 2016 Final Results of Review," dated concurrently with this memorandum.
[45] *See* Aluminum Extrusions 2015 Preliminary Results; *see also* Aluminum Extrusions 2015 Final Results.
[46] *See* section 776(c)(2) of the Act; *see also* section 502(2) of the TPEA.

Preferential Tax Policies for the Opening and Development of Beibu Gulf Economic Zone of Guangxi Zhuang Autonomous Region (Local Income Tax Exemption)
Preferential Tax Program for FIEs Recognized as HNTEs
Preferential Tax Program for High or New Technology Enterprises
Provincial Tax Exemptions and Reductions for "Productive" FIEs
Tax Reduction for Export-Oriented FIEs
Tax Reductions for FIEs in Designated Geographic Locations
Tax Reductions for FIEs Purchasing Chinese-Made Equipment
Tax Reductions for Technology- or Knowledge-Intensive FIEs

Tax Credit and Tax Rebate Programs
Accelerated Depreciation for Enterprises Located in the Northeast Region
Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
Tax Offset for Research & Development
Tax Refunds for Enterprises Located in the ZHTDZ
Tax Refunds for Tax Refunds for Reinvesting of FIE Profits in Export-Oriented Enterprises

Other Tax Programs
Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises using Imported Equipment in Encouraged Industries
Refund of Value Added Tax on Products Made through Comprehensive Utilization of Resources
VAT Rebates on FIE Purchases of Chinese-Made Equipment

Grant Programs
Advantaged Traditional Manufacturing Industry Transformation and Upgrading Model Enterprise Award (Industry Upgrading Model Award)
Assistance for Science Research and Technology Development Planning Projects of Nanning Municipality
Assistance for R&D projects under Funds of Nanning Municipality for Foreign Trade Development
Assistances for R&D projects under Funds of Nanning Municipality for Foreign Trade Development
Awards of Guangxi Autonomous Region for Advancement of Science and Technology
Awards of Guangxi Autonomous Region for Emission Reduction of Main Pollutants
Awards of Guangxi Autonomous Region for New Products
Awards of Nanning Municipality for New Products
Awards to Key Enterprises for Large Consumption of Electricity
Beijing Industry Development Fund
Clean Production Technology Fund
Development Assistance Grants from the ZHTDZ Local Authority
Enterprise Technology Center Fund
Exemptions from Administrative Charges for Companies in the ZHTIDZ
Expanding Production and Stabilizing Jobs Fund of Jiangsu Province
Export Increase Fund
Export Rebate for Mechanic, Electronic, and High-Tech Products

Financial Supporting Funds of Nanning Municipality for Technology Renovation for Production Safety
Financial Assistance (interest subsidy) of Nanning Municipality for Key Technology Renovation
Fund for Economic, Scientific, and Technology Development
Fund for SME Bank-Enterprise Cooperation Projects
Funds for Projects of Science and Technology Professionals serving the Enterprises
Funds of Guangxi Autonomous Region for Enterprises' Technology Renovation
Funds of Nanning Municipality for Technology Innovation
GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands
Grants for Listing Shares: Liaoyang City (Guangdong Province), Wenzhou Municipality (Zhejiang Province), and Quanzhou Municipality (Fujian Province)
Grants to Cover Legal Fees in Trade Remedy Cases in Zhenzhen
Guangxi Awards for Private Enterprises designated as Pilot Innovation-oriented Enterprises
Guangxi Technology R&D Funds
Guangzhou Engineering Technology R&D Center Fund
Guangzhou Innovation Enterprise Fund from Guangzhou
Import and Export Credit Insurance Supporting Development Fund for Changzhou
Industrial Development Fund
Intellectual Property Reward
International Market Exploration Fund (SME Fund)
Nanhai District Grants to High and New Technology Enterprises
National Funds for Construction of Ten "Key Energy Saving Projects", "Key Demonstration Bases for Recycling Economy and Resource Saving" and "Key Industrial Pollution Control Projects"
National Funds for the Industry Revitalization and Technology Renovation of the Key Fields
Northeast Region Foreign Trade Development Fund
PGOG Science and Technology Bureau Project Fund (aka, Guangdong Industry, Research, University Cooperating Fund)
PGOG Special Fund for Energy Saving Technology Reform
Private Enterprise Award
Provincial Fund for Fiscal and Technological Innovation
Provincial Loan Discount Special Fund for SMEs
Refund of Land-Use Tax for Firms Located in the ZHTDZ
Special Fund for External Economy
Special Fund for Significant Science and Technology in Guangdong Province
Special Funds for the Development of Five Industries
Special Funds of Guangxi Autonomous Region for Production Safety (Supporting Fund for Eliminating Potential and Seriously Dangerous Projects)
Special Funds of Guangxi Autonomous Region for Small Highland of Talents
Special Funds of Guangxi Beibu Gulf Economic Zone for the Development of Key Industries
Special Funds of Nanning Municipality for Academic and Technical Leaders of the New Century
Special Funds of Nanning Municipality for Small Highland of Talents
Special Reward Fund for Industrial Economy Transformation and Upgrading of the Whole District

State Key Technology Renovation Project Fund
Supporting Funds for Trade with the Minority Nationalities and Production of Goods Specially Needs by Minority Nationalities
Supporting Funds of Nanning Municipality for “Informatization-industrialization Integration” and Development of Information Industry
Technical Standards Awards
Technology Innovation Assistance Fund (Niulanshan Industrial Development Center - Technology Products Fund)
Trade Promotion and Brand Building Fund
Working Capital Loans Discount

VII. *Ad Valorem* Rate for Non-Cooperative Companies Under Review

Based on the methodology described above, we preliminarily determine the AFA countervailable subsidy rate for Liaoning and Liaoyang to be 198.61 percent *ad valorem*.[47]

VIII. Conclusion

We recommend applying the above methodology for these preliminary results.

☒ Agree ☐ Disagree

3/8/2018

X

Signed by: GARY TAVERMAN

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

[47] *See* AFA Calculation Memorandum for a table detailing the derivation of the AFA rate applied.