



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-171]

Disposable Aluminum Containers, Pans, Trays, and Lids from the People's Republic of China:
Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of
Critical Circumstances

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable
subsidies are being provided to producers and exporters of disposable aluminum containers,
pans, trays, and lids (disposable aluminum containers) from the People's Republic of China
(China). The period of investigation (POI) is January 1, 2023, through December 31, 2023.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Brian Warnes, AD/CVD Operations, Office
VII, Enforcement and Compliance, International Trade Administration, U.S. Department of
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0028.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 2024, Commerce published its *Preliminary Determination* in the *Federal Register* and invited interested parties to comment.¹

A summary of the events that occurred since Commerce published the Preliminary
Determination, as well as a full discussion of the issues raised by parties for this final

¹ See *Disposable Aluminum Containers, Pans, Trays, and Lids from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Determination of Critical Circumstances, and Alignment of Final Determination with Final Antidumping Duty Determination*, 89 FR 85495 (October 29, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

determination, may be found in the Issues and Decision Memorandum.² The Issues and 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 Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are disposable aluminum containers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Therefore, we did not make any changes to the scope of this investigation from the scope published in the *Preliminary Determination*, as noted in Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation, are discussed in the Issues and

² *See Memorandum*, "Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Disposable Aluminum Containers, Pans, Trays, and Lids from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ *See Disposable Aluminum Containers, Pans, Trays, and Lids from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 89 FR 49833, 49834 (June 12, 2024).

Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, *see* Appendix II.

Changes Since the *Preliminary Determination*

Based on Henan Aluminium Corporation (Henan)'s withdrawal from the investigation, and our review and analysis of comments received by interested parties, we have made certain changes to the subsidy rate calculations. Specifically, given that there are no cooperative respondents following Henan's withdrawal from the investigation, we relied on facts available with adverse inferences (AFA), based on section 776 of the Tariff Act of 1920, as amended (the Act), to calculate the subsidy rate for both mandatory respondents, Henan and Zhejiang Acumen Technology Living Co., Ltd. (Zhejiang Acumen).

Furthermore, we revised the AFA rate, as the rate in the *Preliminary Determination* was, in part, based on calculations for some of Henan's self-reported programs. As we were unable to verify the information provided by Henan, we are determining rates for those programs based on AFA in the final determination.⁵

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ For a full description of the methodology underlying our determination, *see* the Issues and Decision Memorandum.

Commerce notes that, in making these findings, it relied on facts available, and, because it finds that certain respondents and the Government of China did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where

⁵ *See* Issues and Decision Memorandum at Appendix.

⁶ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

appropriate in selecting from among the facts otherwise available.⁷ For further information, *see* the “Use of Facts Otherwise Available and Adverse Inferences” section in the Issues and Decision Memorandum.

Verification

Zhejiang Acumen did not participate in the investigation and Henan withdrew its participation⁸ following the *Preliminary Determination*. Therefore, we were unable to conduct verification of Zhejiang Acumen or Henan.

Final Affirmative Determination of Critical Circumstances

Commerce preliminarily determined, in accordance with sections 703(e)(1)(A) and (B) of the Act, and 19 CFR 351.206, that critical circumstances existed with respect to imports of subject merchandise for Henan, Zhejiang Acumen, and all other producers and/or exporters.⁹ For this final determination, in accordance with section 705(a)(2) of the Act, Commerce continues to find that critical circumstances exist with respect to imports of subject merchandise for Henan, Zhejiang Acumen, and all other producers and/or exporters. For a full description of the methodology and results of our critical circumstances analysis, *see* the Issues and Decision Memorandum.

All-Others Rate

Pursuant to section 705(c)(5)(A)(ii) of the Act, Commerce may determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually examined when the rates for those exporters and/or producers were determined entirely under section 776 of the Act. In this investigation, Commerce determined the subsidy rate for each of the individually examined respondents based entirely on facts available under section 776 of the Act. Thus, this is the only rate available in this proceeding for deriving the all others rate. Consequently, pursuant to sections 703(d) and 705(c)(5)(A)(ii) of the

⁷ *See* sections 776(a) and (b) of the Act.

⁸ *See* Henan’s Letter, “Withdrawal of Participation in the Investigation,” dated December 13, 2024.

⁹ *See Preliminary Determination PDM* at 4-7.

Act, Commerce established the all others rate by applying the countervailable subsidy rate assigned to the mandatory respondents.

Final Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate (percent <i>ad valorem</i>)
Henan Aluminium Corporation	317.85*
Zhejiang Acumen Living Technology Co., Ltd.	317.85*
All Others	317.85

* Rate based on facts available with adverse inferences.

Disclosure

Commerce intends to disclose its calculations and analysis performed in connection with this final determination within five days of its 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).

Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from China that were entered, or withdrawn from warehouse, for consumption. Because we preliminarily determined that critical circumstances existed with respect to Henan, Zhejiang Acumen, and all other producers and/or exporters, we instructed CBP to suspend such entries on or after July 30, 2024, which is 90 days prior to the date of the publication of the *Preliminary Determination* in the *Federal Register*.¹⁰ In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after February 26, 2025, but to continue the suspension of liquidation of all entries of subject

¹⁰ See *Preliminary Determination*, 89 FR at 85496.

merchandise that were subject to suspension of liquidation between April 2, 2024, and February 25, 2024.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of paper plates from China. Because the final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with whether imports of disposable aluminum containers from China are materially injuring, or threaten material injury to, the U.S. industry, material injury, by reason of imports of paper plates from China no later than 45 days after our final determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further

instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Suspension of Liquidation” section.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(f) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: March 4, 2025.

Christopher Abbott,
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties
of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is disposable aluminum containers, pans, trays, and lids produced primarily from flat-rolled aluminum. The subject merchandise includes disposable aluminum containers, pans, trays, and lids regardless of shape or size and whether or not wrinkled or smooth.

The term “disposable” is used to identify an aluminum article that is designed to be used once, or for a limited number of times, and then recycled or otherwise disposed. “Containers, pans, and trays” are receptacles for holding goods.

The subject disposable aluminum lids are intended to be used in combination with disposable containers produced from aluminum or other materials (*e.g.*, paper or plastic). Where a disposable aluminum lid is imported with a non-aluminum container, only the disposable aluminum lid is included in the scope.

Disposable aluminum containers, pans, trays, and lids are also included within the scope regardless of whether the surface has been embossed, printed, coated (including with a non-stick substance), or decorated, and regardless of the style of the edges. The inclusion of a nonaluminum lid or dome sold or packaged with an otherwise in-scope article does not remove the article from the scope, however, only the disposable aluminum container, pan, tray, and lid is covered by the scope definition.

Disposable aluminum containers, pans, trays, and lids are typically used in food-related applications, including but not limited to food preparation, packaging, baking, barbequing, reheating, takeout, or storage, but also have other uses. Regardless of end use, disposable aluminum containers, pans, trays, and lids that meet the scope definition and are not otherwise excluded are subject merchandise.

Excluded from the scope are disposable aluminum casks, drums, cans, boxes and similar containers (including disposable aluminum cups and bottles) properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 7612.90. However, aluminum containers, pans, trays, and lids that would otherwise be covered by the scope are not excluded based solely on the fact that they are being classified under HTSUS subheading 7612.90.5000 due to the thickness of aluminum being less than 0.04 mm or greater than 0.22 mm.

The flat-rolled aluminum used to produce the subject articles may be made to ASTM specifications ASTM B479 or ASTM B209-14 but can also be made to other specifications. Regardless of the specification, however, all disposable aluminum containers, pans, trays, and lids meeting the scope description are included in the scope.

Disposable aluminum containers, pans, trays, and lids are currently classifiable under HTSUS subheading 7615.10.7125. Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7612.90.1090, 7615.10.3015, 7615.10.3025, 7615.10.7130, 7615.10.7155, 7615.10.7180, 7615.10.9100, and 8309.90.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Critical Circumstances Determination
- IV. Subsidies Valuation
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Discussion of the Issues
 - Comment 1: Application of the Adverse Facts Available (AFA) Rate to Henan
 - Comment 2: Calculation of the AFA Rate for the Government of China's (GOC) Provision of Aluminum Foil For Less Than Adequate Remuneration (LTAR)
 - Comment 3: Calculation of the AFA Rate for the GOC's Provision of Electricity for LTAR
 - Comment 4: Commerce's Determination of Other Subsidies
- VII. Recommendation

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