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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-854]

Common Alloy Aluminum Sheet from Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that common alloy aluminum sheet (aluminum sheet) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Shanah Lee or Kyle Clahane, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6386 or (202) 482-5449, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on April 7, 2020.<sup>1</sup> On July 29, 2020, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now October 6, 2020.<sup>2</sup> For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</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 Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

### Scope of the Investigation

The products covered by this investigation are common alloy aluminum sheet from Brazil. 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>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain

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<sup>1</sup> *See Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 19444 (April 7, 2020) (*Initiation Notice*).

<sup>2</sup> *See Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 45576 (July 29, 2020).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Common Alloy Aluminum Sheet from Brazil," dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> *See Initiation Notice*, 85 FR at 19445.

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>6</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice.

The Preliminary Scope Decision Memorandum establishes the deadline to submit scope case briefs.<sup>7</sup> There will be no further opportunity for comments on scope-related issues.<sup>8</sup>

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. In addition, Commerce has relied upon facts otherwise available with an adverse inference under sections 776(a) and (b) of the Act for Companhia Brasileira de Alumínio (CBA). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

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<sup>6</sup> *See* Memorandum, “Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated October 6, 2020, (Preliminary Scope Decision Memorandum).

<sup>7</sup> Case briefs, other written comments, and rebuttal briefs submitted by 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.

<sup>8</sup> Parties were already permitted the opportunity to file scope case and rebuttal briefs.

### All-Others Rate

Section 733(d)(1)(A)(ii) of the Act provides that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. Pursuant to section 735(c)(5)(A) of the Act, this rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on facts available to Companhia Brasileira de Alumínio (CBA) and calculated an individual estimated weighted-average dumping margin for Novelis do Brasil Ltda. (Novelis Brasil), the two respondents selected for individual examination in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Novelis Brasil is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Exporter/Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>	<b>Cash Deposit Rate (Adjusted for Subsidy Offset(s)) (percent)</b>
Companhia Brasileira de Aluminio	136.78*	135.63*
Novelis do Brasil Ltda.	49.48 <sup>9</sup>	49.48
All Others	49.48	48.33

\*Adverse Facts Available (AFA).

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to

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<sup>9</sup> See Memorandum, “Antidumping Duty Investigation of Common Alloy Aluminum Sheet from Brazil: Analysis of the Preliminary Determination Margin Calculations for Novelis do Brasil Ltda.,” dated concurrently with this notice.

the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where we preliminarily made an affirmative determination for countervailable export subsidies in the companion CVD proceeding,<sup>10</sup> we offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted rates may be found in the “Preliminary Determination” section above.<sup>11</sup>

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

### 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

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<sup>10</sup> See *Common Alloy Aluminum Sheet from Brazil: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 49634 (August 14, 2020) (*CAAS Brazil CVD Prelim*), and accompanying Preliminary Decision Memorandum.

<sup>11</sup> For Novelis Brasil, cash deposit rates are not adjusted for export subsidies, as the subsidy rates found in the companion CVD investigation for the respondent were *de minimis*. For CBA, the preliminary dumping margins are adjusted by 1.15 percent, reflecting the total amount of estimated export subsidies found for CBA in the companion CVD investigation (*i.e.*, for Integrated Drawback Program (1.08) and Reintegra (.07)). As the preliminary all-others rate in the companion CVD investigation is based entirely on the rate of subsidization found for CBA, CBA’s rate in this investigation is similarly adjusted by 1.15 percent to reflect the total amount of estimated export subsidies found for CBA. See *CAAS Brazil CVD Prelim* Preliminary Decision Memorandum; and Memorandum, “Calculation of Export Subsidy Adjustments for the Preliminary Determination,” dated concurrently with this notice.

public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

### Verification

Commerce is currently unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification. Commerce will notify interested parties of any additional documentation or information required.

### Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be provided to interested parties at a later date. Rebuttal briefs, limited to issues raised in these case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>12</sup> Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>13</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.

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

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<sup>12</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020) (*Temporary Rule*); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

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.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) 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 an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 18 and 21, 2020, pursuant to 19 CFR 351.210(e), Novelis Brasil and CBA requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>14</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject

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<sup>14</sup> See Novelis Brasil's Letter, "Common Alloy Aluminum Sheet from Brazil: Novelis do Brasil's Request for Postponement for Final Antidumping Determination," dated September 18, 2020, and CBA's Letter, "Antidumping Duty Investigation of Common Alloy Aluminum Sheet from Brazil: CBA's Request for Postponement of Final Determination," dated September 21, 2020.

merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination 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 the 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 sheet from Brazil 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: October 6, 2020.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

## Appendix I

### Scope of the Investigation

The products covered by this investigation are common alloy aluminum sheet, which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of this investigation includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core. The use of a proprietary alloy or non-proprietary alloy that is not specifically registered by the Aluminum Association as a discrete 1XXX-, 3XXX-, or 5XXX-series alloy, but that otherwise has a chemistry that is consistent with these designations, does not remove an otherwise in-scope product from the scope.

Common alloy sheet may be made to ASTM specification B209–14 but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of this investigation is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H-19, H-41, H-48, H-39, or H-391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

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 for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3015, 7606.12.3025, 7606.12.3035, 7606.12.3091, 7606.91.3055, 7606.91.6055, 7606.92.3025, 7606.92.6055, 7607.11.9090. 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. Application of Facts Available and Use of Adverse Inference
- VII. Discussion of the Methodology
- VIII. Currency Conversion
- IX. Recommendation

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