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DEPARTMENT OF COMMERCE

International Trade Administration

Docket No.: 170328324-7324-01

[A-570-053]

Certain Aluminum Foil From the People's Republic of China: Notice of Initiation of Inquiry Into the Status of the People's Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws

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

ACTION: Notice of initiation and request for public comment and information.

SUMMARY: As part of the less-than-fair-value investigation of certain aluminum foil from the People's Republic of China (PRC), the Department of Commerce (Department) is initiating an inquiry into whether the PRC should continue to be treated as a nonmarket economy (NME) country under the antidumping and countervailing duty laws. As part of this inquiry, the Department is seeking public comment and information with respect to the factors to be considered under the Tariff Act of 1930, as amended (the Act).

DATES: To be assured of consideration, written comments and information must be received no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments and information by either of the following methods:

- Federal eRulemaking Portal: www.Regulations.gov. The identification number is ITA-2017-0002.
- Postal Mail/Commercial Delivery to Leah Wils-Owens, Department of Commerce, Enforcement and Compliance, Room 3720, 1401 Constitution Avenue, NW,

Washington, DC and reference “Inquiry Into the Status of the People’s Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws, ITA-2017-0002” in the subject line.

Instructions: You must submit comments by one of the above methods to ensure that the comments are received and considered. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments and information received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. Any comments and information must be in English or be accompanied by English translations to be considered. The Department will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/ITA-2017-0002>.

FOR FURTHER INFORMATION CONTACT: Albert Hsu at (202) 482-4491 or Daniel Calhoun at (202) 482-1439.

SUPPLEMENTARY INFORMATION:

Background

Section 771(18)(A) of the Act defines the term “nonmarket economy country” as any foreign country determined by the Department not to “operate on market principles of cost or

pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.”

The Department has treated the PRC as an NME country in all past antidumping duty investigations and administrative reviews. *See, e.g., Seamless Refined Copper Pipe and Tube From the People’s Republic of China: Preliminary Results and Partial Rescission of Administrative Review; 2012-2013*, 79 FR 71089 (December 1, 2014), unchanged in *Seamless Refined Copper Pipe and Tube From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 32087 (June 5, 2015); *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079 (September 8, 2006); *Final Determination of Sales at Less than Fair Value: Certain Paper Clips from the People’s Republic of China*, 59 FR 51168 (October 7, 1994). The Department last reviewed the PRC’s NME status in 2006 and determined to continue to treat the PRC as an NME country. *See* Memorandum for David M. Spooner, Assistant Secretary for Import Administration, “Antidumping Duty Investigation of Certain Lined Paper Products from the People’s Republic of China (‘China’) – China’s Status as a Non-Market Economy (‘NME’)” (August 30, 2006) (2006 PRC NME Determination), *available at* <http://enforcement.trade.gov/download/prc-nme-status/prc-lined-paper-memo-08302006.pdf>.

Initiation of Inquiry

As part of the less-than-fair-value investigation of certain aluminum foil from the People’s Republic of China,¹ and pursuant to its authority under section 771(18)(C)(ii) of the Act, which states that the Department may make a determination with respect to a country’s

¹ *See Certain Aluminum Foil from the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation*, signed March 28, 2017.

NME status “at any time,” the Department is initiating an inquiry into the PRC’s status as an NME country. The Department intends to issue its final determination regarding this review of the PRC’s NME status prior to the issuance of the Department’s preliminary determination in this investigation.²

The Department is conducting this inquiry to solicit and collect the most recent information following the December 11, 2016, change in the PRC’s Protocol of Accession to the World Trade Organization. This inquiry is being conducted solely pursuant to section 771(18) of the Act. Until such time that the Department’s determination of the PRC as an NME country may be revoked as set forth in section 771(18)(C)(i) of the Act, the PRC remains a nonmarket economy under the antidumping and countervailing duty laws.

Opportunity for Public Comment and Information

As part of this inquiry to review the PRC’s NME status, the Department is interested in receiving public comment and information with respect to the PRC on the following factors enumerated by section 771(18)(B) of the Act, which the Department must take into account in making a market/nonmarket economy determination:

- (i) the extent to which the currency of the foreign country is convertible into the currency of other countries;
- (ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management;
- (iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country;
- (iv) the extent of government ownership or control of the means of production;

² Once the Department issues its final determination regarding this inquiry into the PRC’s status as an NME country, the Department will consider whether to seek additional information from interested parties to the investigation for purposes of calculating normal value.

(v) the extent of government control over allocation of resources and over price and output decisions of enterprises; and

(vi) such other factors as the administering authority considers appropriate.

As specified above, to be assured of consideration, any comments and information must be received no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

This notice is issued and published pursuant to section 771(18)(C)(ii) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

March 29, 2017

DATE

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