DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of aluminum extrusions from the People's Republic of China (the PRC). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

DATES: *Effective Date:* April 4, 2011.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

This investigation covers 58 programs. The mandatory respondents in this investigation are: Liaoyang Zhongwang Aluminum Profile Co. Ltd./ Liaoning Zhongwang Group (collectively, the Zhongwang Group), Miland Luck Limited, Dragonluxe Limited, and the Government of the PRC. The voluntary respondents in this investigation are: Guang Ya Aluminum Industries Co., Ltd., Foshan Guangcheng Aluminum Co., Ltd., Guang Ya Aluminum Industries Hong Kong, Kong Ah International Company Limited, and Yongji Guanghai Aluminum Industry Co., Ltd. (collectively the Guang Ya Companies), and Zhaoqing New Zhongya Aluminum Co., Ltd., Zhongya Shaped Aluminum HK Holding Ltd., and Karlton Aluminum Company Ltd. (collectively the Zhongya Companies).

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2009, through December 31, 2009, which corresponds to the PRC's most recently completed fiscal year at the time we initiated this investigation. *See* 19 CFR 351.204(b)(2).

Case History

The following events have occurred since the Department published the *Preliminary Determination* on September 7, 2010. *See Aluminum Extrusions From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 75 FR 54302 (September 7, 2010) (*Preliminary Determination*). From September 17, 2010, through November 2, 2010, the Department issued supplemental questionnaires to the Guang Ya Companies, the Zhongya Companies, and the GOC, which, in turn, submitted questionnaire responses from October 13, 2010, through November 12, 2010. On October 29, 2010, we issued a post-preliminary decision memorandum addressing new subsidy allegations submitted by petitioners on July 13 and July 28, 2010.[1] *See* Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "Post-Preliminary Decision Memorandum" (October 29, 2010), a public document on file in room 7046 of HCHB, the Central Records Unit (CRU). We conducted verification of the questionnaire responses submitted by the Guang Ya Companies, the Zhongya Companies, and the GOC from December 3 through December 17, 2010. We issued verification reports from January 20 through January 28, 2011. Interested parties submitted case briefs on February 9, 2011 and rebuttal briefs on February 15, 2011. We conducted a public hearing on March 3, 2011.

Scope Comments

Based on analysis of information and arguments, the Department has modified the scope of the antidumping and countervailing duty investigations. For a full discussion, see Comment 3, "Scope of the Antidumping and Countervailing Duty Investigations," of the Issues and Decision Memorandum that accompanies the final determination in the less-than-fair-value investigation of aluminum extrusions from the People's Republic of China.

Scope of Investigation

The merchandise covered by this investigation 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.

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 bright-dip 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

[1] Petitioners are the Aluminum Extrusion Fair Trade Committee: Aerolite Extrusion Company; Alexandria Extrusions Company; Beneda Aluminum of Florida, Inc.; William L. Bonnell Company, Inc.; Frontier Aluminum Corporation; Futura Industries Corporation; Hydro Aluminum North American Inc.; Kaiser Aluminum Corporation; Profile Extrusion Company; Sapa Extrusions, Inc.; Western Extrusions Corporation; and the United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

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, heat sinks, door thresholds, or carpet trim. 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 designation 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 investigation 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 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States ("HTS"): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, and 7608.20.0090. 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 HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope in this proceeding is dispositive.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (the ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry. On June 17, 2010, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of aluminum extrusions from the PRC that are alleged to be sold in the United States at less than fair value and subsidized by the GOC. *See Certain Aluminum Extrusions from China,* 75 FR 34482 (June 17, 2010).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, entitled "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Aluminum Extrusions from the People's Republic of China," (March 28, 2011) (Decision Memorandum), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/ia.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we determine the total estimated net countervailable subsidy rates to be:

Company	*Ad Valorem* net subsidy rate
Guang Ya Aluminum Industries Co., Ltd., Foshan Guangcheng Aluminum Co., Ltd., Guang Ya Aluminum Industries Hong Kong, Kong Ah International Company Limited, and Yongji Guanghai Aluminum Industry Co., Ltd. (collectively the Guang Ya Companies).	9.94 percent *ad valorem*

Company	*Ad Valorem* net subsidy rate
Zhaoqing New Zhongya Aluminum Co., Ltd., Zhongya Shaped Aluminum HK Holding Ltd., and Karlton Aluminum Company Ltd. (collectively the Zhongya Companies).	8.02 percent *ad valorem*
Dragonluxe Limited	374.15 percent *ad valorem*
Miland Luck Limited	374.15 percent *ad valorem*
Liaoyang Zhongwang Aluminum Profile Co. Ltd./Liaoning Zhongwang Group (collectively, the Zhongwang Group)	374.15 percent *ad valorem*
All Others Rate	374.15 percent *ad valorem*

We note that section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an all-others rate equal to be the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. However, as discussed in Comment 9 of the Decision Memorandum, the companies that participated in the investigation are voluntary respondents. The Department's regulations state that in calculating the all-others rate under section 705(c)(5) of the Act, the Department will exclude net subsidy rates calculated for voluntary respondents. *See* 19 CFR 351.204(d)(3). *See also Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27310 (May 19, 1997).

Therefore, we have resorted to "any reasonable method" to derive the all-others rate, as described under section 705(c)(5)(A)(ii) of the Act. We determine that equating the all-others rate with the total adverse facts available (AFA) rate applied to the non-cooperating, mandatory respondents constitutes a "reasonable method" under 705(c)(5)(A)(ii) of the Act. *See, e.g., Certain Potassium Phosphate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry,* 75 FR 30375 (June 1, 2010) (in an investigation where all of the mandatory respondents received a rate based on AFA, the Department used the AFA rate assigned to the mandatory respondents as the all-others rate).

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from the PRC which were entered or withdrawn from warehouse, for consumption on or after September 7, 2010, the date of the publication of the *Preliminary Determination* in the **Federal Register.** In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty (CVD) purposes for subject merchandise entered, or withdrawn from warehouse, on or after January 6, 2011, but to continue the suspension of liquidation of all entries from September 7, 2010, through January 5, 2011.

We will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated CVDs for such entries of 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 or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 28, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Comment 1: Application of CVD Law to the PRC
Comment 2: Whether Application of the CVD Law to Imports from the PRC Violates the Administrative Procedure Act (APA)
Comment 3: Double Counting
Comment 4: Cut-off Date for Identifying Subsidies
Comment 5: Whether the Guang Ya Companies Inaccurately Reported Their Affiliates Thereby Warranting the Application of Adverse Facts Available (AFA)
Comment 6: Whether the Zhongya Companies Failed to Report Their Affiliates Thereby Warranting the Application of AFA
Comment 7: Whether the AFA Calculation is Accurate and Reasonable
Comment 8: Whether to Include Newly Alleged and Self-Reported Programs in the AFA Calculation
Comment 9: Whether the All Others Rate Should Equal the Total AFA Rate
Comment 10: Whether the Department Should Have Collected Information from Firms Subject to the All Others Rate
Comment 11: Whether the Department Should Have Selected Additional Mandatory Respondents
Comment 12: Whether the Department Should Retroactively Revise the All Others Rate from the *Preliminary Determination*
Comment 13: Whether the Sale of Aluminum Extrusions for More Than Adequate Remuneration (MTAR) Program Was Used by the Voluntary Respondents
Comment 14: Whether the Sale of Aluminum Extrusions for MTAR Program Is Specific
Comment 15: Whether the Sale of Aluminum Extrusions for MTAR Program Confers a Benefit
Comment 16: Whether the Department Improperly Rejected Data From The Zhongya Companies Pertaining to the Sale of Aluminum Extrusions For MTAR Program
Comment 17: Whether the Ownership Information of Respondents' Customers Was Complete and Fully Verified
Comment 18: Whether a Financial Contribution Exists Under the Provision of Primary Aluminum for Less Than Adequate Remuneration (LTAR) Program
Comment 19: Whether the Provision of Primary Aluminum for LTAR Program is Specific

Comment 20: Whether the Benchmark Used for the Provision of Primary Aluminum for LTAR Program Should Include Import Duties
Comment 21: Whether the Department Should Use In-Country Benchmarks Under the Provision of Primary Aluminum for LTAR Program
Comment 22: Whether the Guang Ya Companies Properly Reported Their Purchases of Primary Aluminum and Whether the Application of AFA is Warranted
Comment 23: Whether the Land for LTAR Program Constitutes a Financial Contribution, Provides a Benefit, and is Specific
Comment 24: Whether the Department Should Revise the Benchmark Used Under the Land for LTAR Program
Comment 25: Whether the Department Erred in Rejecting Factual Information Concerning the Benchmark Used Under the Land for LTAR Program
Comment 26: Whether the Guang Ya Companies Received an Additional Subsidy in Connection With the GOC's Purchase of Land-Use Rights and Buildings
Comment 27: Whether PRC Commercial Banks Are GOC Authorities That Provide a Financial Contribution
Comment 28: Whether there is a Link Between the Alleged Policy Lending Program and Actual Loans Received by Respondents
Comment 29: Whether the Derivation of the Short-Term Benchmark Interest Rate is Arbitrary
Comment 30: Whether the Derivation of the Long-Term Benchmark Interest Rate is Arbitrary
Comment 31: Whether the Department Committed Ministerial Errors Concerning the Famous Brands Program
Comment 32: Whether the Department Should Provide an Entered Value Adjustment to the Zhongya Companies to Account for Price Mark-Ups Made by Their Hong-Kong Affiliate
Comment 33: Whether the Department Improperly Declined to Initiate an Investigation of the GOC's Alleged Currency Undervaluation

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967]

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

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* April 4, 2011.

SUMMARY: On November 12, 2010, the Department of Commerce ("Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of aluminum extrusions from the People's Republic of China ("PRC").[1] We invited interested parties to comment on our preliminary determination. Based on our analysis of the comments we received, we have made changes to our margin calculations for the mandatory respondents. The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Lori Apodaca, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–4551, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The Department published its *Preliminary Determination* on November 12, 2010. The Department subsequently issued a ministerial error memorandum, in which it agreed to correct several ministerial errors.[2] On January 4, 2011, pursuant to the correction of ministerial errors, the Department published an *Amended Preliminary Determination.*[3]

Between December 6, 2010, and December 21, 2010, the Department conducted verifications of Guang Ya Aluminium Industries Co., Ltd. ("Guang Ya"), Foshan Guangcheng Aluminium Co., Ltd. ("Guangcheng"), Kong Ah International Co., Ltd.("Kong Ah"), and Guang Ya Aluminium Industries (Hong Kong) Ltd. ("Guang Ya HK") (collectively the "Guang Ya Group"); Zhaoqing New Zhongya Aluminum Co., Ltd. ("ZNZ"), Zhongya Shaped Aluminium (HK) Holding Limited ("Shaped Aluminum") and Karlton Aluminum Company Ltd. ("Karlton") (collectively "New Zhongya"); and Xinya Aluminum & Stainless Steel Product Co., Ltd. ("Xinya") (all parties, collectively "the Guang Ya Group/New Zhongya/Xinya"). The Department released verification reports for each of these companies on January 28, 2011.[4] *See* the "Verification" section below for additional information. On December 12, 2010, Aavid Thermalloy, Inc. ("Aavid") submitted a request for a scope hearing. On December 13, 2010, The Aluminum Extrusions Fair Trade Committee,[5] and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners") and New Zhongya submitted requests for a public hearing. On February 9, 2011, Petitioners submitted a request for a closed session of the hearing. On March 2, 2011, the Department held a public scope hearing for the antidumping duty and countervailing duty investigations, and both an open and a closed session of the antidumping duty hearing.

New Zhongya and Petitioners submitted surrogate value comments on December 22, 2010. On February 9, 2011, case briefs were filed by the Guang Ya Group, the Government of China ("GOC"), Petitioners, and New Zhongya. On February 14, 2011, the Guang Ya Group, New Zhongya, and Petitioners filed their rebuttal briefs.

Period of Investigation

The period of investigation ("POI") is July 1, 2009, through December 31, 2009. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was March 2009. *See* 19 CFR 351.204(b)(1).

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended ("Act"), we conducted verification of the information submitted by the Guang Ya Group/New Zhongya/Xinya for use in our final determination.[6] We used standard verification procedures, including the examination of relevant accounting and production records, as appropriate, as well as original source documents provided by respondents.

[1] *See Aluminum Extrusions from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, and Preliminary Determination of Targeted Dumping, 75 FR 69403 (November 12, 2010) ("Preliminary Determination").*

[2] *See* Memorandum entitled "Ministerial Error Memorandum, Aluminum Extrusions from the People's Republic of China, Preliminary Determination of Sales at Less Than Fair Value," dated December 21, 2010, on file in the Department's Central Records Unit ("CRU"), Room 7046 of the main Department building.

[3] *See Aluminum Extrusions From the People's Republic of China: Notice of Amended Preliminary Determination of Sales at Less Than Fair Value,* 76 FR 323 (January 4, 2011) ("*Amended Preliminary Determination*").

[4] *See* the Department's verification reports on the record of this investigation, all on file in the CRU.

[5] The Aluminum Extrusions fair Trade Committee is comprised of Aerolite Extrusion Company, Alexandria Extrusion Company, Benada Aluminum of Florida, Inc., William L. Bonnell Company, Inc., Frontier Aluminum Corporation, Futura Industries Corporation, Hydro Aluminum North America, Inc., Kaiser Aluminum Corporation, Profile Extrusions Company, Sapa Extrusions, Inc., and Western Extrusions Corporation.

[6] *See* the Department's verification reports on the record of this investigation in the CRU, with respect to these entities.