

PRESS RELEASE

U.S. Customs and Border Protection Preliminarily Finds Importers Used Fraudulent Country of Origin to Evade AD/CVD Duties on Aluminum Extrusions from China

May 15, 2018

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Washington, DC – Yesterday, U.S. Customs and Border Protection (CBP) issued a notice of initiation and interim measures of an investigation under the Enforce and Protect Act (EAPA) into whether importers Sun Bright International Corporation (Sun Bright) and Fair Importing Corporation (Fair Importing) have evaded the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from China.

“Since the AD/CVD orders were imposed in 2011, Chinese producers have actively attempted to undermine the relief the orders provide, to the detriment of the U.S. aluminum extrusions industry,” said Robert E. DeFrancesco, III, partner in Wiley Rein LLP’s International Trade Practice, who represents the Aluminum Extrusions Fair Trade Committee (AEFTC) in this matter.

“CBP’s decision is a critical step in ensuring that the orders are effectively enforced,” Mr. DeFrancesco noted. “While we are pleased with CBP’s determination, the Chinese government’s countenance of this type of rampant solicitation and rule-breaking amounts to a policy, act, and practice of the Chinese government that must be addressed on a broader scale.”

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The EAPA was passed as part of the Trade Facilitation and Trade Enforcement Act of 2015, and established a formal process for CBP to investigate allegations of evasion of antidumping and countervailing duty orders.

The AEFTC had alleged that the importers imported Chinese aluminum extrusions into the United States that were transshipped through Malaysia and falsely declared to be Malaysian-origin. Based on the allegation and its investigation, CBP found that there is reasonable suspicion that Chinese aluminum extrusions entered the United States through evasion pursuant to this transshipment scheme. The AEFTC had detailed a scheme involving Chinese freight forwarder Qingdao ZHV International Logistics Co., Ltd., and a Malaysian company, CK Aluminum, falsifying the country of origin. Among other evidence, the AEFTC had alleged, and CBP confirmed, that the Chinese extrusions were shipped to Malaysia and re-containerized before shipping to the United States. The evidence suggests that the Malaysian company's facility is not equipped to produce the aluminum extrusions shipped to the importers.

Pursuant to CBP's findings, interim measures are being imposed – which includes rate-adjusting all unliquidated entries of imported merchandise covered by this investigation that entered the United States as not subject to duties, to reflect that they are subject to the AD/CVD orders and that cash deposits are now required. Further, CBP is requiring “live entry” for all future imports from these importers, meaning that all entry documents and duties must be provided before cargo is released by CBP. CBP has also noted that it will evaluate the importers' continuous bonds and require single transaction bonds as necessary.