

Excluded from the scope of this investigation 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 investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6090, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000.

Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3091, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of Investigation
- V. Scope Comments
- VI. Affiliation and Collapsing as a Single Entity
- VII. Application of Facts Available and Use of Adverse Inference
- VIII. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-844]

### Certain Aluminum Foil From the Republic of Turkey: Preliminary Negative Determination of Sales at Less Than Fair Value, Postponement of Final Determination

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that certain aluminum foil (aluminum foil) from the Republic of Turkey (Turkey) is not being, or is not likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2019, through June 30, 2020. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable May 4, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Bryan Hansen, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3683.

**SUPPLEMENTARY INFORMATION:**

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). On September 29, 2020, the Aluminum Association Trade Enforcement Working Group and its individual members<sup>1</sup> (collectively, the petitioners) requested the imposition of antidumping and countervailing duties on aluminum foil from five countries.<sup>2</sup> Commerce initiated this LTFV investigation on October 19, 2020.<sup>3</sup> On February 17, 2021, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now April 27, 2021.<sup>4</sup>

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>5</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision

<sup>1</sup> The individual members of the Aluminum Association Trade Enforcement Group include Granges Americas Inc, JW Aluminum Company, and Novelis Corporation. The petitioners indicated that Novelis Corporation acquired Aleris Corporation (including all of Aleris' aluminum foil-related operations), effective April 14, 2020.

<sup>2</sup> See Petitioners' Letter, "Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey—Petition for the Imposition of Antidumping and Countervailing Duties," dated September 29, 2020.

<sup>3</sup> See *Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 67711 (October 26, 2020) (*Initiation Notice*).

<sup>4</sup> See *Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 86 FR 9909 (February 17, 2021).

<sup>5</sup> See Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Aluminum Foil Sheet from the Republic of Turkey," dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum).

Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

#### Scope of the Investigation

The product covered by this investigation is aluminum foil from Turkey. For a complete description of the scope of this investigation, see Appendix I.

#### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>6</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>7</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.<sup>8</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice*.

The Preliminary Scope Decision Memorandum establishes the deadline to submit scope case briefs.<sup>9</sup> There will be no further opportunity for comments on scope-related issues.

#### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated constructed export prices in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

#### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-

<sup>6</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>7</sup> See *Initiation Notice*.

<sup>8</sup> See Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

<sup>9</sup> Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. See Preliminary Scope Decision Memorandum, and "Public Comment" section of this notice.

average dumping margin exists in this investigation:<sup>10</sup>

Exporter or producer	Estimated weighted-average dumping margin (percent)
Assan Alüminyum Sanayi ve Ticaret A.Ş.; Kibar Dis Ticaret A.Ş.; and Ispak Esnek Ambalaj Sanayi A.Ş. ....	0.00

Commerce preliminarily determines that the Assan Single Entity has not made sales of aluminum foil at LTFV. Further, because the Assan Single Entity, which includes the two companies which were selected for examination as mandatory respondents in this investigation, is the only party for which an estimated weighted-average dumping margin has been calculated for this preliminary determination, Commerce preliminarily determines that aluminum foil from Turkey has not been sold in the United States at LTFV during the POI, and Commerce is publishing this notice of a negative preliminary determination.

Consistent with section 733(d) of the Act, Commerce has not calculated an estimated weighted-average dumping margin for all other producers and exporters because it has not made an affirmative preliminary determination of sales at LTFV.

### Suspension of Liquidation

Because Commerce has made a negative preliminary determination of sales at LTFV with regard to subject merchandise, Commerce will not direct U.S. Customs and Border Protection to suspend liquidation or to require a cash deposit of estimated antidumping duties for entries of aluminum foil from Turkey.

### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

<sup>10</sup> Commerce preliminarily determines that Assan Alüminyum Sanayi ve Ticaret A.Ş. (Assan), Kibar Dis Ticaret A.Ş. (Kibar Dis), and Ispak Esnek Ambalaj Sanayi A.Ş. are a single entity (collectively, Assan Single Entity). See Preliminary Decision Memorandum; see also Memorandum “Less-Than-Fair-Value Investigation of Certain Aluminum Foil from the Republic of Turkey: Collapsing and Single Entity Treatment,” dated concurrently with this notice.

### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an onsite examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

### Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of such case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>11</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation 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. Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>12</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

<sup>11</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

<sup>12</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

### Postponement of Final Determination

Section 735(a)(2)(B) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. On April 15, 2021, pursuant to 19 CFR 351.210(e), the petitioners<sup>13</sup> requested that Commerce postpone the final determination in the event of a negative preliminary determination.<sup>14</sup> In accordance with section 735(a)(2)(B) of the Act, because the preliminary determination is negative, and the petitioners have requested the postponement of the final determination, Commerce is postponing the final determination. Accordingly, Commerce will make its final determination by no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If Commerce's final determination is affirmative, then the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of aluminum foil from Turkey are materially injuring, or threaten material injury to, the U.S. industry.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 27, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

### Appendix I—Scope of the Investigation

The merchandise covered by this investigation is aluminum foil having a

<sup>13</sup> The Aluminum Association Trade Enforcement Working Group and its individual members, Granges Americas Inc., JW Aluminum Company, and Novelis Corporation (collectively, the petitioners). The petitioners indicated that Novelis Corporation acquired Aleris Corporation (including all of Aleris' aluminum foil-related operations), effective April 14, 2020.

<sup>14</sup> See Petitioners' Letter, “Certain Aluminum Foil from Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey—Petitioners' Request for Postponement of Final Antidumping Determinations,” dated April 15, 2021.

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, 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 this investigation 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 investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6090, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000.

Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3091, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

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- X. Recommendation

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XB051

### Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of an Endangered Species Act (ESA) Section

10(a)(1)(B) Incidental Take Permit and Availability of a Final Environmental Impact Statement (EIS) and Record of Decision (ROD) for the Placer County Conservation Program.

**SUMMARY:** Notice is hereby given that NMFS has adopted U.S. Fish & Wildlife Service's (USFWS) *Placer County Conservation Program Final Environmental Impact Statement/Environmental Impact Report (FEIS/EIR)*, issued a ROD, and prepared an Incidental Take Permit (ITP) (No. 25641) for the incidental take of California Central Valley (CCV) steelhead (*Oncorhynchus mykiss*) and Central Valley (CV) fall and late fall-run Chinook salmon (*O. tshawytscha*) associated with the proposed Placer County Conservation Program (PCCP). The PCCP was prepared by the local agencies that will become permittees (Placer County, City of Lincoln, South Placer Regional Transportation Authority, Placer County Water Agency, and Placer Conservation Authority) and describes Covered Activities and conservation activities in Placer County. The permit is issued for a duration of 50 years.

**ADDRESSES:** The incidental take permit, final environmental impact statement, and other related documents are available on the NMFS West Coast Region website at: <https://www.fisheries.noaa.gov/resource/document/placer-county-conservation-program-biological-opinion>. The Final EIS and ROD are available at <https://www.fisheries.noaa.gov/west-coast/laws-and-policies/esa-section-10-habitat-conservation-nepa-documents>.

**FOR FURTHER INFORMATION CONTACT:** Neal McIntosh, Sacramento, CA, at phone number: (916) 930-5647, or via email: [Neal.McIntosh@noaa.gov](mailto:Neal.McIntosh@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

#### ESA-Listed Species & Species of Concern Covered in This Notice

CCV steelhead (*Oncorhynchus mykiss*)  
CV fall/late fall-run Chinook salmon (*O. tshawytscha*)

#### Background

The permittees are seeking coverage under Section 10(a)(1)(B) of the ESA for the implementation of the PCCP in Placer County in California's Central Valley. Western Placer County streams serve as an important source of water for fish, agriculture, and municipal uses in Placer County. These streams also provide valuable habitat, including critical habitat and essential fish habitat, for CCV steelhead and Chinook salmon. Implementation of the Covered Activities described in the PCCP may

result in impacts to listed species and species of concern and their habitat within Placer County. Therefore, the permittees are required to work collaboratively with NMFS to minimize these impacts through implementation of the PCCP upon issuance of the Section 10(a)(1)(B) Permit.

On June 21, 2019, USFWS published a notice of availability of a draft joint HCP/NCCP and draft EIS/EIR for this project to the **Federal Register** for public comment and review with a 60-day public comment period (84 FR 29224). USFWS published a final EIS to the **Federal Register** on May 22, 2020, with a 30-day public comment period (85 FR 31203). On December 2, 2020, consultation was initiated with NMFS for the issuance of an ITP for the PCCP. USFWS received several comments, and these comments were addressed as changes to the Final EIS/EIR or as a response in the Final EIS/EIR appendix. On March 12, 2021, NMFS notified the EPA of its adoption of USFWS's EIS/EIR. EPA published the notice of adoption on March 19, 2021. The requested permit has been issued under the authority of the ESA of 1973. This permit authorizes the incidental take of listed species as set forth in the PCCP and the ITP for a 50-year period.

#### Conservation Plan

Section 10 of the ESA specifies that no permit may be issued unless an applicant submits an adequate conservation plan. The PCCP utilizes a combination of conservation measures that are expected to minimize and mitigate the impacts of take of the anadromous species addressed in the PCCP. The PCCP includes an administrative framework that supports the development, implementation, and refinement of the minimization and mitigation measures. The PCCP also includes a variety of protection measures designed to restore and maintain riverine, riparian, and upslope processes that create, restore, and maintain aquatic habitat. The PCCP's Conservation Strategy includes four main components: (1) Establishment of a reserve system of interconnected blocks of land (reserve system), (2) Stream protection, enhancement, and avoidance, (3) Wetland conservation and no overall net loss of wetland functions and services, and (4) Avoidance and minimization measures.

Chapter 7 of the PCCP describes the monitoring and adaptive management framework for the PCCP. The framework will guide the development of a comprehensive monitoring program, which will be developed during the first five years of the PCCP implementation