

January 16, 2024

The Honorable Gina M. Raimondo
Secretary of Commerce
International Trade Administration
Attn: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
1401 Constitution Ave. NW
Washington, DC 20230

Case Nos. C-570-159, C-560-841,
C-201-861, C-489-851, A-570-158,
A-301-806, A-247-004, A-331-804,
A-533-920, A-560-840, A-475-846,
A-580-918, A-557-826, A-201-860,
A-583-874, A-549-847, A-489-850,
A-520-810, A-552-837

Total Pages: 3

Investigations

PUBLIC DOCUMENT

RE: Antidumping and Countervailing Duty Investigation of Aluminum Extrusions

Dear Secretary Raimondo:

The associations signed below are writing to raise concerns regarding the proposed overly broad scope of the ongoing antidumping duty (AD) and countervailing duty (CVD) investigations on aluminum extrusions from 14 countries.¹ While the Department of Commerce's rigorous analysis of the facts presented is critical to ensure a level playing field for all domestic manufacturers and American workers, it must also seek to protect legitimate domestic supply chains that are essential to U.S. consumers. As explained further below, the petitioners' proposal to impose duties on the value of the extruded inputs contained in downstream products (which the petitioners do not even produce or compete with) is deeply misguided and contrary to the interests of the United States.

Aluminum extrusions are used as inputs to an extraordinarily wide range of products, parts, and components that would be covered under the current scope of these investigations if imported. However, Sections 701(a) and 731(l) of the Tariff Act of 1930, Commerce's governing statute, do not permit the imposition of duties on inputs to imported merchandise. Several determinations by the Court of International Trade support this reading of the statute.² Hundreds of U.S. manufacturers depend on such imports containing aluminum extrusion inputs to further manufacture downstream products here in the United States. In turn, these U.S. manufacturers' products are sold to and used by other U.S. manufacturers of countless finished products purchased by retailers and then sold to consumers.

¹ People's Republic of China, Colombia, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam

² See, e.g., *Mosaic Co. v. United States*, Ct. No. 21-116, 2023 WL 5979829 (Ct. Int'l Trade Sept. 14, 2023); *Trendium Pool Products, Inc. v. United States*, 399 F. Supp. 3d 1335 (Ct. Int'l Trade 2019); *Sunpower Corp. v. United States*, 179 F. Supp. 3d 1286, 1307 (Ct. Int'l Trade 2016).

The petitioners' proposed inclusion of downstream products and subassemblies that are further manufactured prior to importation into the United States is highly unusual—and of great concern to us. As explained below, we simply do not believe that reporting the volume, value, and country of origin of the extrusions contained in an imported product is feasible.

Meanwhile, the petitioners, consisting of 14 aluminum extruders and one trade union, do not produce any of our affected industries' downstream products that are covered by the scope by virtue of being a part of a larger product or system, and therefore do not compete with these imported products. Examples of such “parts of larger products or systems” include a variety of complex downstream products, such as HVAC and refrigeration equipment, automotive engines, trailer components, RV components, and retail shelving.

For example, although some companies have significant manufacturing operations in the United States, they may also produce or source products in third countries to complement their product lines. It is one thing to tell U.S. importers to pay antidumping and/or countervailing duties on imports of actual aluminum extrusions into the United States. It is an entirely different matter to expect them to declare the volume, value, and country of origin of the aluminum extrusion parts contained in their finished imported products, where the product as imported contains dozens, hundreds, or sometimes even thousands of complex parts. In addition, some of the products could contain extrusions from several different countries, thereby increasing the complexity of being able to accurately report and pay AD/CVD duties on the value of the extrusions contained in such imported products.

Imposing duties on downstream products, as the petitioners suggest, will be significantly detrimental to manufacturers, retailers, and consumers in the United States, while also adding tremendous burdens to the government agencies charged with collecting such duties. We understand that often the importer of record does not even have easy access to information regarding the producer or country of origin for the input extrusion. This would not only make compliance with the U.S. AD/CVD laws extremely burdensome to importers, but also to U.S. Customs and Border Protection (CBP), which would have to identify and inspect at the border all downstream products that may contain aluminum extrusions as parts.

Moreover, we understand that, if an importer cannot accurately report the value of the extrusion to CBP, CBP will charge AD/CVD duties on the entire value of the imported product. The scope as drafted will make it almost impossible for importers to accurately report the value of the extrusions in imported downstream products and is an extreme undue burden on legitimate trade. Ultimately, the result will decrease the competitiveness of U.S. manufacturers, as these imports may even be incorporated into further downstream products domestically, raise costs for U.S. consumers, and increase burdens on CBP officers at the border.

Although we strongly believe in fair trade, U.S. trade laws must be administered in a reasonable manner. Proceeding with such an aggressively broad investigation of all downstream products that may contain aluminum extrusions does not serve the interests of the United States, our manufacturers, retailers, or our consumers. This approach would also negatively impact our ability to maintain broad product choice and supply, and to create diverse and sustainable supply chains. As Commerce continues with these investigations, we ask that you consider these serious

administrability concerns discussed above. For these reasons, Commerce should exclude downstream and further manufactured products that incorporate aluminum extrusions from the scope of its investigations.

Sincerely,

Air-Conditioning, Heating, and Refrigeration Institute

Airforwarders Association

American Association of Exporters and Importers

American Automotive Policy Council

American Clean Power Association

American Lighting Association

American Trucking Associations

Association of Equipment Manufacturers

Association of Home Appliance Manufacturers

Automotive Parts Remanufacturers Association

Autos Drive America

AdvaMed -- Advanced Medical Technology Association

Business + Institutional Furniture Manufacturers Association

Consumer Technology Association

Geothermal Exchange Organization

Heating Air-conditioning & Refrigeration Distributors International

Heating, Refrigeration and Air Conditioning Institute of Canada

Information Technology Industry Council

International Casual Furnishings Association

Mechanical Contractors Association of America

National Association of Home Builders

National Association of Trailer Manufacturers

National Electrical Manufacturers Association

National Foreign Trade Council

National Marine Manufacturers Association

National Retail Federation

North American Association of Food Equipment Manufacturers

Outdoor Industry Association

Plumbing Manufacturers International

Production Engine Remanufacturers Association

Promotional Products Association International

Recreational Vehicle Industry Association

Retail Industry Leaders Association

Telecommunications Industry Association

Truck Trailer Manufacturers Association

Window & Door Manufacturers Association