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§ 781(c) Anti-Circumvention Inquiry (Minor Alteration)
AD/CVD Operations, Office VI
PUBLIC DOCUMENT

The Honorable Gina M. Raimondo
Secretary of Commerce
International Trade Administration
Attn: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, DC 20230

Re: Common Alloy Aluminum Sheet from China – Domestic Industry Request for Circumvention Ruling Pursuant to Section 781(c) of the Tariff Act of 1930, As Amended

Dear Secretary Raimondo:

On behalf the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members (collectively, the “Domestic Industry”),¹ we respectfully request that the United States Department of Commerce (the “Department”) determine, pursuant to section 781(c) of the Tariff Act of 1930, as amended (“the Act”) (19 U.S.C. § 1677j(c)), that U.S. imports

¹ The individual members of Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group are: Arconic Corporation; Commonwealth Rolled Products, Inc.; Constellium Rolled Products Ravenswood, LLC; Jupiter Aluminum Corporation; JW Aluminum Company; and Novelis Corporation.

of aluminum sheet produced from aluminum alloy 4017 (hereinafter “4017 aluminum sheet”) from the People’s Republic of China (“China”) are circumventing the antidumping duty (“AD”) and countervailing duty (“CVD”) orders on Common Alloy Aluminum Sheet (“CAAS”) from China.² As discussed below, subsequent to the Department’s initiation of antidumping and countervailing duty investigations on imports of CAAS from China in late 2017, U.S. imports of 4017 aluminum sheet have increased massively. These imports are being used in the same applications as aluminum sheet manufactured from aluminum alloy 3003 – one of the largest volume in-scope CAAS alloys – were used in prior to the Department’s self-initiation of the AD/CVD investigations. Moreover, the conversion of 3xxx-series alloy aluminum sheet to 4017 alloy aluminum sheet constitutes a “minor alteration” under 19 U.S.C. § 1677j(c). As a result, the Department should initiate a minor alterations inquiry to address the circumvention of the Orders and should determine that 4017 aluminum sheet is subject merchandise.

I. CHINESE PRODUCERS AND EXPORTERS ARE CIRCUMVENTING THE ORDERS ON COMMON ALLOY SHEET FROM CHINA

A. Scope of the Orders

The Orders’ scope definition states:

The merchandise covered by the *Order* is aluminum common alloy sheet (common alloy 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 the *Order* 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

² See Common Alloy Aluminum Sheet From the People’s Republic of China: Antidumping Duty Order, 84 Fed. Reg. 2,813 (Dep’t Commerce Feb. 8, 2019) (“AD Order”); Common Alloy Aluminum Sheet From the People’s Republic of China: Countervailing Duty Order, 84 Fed. Reg. 2, 157 (Dep’t Commerce Feb. 6, 2019) (“CVD Order”) (collectively, the “Orders”).

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.

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 the *Order* if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of the *Order* 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, 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, 7606.12.3090,³ 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Further, merchandise that falls within the scope of the *Order* may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3030, 7606.91.3060, 7606.91.6040, 7606.92.3060, 7606.92.6040, 7607.11.9090. Although the HTSUS subheadings are provided for

³ The Domestic Industry notes that the HTSUS subheadings identified in the scope of the most recently issued decision memorandum in this proceeding include statistical subheadings that are now defunct. In particular, HTS subheading 7606.12.3090 has been retired, and it has been replaced by HTS subheadings 7606.12.3091 and 7606.12.3096.

convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Decision Memorandum for the Preliminary Results of the 2020- 2021 Antidumping Duty Administrative Review of Common Alloy Aluminum Sheet from the People’s Republic of China, at 4-5 (Dep’t Commerce Feb. 25, 2022).

B. History of Alloy 4017

The Aluminum Association designates alloys into eight groups or “alloy series” based on the principal alloying element. See Exh. 1 (declaration of John Weritz) at ¶¶ 3-4, Attach. 1. The principal alloying elements for the eight alloy series are as follows:

Alloy Series	Principal Alloy Element
1xxx	Pure aluminum (99.00 percent and greater)
2xxx	Copper (Cu)
3xxx	Manganese (Mn)
4xxx	Silicon (Si)
5xxx	Magnesium (Mg)
6xxx	Magnesium and Silicon
7xxx	Zinc (Zn)
8xxx	Other elements

Silicon is the principal alloying element of 4xxx-series alloys. Typically, an alloy with high silicon content is used to reduce the melting point of the aluminum. See id. at ¶ 5. Having an aluminum alloy product with a lower melting point is important in certain end use applications – in particular brazing and welding wire. See id.

In 1995, Norway’s national standard setting body registered alloy 4017 with the Aluminum Association. See id. at ¶ 7 and **Attach. 1**. The process for registering aluminum alloys internationally does not require the registering nation to reveal the identity of the company or companies that have

developed the alloy, as was the case with Norway’s registration of alloy 4017. See id. In registering alloy 4017 with the Aluminum Association, however, the Norwegian national standard setting body was required to certify that products manufactured from alloy 4017 had been sold in “commercial quantities” (although not necessarily in the United States). See id. Nevertheless, despite the Aluminum Association’s registration of alloy 4017 in the United States in 1995, products manufactured from alloy 4017 have been sold in the United States in modest volumes – until relatively recently. See id. at ¶ 8. In recent years, subsequent to the Department’s publication of the AD/CVD orders on CAAS from China, sales of 4017 aluminum sheet products manufactured in China and exported to the United States – and marketed as a substitute for 3003 aluminum sheet products – have increased massively. See infra section I.C.2.

The chemical composition of alloy 4017 is unusual in that while it is registered as a 4xxx-series alloy (i.e., indicating that silicon is the principal alloying element), the silicon content of alloy 4017 is very low relative to other 4xxx-series alloys. See Exh. 1 at ¶ 6, **Attach. 1**. Indeed, at the time of Aluminum Association’s registration of alloy 4017, that alloy had the lowest silicon content amongst registered 4xxx-series alloys – and it remains the 4xxx-series alloy with the lowest silicon content today. See id. at ¶ 6, **Attach. 1**. Only one other 4xxx-series alloy registered by the Aluminum Association has a minimum silicon content of less than 1.0 percent by weight, with the substantial majority of 4xxx-series alloys having a minimum silicon content greater than 3.0 percent by weight. See id.

Notably, the minimum silicon content of alloy 4017 is 0.6 percent by weight. See id. at ¶ 9, **Attach. 1**. Because there is no additional decimal after 0.6 (for example, 0.60), an aluminum alloy with

a silicon content of 0.55 percent by weight or greater could technically be described as alloy 4017 because the hundredths decimal place could be rounded up. See id. In addition, alloy 3003 has a maximum silicon content of 0.6 percent by weight. See id. Thus, there is an overlap in the silicon content for alloys 4017 and 3003. See id. In fact, the chemical requirements of alloys 4017 and 3003 are overlapping with respect to every alloying element other than magnesium, which has maximum content of 0.05 percent by weight for alloy 3003 and a minimum weight of 0.10 for alloy 4017. See id.

C. Evidence of Circumvention

1. All Imports of CAAS from China Are Subject to Substantial Duties

All U.S. imports of CAAS from China are subject to substantial AD/CVD duties under the Orders, regardless of the identity of the producer or exporter. In its original investigations, the Department issued affirmative AD and CVD determinations with respect to all Chinese exporters and producers.⁴ The AD cash deposit rates adjusted for subsidy offset ranged from 49.85 percent to 59.72 percent,⁵ and the CVD rates ranged from 46.48 to 116.46 percent.⁶ As a result, the combined cash duty deposit rates for all Chinese exporters and producers ranged from 96.33 to 176.21 percent.

The Department has completed only one administrative review of each Order. In the first administrative review of the AD Order, the Department examined only two entities – Jiangsu Alcha Aluminum Co., Ltd. and its affiliates (collectively, “Alcha”) and Yinbang Clad Material Co., Ltd.

⁴ AD Order, 84 Fed. Reg. at 2,814; CVD Order, 84 Fed. Reg. at 2,158.

⁵ AD Order, 84 Fed. Reg. at 2,814.

⁶ CVD Order, 84 Fed. Reg. at 2,158.

(“Yinbang”).⁷ The Department calculated a weighted average dumping margin for both companies of 56.93 percent,⁸ which was later amended to 58.61 percent.⁹ In its review of the CVD Order, the Department also examined Alcha and Yinbang, as well as Henan Mingtai Industrial Co., Ltd. and its affiliates (“Mingtai”) and Yong Jie New Material Co., Ltd. and its affiliates (“Yongjie”).¹⁰ The Department calculated a subsidy rate of 32.22 percent in 2019 for Alcha and Yinbang and 277.35 percent for Mingtai and Yongjie.¹¹ Given these results, the lowest combined estimated cash duty deposit rate currently in effect applies to Alcha and Yinbang at a rate of 90.83 percent. Given these extremely high cash duty deposit rates, Chinese exporters and producers have a strong incentive to seek to circumvent the Orders by altering merchandise in minor respects.

2. Imports of 4017 Alloy Aluminum Sheet from China Have Surged Since the Department Initiated the Underlying AD/CVD Investigations

4017 aluminum sheet and 3003 aluminum sheet are both classified under the same statistical subheading of the Harmonized Tariff Schedule of the United States (“HTSUS”) – i.e., subheading 7606.12.3096, which provides for:

⁷ See Common Alloy Aluminum Sheet From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, Final Successor-In-Interest Determination, and Final Determination of No Shipments; 2018–2020, 86 Fed. Reg. 74,066, 74,067 (Dep’t Commerce Dec. 29, 2021).

⁸ See id.

⁹ See Common Alloy Aluminum Sheet From the People’s Republic of China: Amended Final Results of Antidumping Duty Administrative Review, 2018–2020, 86 Fed. Reg. 6,504, 6,505 (Dep’t Commerce Feb. 4, 2021).

¹⁰ See Common Alloy Aluminum Sheet From the People’s Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2018–2019, 86 Fed. Reg. 72,927 (Dep’t Commerce Dec. 23, 2021).

¹¹ See id., 86 Fed. Reg. at 72,928.

Aluminum plates, sheets and strip, of a thickness exceeding 0.2 mm:

Rectangular (including square):

Of aluminum alloys:

Not clad:

With a thickness of 6.3 mm or less:

Other:

Other

See Exh. 2.

As a result, public import statistics do not make possible a distinction between in-scope 3xxx-series CAAS and 4017 aluminum sheet. The Domestic Industry, however, has tracked the number of shipments from China that identify 3003 and 4017 aluminum sheet in the commodity description field of ship manifests both before and after the Department’s initiation of the AD/CVD investigations that underlie the Orders. See Exh. 3. As shown in the table below, these data are revealing and demonstrate a marked shift between Chinese producers’ exports of 3003 aluminum sheet to the United States prior to the Department’s investigations and the commencement of shipments of 4017 aluminum sheet from China to the United States subsequent to the AD/CVD investigations that underlie the Orders.

Imports of 3003 and 4017 Aluminum Sheet from China				
Alloy	Number of Shipments		Quantity (MT)	
	2014-2017	2018-Present ¹²	2014-2017	2018-Present
3003	1,959	201	275,076	29,315
4017	0	267	0	11,247
Source: Ship manifest data compiled by Panjiva				

¹² The ship manifest data are current through June 5, 2022.

Not surprisingly, the volume of shipments of 3003 aluminum sheet declined precipitously after the Department's initiation of its investigations. In fact, the vast majority of shipments (170) and volume (27,851 MT) following the case initiations occurred in 2018, prior to the Department's issuance of the Orders in early February 2019. See Exh. 3. The complete lack of 4017 aluminum sheet shipments to the United States from China prior to the Department's initiation of its AD/CVD investigations, and the substantial post-initiation increases in shipments to the United States of 4017 aluminum sheet, further demonstrate that 4017 aluminum sheet imports are circumventing the Orders, replacing Chinese in-scope CAAS (i.e., 3003 aluminum sheet), and not being used in traditional brazing and welding wire applications in which one would expect to use products manufactured from a 4xxx-series alloy.

3. Imports of 4017 Aluminum Sheet from China Are Being Marketed and Sold as Substitutes for 3003 Aluminum Sheet

In addition to a massive surge in the volume of 4017 aluminum sheet imports from China, these products are being offered for sale and sold as substitutes for 3003 aluminum sheet by Chinese producers and exporters. For example, Mingtai – one of the mandatory respondents in the Department's AD and CVD investigations¹³ – is advertising 4017 aluminum sheet for sale claiming the product has similar properties as 3003 aluminum sheet. See Exh. 4. Another Chinese exporter/producer – Henan Huawei Aluminum Co., Ltd. – similarly is advertising 4017 aluminum sheet by making specific

¹³ See Antidumping Duty Investigation of Common Alloy Aluminum Sheet From the People's Republic of China: Affirmative Final Determination of Sales at Less-Than-Fair Value, 83 Fed. Reg. 57,421, 57,423 (Dep't Commerce Nov. 15, 2018); Countervailing Duty Investigation of Common Alloy Aluminum Sheet From the People's Republic of China: Final Affirmative Determination, 57,427, 57,428 (Dep't Commerce Nov. 15, 2018).

comparisons to 3003 aluminum sheet. See id. Additional examples of Chinese producers marketing 4017 aluminum sheet as a substitute for 3003 aluminum sheet are contained in **Exhibit 4**.

As discussed below in section II.C.2., 4xxx-series alloys are typically used in different end use applications than 3003 aluminum sheet. In particular, due to their relatively higher silicon content, 4xxx-series aluminum alloys have lower melting points – making their physical characteristics ideal for brazing and welding wire applications. See Exh. 1 at ¶ 5; Exh. 5 at ¶ 3. As discussed in the attached declaration of Mike Keown, Chief Executive Officer of Commonwealth Rolled Products, Inc. (“Commonwealth”), one of the largest U.S. producers of CAAS, and a producer of substantial volumes of 3xxx-series aluminum sheet (including 3003 alloy aluminum sheet), Chinese exports of 4017 aluminum sheet are not being used in these traditional applications and instead are being used as substitutes in traditional 3xxx-series alloy applications. See Exh. 5 at ¶ 2.

3003 aluminum sheet is a high volume product that is often sold to distributors that supply customers purchasing 3003 alloy aluminum sheet for use in a wide-range of applications, including building and truck trailer applications. See Exh. 5 at ¶ 5. The alloy 4017 applications that domestic producers are seeing in the market are very similar to those of 3003 aluminum sheet. Id. Indeed, given the explicit marketing of 4017 aluminum sheet as a substitute for 3003 aluminum sheet, it is clear the Chinese producers and exporters have simply made minor changes to their products’ chemistries to avoid the steep duties assessable on imports of alloy 3003 aluminum sheet. See id.; see also Exh. 4.

II. 4017 ALUMINUM SHEET THAT HAS BEEN ALTERED IN MINOR RESPECTS FROM 3003 ALUMINUM SHEET IS CIRCUMVENTING THE ORDERS ON CAAS FROM CHINA

A. Legal Background

Section 781(c) of the Tariff Act of 1930, as amended, (19 U.S.C. § 1677j(c)), provides that merchandise subject to an antidumping or countervailing duty order issued under 19 U.S.C. §§ 1673(e) or 1671(e), “shall include articles altered in form or appearance in minor respects . . . , whether or not included in the same tariff classification.” 19 U.S.C. § 1677j(c)(1)(B), (D); see also H.R. Rep. No. 100-576 at 600 (1988) (Conf. Rep.), reprinted in 1988 U.S.C.C.A.N. 1547, 1633 (“An order on an article presumptively includes articles altered in minor respects in form or appearance . . .”).

The purpose of a minor alteration inquiry is to determine whether articles not expressly within the literal scope of an AD/CVD order may nonetheless be found within its scope as a result of a minor alteration to merchandise covered in the investigation. See, e.g., Deacero S.A. de C.V. v. United States, 817 F.3d 1332, 1338 (Fed. Cir. 2016) (affirming the Department's determination that steel wire rod of a round cross section less than 4.75 mm in diameter was circumventing an order covering wire rod of a round cross section between 5.00 mm and 19.0 mm in diameter); see also Nippon Steel Corp. v. United States, 219 F.3d 1348, 1354-1357 (Fed. Cir. 2000) (reversing the U.S. Court of International Trade's (“CIT”) imposition of a preliminary injunction barring the Department from conducting a minor alterations inquiry of certain corrosion resistant steel with boron levels exceeding 0.0008 by weight) (hereinafter, “Nippon”). This provision of the statute “reflects Congress' concern that foreign producers were circumventing antidumping duty orders by making minor alterations to products falling within the scope of an order in an effort to take these products outside the literal scope.” Wheatland Tube Co. v. United

States, 161 F.3d 1365, 1370 (Fed. Cir. 1998), citing S. Rep. No. 100-71 at 101 (1987) (hereinafter, "Wheatland").

Neither the statute nor the Department's regulations enumerate specific factors the agency must consider in determining whether an article has been altered in minor respects. See 19 U.S.C. § 1677j(c); 19 C.F.R. § 351.225(i). The legislative history, however, suggests the Department should consider:

- (1) the overall physical characteristics of the merchandise;
- (2) the expectations of the ultimate purchasers;
- (3) the use of the merchandise;
- (4) the channels of marketing; and
- (5) the cost of any modification relative to the value of the imported products.

See S. Rep. No. 100-71 (1987); see also Deacero, 817 F.3d at 1337; 19 C.F.R. § 351.226(j). In addition to these factors, the Department may consider "the circumstances under which the products enter the United States, including but not limited to the timing of the entries and the quantity of merchandise entered during the circumvention review period." 19 C.F.R. § 351.226(j).

B. The Circumstances At Issue Here and in *Nippon* Are Analogous

The antidumping order at issue in Nippon covered certain corrosion-resistant carbon steel flat products, with the term "carbon steel" defined consistently with the definition of "non-alloy" steel in the HTSUS. See Nippon, 219 F.3d at 1350. The HTSUS defines "non-alloy" steel as steel that is not classified as "stainless steel" or an "other alloy steel," which is defined as steel containing by weight one or more of a list of elements in specific proportions identified in the HTSUS. See id. One of the physical

characteristics identified in the HTSUS that would change the classification of a steel product from “carbon” to “alloy” is a boron content of 0.0008 percent or greater. See id.

Under the proceedings at issue in Nippon, the domestic industry submitted a circumvention application to the Commerce Department arguing that corrosion-resistant steel from Japan, with a boron content exceeding 0.0008 percent, was circumventing the antidumping order on corrosion-resistant carbon steel flat products. See id. Subsequent to the Department’s initiation of a circumvention proceeding, the U.S. Court of International Trade (“CIT”) enjoined the Department’s further conduct of such an inquiry, citing the U.S. Court of Appeals for the Federal Circuit’s (“CAFC”) precedent in Wheatland. See id., 219 F. 3d at 1355. In particular, because the scope referred to “carbon” and not “alloy” steel, the CIT determined that a circumvention inquiry would be *ultra vires*, as “alloy” steel was specifically excluded from the scope. See id. The CAFC disagreed, finding that the Department was well-within its authority to conduct a minor alterations inquiry to address the conduct at issue. See id., 219 F.3d at 1355-57.

The facts at issue in this case are analogous to those in Nippon in several respects. Like the “alloy” steel at issue in Nippon, imports of 4017 aluminum sheet from China are not expressly covered by the plain language of the Orders’ scope, which defines in-scope merchandise to include aluminum sheet produced from 1xxx-, 3xxx-, and 5xxx-series aluminum alloys. Like the scope at issue in Nippon, however, 4017 aluminum sheet is not expressly excluded from the scope. Indeed, the Orders’ scope defines CAAS as “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” before then explaining that CAAS is (or at least was at the time the case was initiated) produced from 1xxx-, 3xxx-, and 5xxx-series aluminum alloys.¹⁴

Moreover, like the minor alteration to the chemistry that changed the technical name of the steel at issue in Nippon from “carbon” to “alloy,” modifying the chemistry of 3003 aluminum alloy to a 4xxx-series alloy involves nothing more than a minor alteration in the aluminum’s chemistry that is intended solely for purposes of avoiding duties and serves no commercial purpose. This is demonstrated by the uses of the 4017 aluminum sheet imports, as well as Chinese producers’ blatant comparison of 4017 aluminum sheet with 3003 aluminum sheet in their marketing materials. See Exh. 4.

C. The Factors Traditionally Considered by the Department in a “Minor Alterations” Inquiry Support the Inclusion of 4017 Aluminum Sheet Under the Orders

1. Overall Physical Characteristics

4017 aluminum sheet shares the same physical characteristics as 3003 aluminum sheet, with the exception of slightly different chemistries. The physical dimensions of the product are the same, having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width.

The surface finishes of 4017 aluminum sheet and 3003 aluminum sheet are also the same. As shown on ship manifests, Chinese producers are selling and offering for sale 4017 aluminum sheet with both smooth, tread, and bright surface finishes – surface finishes that are also common for 3003 and other 3xxx-series alloy aluminum sheet. See Exh. 3;¹⁵ Exh. 5 at ¶ 6. Ship manifests also show that

¹⁴ See, e.g., Decision Memorandum for the Preliminary Results of the 2020- 2021 Antidumping Duty Administrative Review of Common Alloy Aluminum Sheet from the People’s Republic of China, at 4-5 (Dep’t Commerce Feb. 25, 2022).

¹⁵ Due to the bulky nature of the ship manifest data, the underlying shipment information has been submitted as a data file.

Chinese producers are selling 4017 aluminum sheet with tempers that are common to 3003 and other 3xxx-series alloys, including H16, H24, H22, H111, and H14. See Exh. 3; Exh. 5 at ¶ 6.

While it is possible for a 4017 aluminum sheet with a higher silicon content to have a lower melting point than in-scope CAAS, the 4017 aluminum sheet being exported by Chinese producers is not being used in brazing and welding wire applications, but rather is being used as a substitute for 3003 aluminum sheet. See Exh. 5 at ¶¶ 2, 5; **Exh. 4**. As a result, this potential physical distinction is unrelated to the product's commercial uses.

2. Expectations of the Ultimate Purchaser and Use of the Merchandise

As the materials attached to this submission make clear, 4017 aluminum sheet is being marketed and sold by Chinese producers as a substitute for 3003 aluminum sheet. See Exh. 4. Specific applications for 4017 aluminum sheet that the domestic industry has identified include: tread sheet/plate, truck trailer roofing, and building and construction applications. See Exh. 4; Exh. 5 at ¶¶ 2, 5. 3003 aluminum sheet is also used in all of these applications. See Exh. 5 at ¶¶ 2, 5.

While there may be some end use applications that require 3003 aluminum sheet in a specification (and, thus, for which 4017 aluminum sheet cannot be used), there are many applications that do not explicitly require 3003 aluminum sheet in a specification, or for which the specification can be easily modified to accommodate 4017 aluminum sheet. For example, 3003 aluminum sheet is commonly used for the roofs of truck trailers. An engineering department could, however, determine that 4017 aluminum sheet is an adequate substitute without downstream consequences.

3. Channels of Marketing and Distribution

3003 and other 3xxx-series aluminum sheet are marketed and sold to end users and also distributors. See Exh. 5 at ¶ 5. Indeed, 3003 and 3105 alloys are very high volume products with many end use applications. See id. 4017 aluminum sheet is being marketed and sold for the same end use applications, and to the same customers and in the same channels of distribution. See id. at ¶¶ 2, 5.

4. Cost of the Modification Relative to the Value of the Imported Products

The cost of modifying the chemistry of an aluminum alloy is extremely small. Because the production process and equipment used are exactly the same, the modification in alloy simply requires a slightly different chemistry at the melt stage. See Exh. 1 at ¶ 10; Exh. 5 at ¶ 7. As noted above in section I.B., however, 3003 and 4017 alloys have overlapping chemistry requirements for all elements except magnesium. See Exh. 1 at ¶ 9. The slightly elevated magnesium content in 4017 alloy, however, would not meaningfully impact the cost of the aluminum sheet – particularly relative to the duty deposit requirements for a 3xxx-series alloy product that would be subject to the payment of duty deposits upon entry into the United States.

III. INFORMATION REQUESTED UNDER 19 C.F.R. § 351.226(c)

Because this application is being filed after the effective date of the Department’s publication of 19 C.F.R. § 351.226,¹⁶ the Domestic Industry hereby submits all information reasonably available to it under 19 C.F.R. § 351.226(c)(2).

¹⁶ See Regulations To Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws, 52,300, 52,300 (Dep’t Commerce Sept. 20, 2021) (identifying the effective date for 19 C.F.R. § 351.226 as November 4, 2021).

A. Detailed Description of the Merchandise Circumventing the Orders (19 C.F.R. § 351.226(c)(i)(A)-(F))

1. Physical Characteristics (19 C.F.R. § 351.226(c)(i)(A))

4017 aluminum sheet has the same physical characteristics as CAAS described by the scope of the Orders (see section II.C.1.), with the exception of minor variations in the sheet’s chemistry. In particular, the table below compares the chemical requirements of in-scope 3003 aluminum sheet and the 4017 aluminum sheet circumventing the Orders.

Alloy	Si	Fe	Cu	Mn	Mg	CR	Ni	Zn	Ti	Ag	B	Bi	Ga	Li	Pb	Sn	V	Zr	Others		Aluminum Minimum	
																			Each	Total		
3003	0.6	0.7	0.05 – 0.20	1.0-1.5				0.1												0.05	0.15	Remainder
4017	0.6-1.6	0.7	0.10-0.50	0.6-1.2	0.10-0.5			0.2												0.05	0.15	Remainder

See Exh. 1, Attach. 1 (for relevant excerpts of Aluminum Association Teal Sheets).¹⁷

As reflected in the comparison above, the only chemical threshold without any overlap is magnesium (“Mg”). Because 3003 aluminum alloy has no specific maximum Mg content, Mg is considered an “Other” element and has a maximum content of 0.05 percent by weight. In contrast, 4017 aluminum sheet has a minimum Mg content of 0.10 and a maximum content of 0.5 percent. All other

¹⁷ The Domestic Industry is also aware that some imports of 4017 aluminum sheet from China are being used to replace another in-scope common alloy – 3105 alloy – in building and construction applications. The chemistry of alloys 3105 and 4017 are also comparable, with potentially overlapping chemistries for *all* elements – including silicon and magnesium. See Exh. 1, Attach. 1.

physical characteristics of in-scope 3003 aluminum sheet and 4017 aluminum sheet are the same, including the dimensions, tempers, and surface finishes.

2. Country Where Product is Produced (19 C.F.R. § 351.226(c)(i)(B))

4017 aluminum sheet is produced in China, the country subject to the Orders.

3. Tariff Classification (19 C.F.R. § 351.226(c)(i)(C))

Both in-scope 3003 aluminum sheet and 4017 aluminum sheet are classified under HTSUS statistical subheading 7606.12.3096. See Exh. 2. This heading covers “Aluminum plates, sheets and strip, of a thickness exceeding 0.2 mm; rectangular (including square): of aluminum alloys; Not clad; with a thickness of 6.3 mm or less; other; other.” Id.

4. Uses (19 C.F.R. § 351.226(c)(i)(D))

In-scope 3003 aluminum sheet and 4017 aluminum sheet are being used interchangeably, with imports of 4017 aluminum sheet directly substituting for applications in which 3003 aluminum sheet is commonly used. See Exh. 4; Exh. 5 at ¶¶ 2, 5. As shown in **Exhibit 4**, Chinese producers and exporters are specifically advertising the comparability of 4017 aluminum sheet to 3003 aluminum sheet. Moreover, 3003 aluminum sheet is a high volume alloy used in many applications, including food containers, refrigerator panels, tanks, pressure vessels, roofs, cooling units, cooking utensils, building product and truck trailer applications. Domestic producers are experiencing competition from Chinese imports of 4017 alloy aluminum sheet in many of these end use applications.

5. Visual Depiction of the Product ((19 C.F.R. § 351.226(c)(i)(E))

Chinese marketing materials depicting 4017 aluminum sheet are appended in **Exhibit 4**. Modifying the chemistry of 3003 aluminum sheet to meet the chemistry profile of 4017 aluminum sheet does not alter the product's appearance.

6. Description of Parts, Materials, and the Production Process Employed in the Production of 4017 Aluminum Sheet (19 C.F.R. § 351.226(c)(i)(F))

The staff report accompanying the U.S. International Trade Commission's ("ITC") final affirmative injury determination in the investigation provides a detailed description of the production process for common alloy sheet.¹⁸ A copy of relevant pages from the ITC's final staff report is attached. See Exh. 6. The only modification to the production process for in-scope CAAS that is necessary to produce 4017 aluminum sheet is to introduce the required chemistry content at the melt stage to meet the alloy specifications. See Exh. 1 at ¶ 10; see also Exh. 5 at ¶ 7. No other modifications to the production process or equipment used to produce 3003 aluminum sheet are required to produce 4017 aluminum sheet. See id.

B. Concise Public Summary (19 C.F.R. § 351.226(c)(2)(ii))

4017 aluminum sheet 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. 4017 aluminum sheet is a not clad aluminum sheet product whose chemical content has been modified from in-scope CAAS in minor respects. All 4017 aluminum sheet that meets the scope description with respect to physical

¹⁸ See Common Alloy Aluminum Sheet from China, USITC Pub. 4861 at I-14 – I-18 (Jan. 2019) (Final) (available at: https://www.usitc.gov/publications/701_731/pub4861.pdf).

characteristics (other than alloy) is included in the scope. 4017 aluminum sheet is currently classifiable under HTSUS subheading 7606.12.3096.

C. The Names and Addresses of Producers, Exporters, and Importers of the Product (19 C.F.R. § 351.226(c)(2)(iii))

Non-exhaustive lists of Chinese producers and exporters, as well as U.S. importers, of 4017 aluminum sheet are attached at **Exhibits 7** and **8**. The Domestic Industry urges the Department to initiate a circumvention inquiry on a country-wide basis pursuant to 19 C.F.R. § 351.226(c)(2)(v) and to not limit its determination to the specific producers, exporters, and importers identified herein.

D. The Nature of the Alleged Circumvention Under Section 781 of the Act (19 C.F.R. § 351.226(c)(2)(iv))

As discussed above, Chinese producers and exporters of CAAS are circumventing the Orders on CAAS from China by altering in-scope 3xxx-series alloy aluminum sheet in minor respects. Specifically, Chinese producers and exporters have altered the chemistry of the aluminum sheet in minor respects such that the registered alloy is technically a 4xxx-series alloy (i.e., 4017 alloy), but is being used in the same end use applications as a substitute for 3xxx-series alloy aluminum sheet.

E. Whether the Inquiry Should Be Initiated On a Country-wide Basis (19 C.F.R. § 351.226(c)(2)(v))

As set forth in **Exhibits 3, 7, and 8**, the circumvention is wide-spread and not limited to specific producers and exporters. As a result, the Department's initiation of a country-wide inquiry is appropriate.

F. Information Reasonably Available to the Domestic Industry In Support the Domestic Industry's Allegation (19 C.F.R. § 351.226(c)(2)(vi))

See supra sections I and II.

IV. REQUEST FOR RELIEF

Based on the information above, the Domestic Industry urges the Department to initiate a circumvention inquiry concerning imports of 4017 aluminum sheet from China. Additionally, the Domestic Industry urges the Department to expeditiously issue preliminary and final determinations finding that 4017 aluminum sheet is within the scope of the Orders, in order to prevent circumvention and ensure Chinese imports of these products no longer significantly undermine the effectiveness of the Orders.

* * *

We appreciate the Department's consideration of this request. Please contact the undersigned with any questions regarding this submission.

Respectfully submitted,



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