

Petition Seeks Antidumping and Countervailing Duties on Aluminum Extrusion Imports from Fifteen Countries

by Dave Townsend and T. Augustine Lo

On October 4, 2023, U.S. interested parties filed a petition (“Petition”) seeking to impose antidumping (“AD”) and countervailing duties (“CVDs”) on imports of certain aluminum extrusions from China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, Malaysia, Mexico, South Korea, Taiwan, Thailand, Turkey, United Arab Emirates, and Vietnam (i.e., the “Fifteen Countries”). The petitioners are fourteen U.S. producers of aluminum extrusions and the United Steelworkers labor union representing workers in those companies. If successful, the Petition could result in AD/CVDs in excess of a 100% on imports of aluminum extrusions from some of the Fifteen Countries.

As described below, the Petition proposes a scope for the AD/CVD investigation that broadly covers a range of imports that may be of use in aerospace, automotive parts and manufacturing, construction, consumer goods, food and beverage packaging, home furniture and appliances, medical items, oil and gas applications, solar products, and others. Accordingly, companies should assess the impact of the proposed scope on their operations, and decide whether they should participate in the proceedings or monitor them to keep up-to-date on potential AD/CVDs that apply to their supply chain.

Scope of Aluminum Extrusions Covered by the Petition

The scope of the Petition includes the following description:

“The merchandise subject to this investigation is aluminum extrusions, regardless of form, finishing, or fabrication, whether assembled with other parts or unassembled, whether coated, painted, anodized, or thermally improved. Aluminum extrusions 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)...The scope also includes merchandise made from an aluminum alloy with an Aluminum Association series designation commencing with the number 5 (or proprietary equivalents or other certifying body

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equivalents) that have a magnesium content accounting for up to but not more than 2.0 percent of total materials by weight.”

Additionally, there are many exclusions and clarifications to the scope description included in the Petition. In particular, the Petition notes that subject merchandise includes products “in a wide variety of shapes and forms...” and with “a variety of coatings and surface treatments, and types of fabrication.” The scope also covers aluminum extrusions that are imported with non-extruded aluminum components beyond fasteners, whether or not assembled at the time of import. As examples of covered merchandise, the scope lists aluminum extrusions in vehicle roofing rails, solar panels, display fixtures, parts of tents, fence posts, drapery rails, electrical conduits, door thresholds, flooring trim, electric vehicle battery trays, heat sinks, signage or advertising poles, picture frames, telescoping poles or cleaning system components. However, the scope excludes assembled merchandise containing non-extruded components beyond fasteners that are not a part or subassembly of a larger product or system, such as windows with glass, doors with door panels and glass, motor vehicles, trailers, furniture, appliances, and solar panels.

The scope primarily covers imports under the following Harmonized Tariff Schedule of the United States (“HTSUS”) categories: 7604.10.1000, 7604.10.3000, 7604.10.5000, 7604.21.0010, 7604.21.0090, 7604.29.1010, 7604.29.1090, 7604.29.3060, 7604.29.3090, 7604.29.5050, 7604.29.5090, 7608.10.0030, 7608.10.0090, 7608.20.0030, 7608.20.0090, 7609.00.0000, 7610.10.0010, 7610.10.0020, 7610.10.0030, 7610.90.0040, and 7610.90.0080. Additionally, certain parts that are also subject to the investigations fall under other HTSUS categories.

The Petition notes that the country-of-origin of imports will be the place where the product is extruded, regardless of finishing that might take place in another country.

Other Duties Currently Applicable to Imported Aluminum Extrusions

A 2011 case imposes AD/CVDs on aluminum extrusions originating from China. This case has a nearly identical scope, which has been the subject of significant confusion and litigation. Under that existing AD/CVD order, finished goods and finished goods kits are not within its scope, but subassemblies are within scope. Because the precise boundary between these excluded and included goods are often difficult to determine, there has been extensive scope inquiries at the Department of Commerce (“Commerce”) and litigation in federal courts over the scope of that existing AD/CVD order.

The current Petition piggybacks on that line of cases by excluding products that are within the scope of the 2011 China AD/CVD order. In effect, this Petition would undo certain previous decisions that resulted in victories for importers when their products were determined not to be subject to that existing order. Those goods found to be beyond the scope of that earlier order could be captured under this new investigation.

In addition to the prior AD/CVD case on imports from China, there are ten percent Section 232 national security duties that apply on certain imports of aluminum extrusions

from most locations, including all of the Fifteen Countries, except South Korea which is under a quantitative restraint negotiated with the United States. Further, Section 301 duties of 25 percent or 7.5 percent apply to many imports of aluminum extrusions from China.

Schedule of Cases

The initial assessment by the International Trade Commission (“ITC”) of injury to the U.S. industry will be due in November.

The Commerce investigation into dumping and subsidies will start later this month, unless delayed. Scope comments typically are due to Commerce shortly after Commerce initiates its investigation. Preliminary CVD margins would be due in early March 2024, if fully postponed as is typical. Preliminary AD margins would be due in early May 2024, if fully postponed as is typical. The final AD/CVD margins would be due in September 2024. By statute, the deadline for the ITC to issue its final injury determination is roughly 13 months from now.

Dorsey Attorneys and AD/CVD Matters

Dorsey attorneys can assist your company in reviewing the Petition, assessing potential impacts, and participating in the ITC and Commerce cases.