



## U.S. Customs and Border Protection

May 17, 2018

### **PUBLIC VERSION**

#### **EAPA Case Number: 7232**

Columbia Aluminum Products, LLC  
2565 Sampson Ave  
Corona, CA 92879

#### **Re: Notice of Initiation of Investigation and Interim Measures**

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To Whom It May Concern:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”), into certain import transactions of Columbia Aluminum Products, LLC (“Columbia”). Specifically, CBP is investigating whether Columbia has evaded the antidumping duty (“AD”) order on *Aluminum Extrusions from the People’s Republic of China* (“A-570-967” or the “Order”),<sup>1</sup> with entries of aluminum door thresholds (“covered merchandise”) into the United States. Because the evidence thus far uncovered establishes a reasonable suspicion that Columbia has entered covered merchandise into the United States through evasion, CBP has imposed interim measures pursuant to 19 CFR § 165.24.

#### Period of Investigation

Pursuant to 19 CFR § 165.2, an EAPA investigation covers entries for consumption into the customs territory of the United States of allegedly covered merchandise, made within one year period prior to the receipt of an allegation. Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.” *See* 19 CFR § 165.1. CBP may, at its discretion, investigate other entries of covered merchandise and the period of investigation remains open until CBP has issued a final determination. 19 CFR § 165.2.

In this case, Endura Products, Inc. (“Endura”), a domestic producer of fabricated extruded aluminum door thresholds, filed an EAPA allegation against Columbia Aluminum Products, LLC (“Columbia”) on January 11, 2018 (the “Allegation”). CBP acknowledged receipt of the properly filed allegation on January 19, 2018. Accordingly, the entries covered by this

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<sup>1</sup> *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30,650 (Dep’t Commerce, May 26, 2011).

investigation are those entered for consumption, or withdrawn from a warehouse for consumption, from January 19, 2017 through the pendency of this investigation. *See* 19 CFR § 165.2.

### Initiation

On February 9, 2018, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, initiated an investigation under EAPA in response to the allegation of evasion submitted by Endura. In the Allegation, Endura claimed that Columbia was importing extruded aluminum door thresholds—also referred to as “door sills”—from China, but was misclassifying the products as plastic “wall plates” classified under subheading 3925.20.0091 of the Harmonized Tariff Schedule of the United States (“HTSUS”),<sup>2</sup> in order to avoid the payment of antidumping (“AD”) duties. *See* Allegation, at 5.

Aluminum door thresholds are subject to the order on aluminum extrusions from China, case number A-570-967, if they consist of an aluminum extrusion made in China from 1xxx, 3xxx and 6xxx series aluminum (and also 5050 series aluminum, due to a 2016 anti-circumvention determination by the Department of Commerce<sup>3</sup>). When a door threshold is made of an extruded aluminum profile, it does not matter if the profile was originally identified with reference to its end use, or whether it was ready for final use at the time of importation.<sup>4</sup> Likewise, subsequent cutting, drilling, or other assembly does not remove a threshold comprised of an extruded aluminum profile from the scope of the order.<sup>5</sup> In contrast, products properly classified under subheading 3925.20.0091, HTSUS, will have an essential character of plastic, and would not be subject to additional duties under current AD or countervailing duty (CVD) orders.

Prior to the anti-circumvention determination by Commerce for A-570-967, Endura noted that Columbia had been a regular importer of extruded aluminum door thresholds, among other products, from Chinese supplier, Shanghai Top-Ranking Aluminum Products Co, Ltd. *See* Allegation, at Exh. 5. However, Endura indicated that from January to October 2017, Columbia received 12 shipments of plastic “wall plates” from Shanghai Top-Ranking. *See* Allegation, at Exh. 5. This marked a significant change in the type of merchandise imported from Shanghai Top-Ranking, and a considerable number of shipments given that Columbia does not appear to offer a “wall plate” product for sale in its current product catalog, nor, according to Endura, in any prior catalogs covering the years 2009, 2010, 2012, 2015, and 2016. *See* Allegation, at Exhs. 2, 6. In addition, imports of aluminum door thresholds, previously evidenced by classification under subheading 7610.10.0020, HTSUS,<sup>6</sup> from Shanghai Top-Ranking, ceased by January of

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<sup>2</sup> Subheading 3925.20.0091, HTSUS, provides for “Builders' ware of plastics, not elsewhere specified or included: Doors, windows and their frames and thresholds for doors: Other.”

<sup>3</sup> *Aluminum Extrusions from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders and Intent To Rescind Minor Alterations Anti-Circumvention Inquiry*, 81 FR 79,444 (Dep’t. Commerce Nov. 14, 2016).

<sup>4</sup> *See* 76 FR at 30,651.

<sup>5</sup> *Id.*

<sup>6</sup> Subheading 7610.10.0020, HTSUS, provides for “Aluminum structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns);

2017, with five shipments of “door sills” coming from Shanghai Top-Ranking during November and December of 2016. *See Allegation*, at 7, Exh. 5.

In addition, Endura argued that Columbia has a history of attempting to avoid the payment of antidumping duties for aluminum thresholds under A-570-967. For example, during the pendency of Commerce’s initial investigation on aluminum extrusions from China, Columbia requested a tariff classification ruling from CBP seeking to preempt the application of AD duties by classifying door thresholds that had both aluminum and plastic components, according to the character of the plastic components under subheading 3925.20.0091, HTSUS. *See Allegation*, at 5. CBP ruled that the proper classification for an aluminum threshold with secondary plastic components, was under subheading 7610.10.0020, HTSUS.<sup>7</sup>

Endura also described efforts by Columbia to avoid paying antidumping duties by importing door thresholds made from 5050 series aluminum. Following the original imposition of A-570-967, which did not expressly place 5xxx series aluminum in scope, Columbia began to advertise its door thresholds as being made from 5050 series aluminum. Yet older product brochures that indicated Columbia’s products were made from 6xxx series. *See Allegation*, at 8-9. In November 2016, however, Commerce made a preliminary affirmative anti-circumvention determination that 5050 series aluminum was within the scope of the Order.

After Commerce made its preliminary anti-circumvention determination, Columbia ceased to advertise 5050 aluminum thresholds, and did not describe imports as being of 5050 series aluminum. *See Allegation*, at 5-6. Instead, Columbia returned to classifying the majority of its imports from Shanghai Top-Ranking under subheading 3925.20.0091, HTSUS, as wall plates. *See Allegation*, at 6-7. Moreover, starting in November of 2016, Endura noted that Columbia began receiving shipments of “door sills” from a previously unused Vietnamese supplier, Houztek Architectural Products, Co. Ltd. (“Houztek”). *See Allegation* at 7, Exh 5.

CBP will initiate an investigation if it determines that the information provided in the allegation “...reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion.” *See* 19 C.F.R. § 165.15(b). Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.” *See* 19 CFR § 165.1. Thus, the allegation must reasonably suggest not only that merchandise subject to an AD/CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable cash deposits or other security.

The claims and data provided by Endura in the allegation indicate that while Columbia received consistent shipments of 5050 aluminum door thresholds from its Chinese supplier, Shanghai

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aluminum plates, rods, profiles, tubes and the like, prepared for use in structures: Doors, windows and their frames and thresholds for doors: Thresholds for doors.”

<sup>7</sup> *See* NY N142677 (Feb. 10, 2011) (attached to the Allegation, at Exh. 3).

Top-Ranking, prior to the November 2016 Commerce anti-circumvention determination, the products Columbia began receiving immediately after that preliminary determination, from the same supplier, were described as “wall plates” and classified under subheading 3925.20.0091, HTSUS, upon entry. The sheer volume of aluminum thresholds imported from Shanghai Top-Ranking prior to November 2016, combined with the complete absence of aluminum thresholds and emergence of shipments of “wall plates” after the determination, reasonably suggests that Columbia could have been misclassifying covered merchandise in order to avoid the application of AD duties.

In addition, describing the products as “wall plates” in this context further suggests that the products Columbia was importing were erroneously described in shipping documents. As Endura has argued, Columbia classified wall plates under subheading 3925.20.0091, HTSUS, which properly applies to “doors, windows and their frames and thresholds for doors,” made of plastic. Notably, as Endura argues, the term “wall plates” is usually associated with light switch covers, etc., and not structural elements of door frames. *See* Allegation, at Exh. 10 (providing Home Depot website descriptions of products internally classified as “wall plates”). Moreover, as Endura points out, Columbia did not advertise in its Product Catalog, or otherwise appear to sell, a product referred to as a wall plate. *See e.g.*, Allegation, at Exh. 6 (providing a copy of Columbia’s online Product Catalog).

In light of the above, TRLED finds that Endura met the threshold for initiation under 19 CFR § 165.15(b). Endura has alleged facts, supported with reasonably available data and evidence, to reasonably suggest evasion through misclassification of covered merchandise during the period of investigation specified in this notice.

On March 20, 2018, Endura supplemented the Allegation to allege that Columbia imported subject merchandise that had been transshipped from China through Vietnam. (“Supplemental Filing”). Endura provided import data to establish that Columbia began importing significant quantities of aluminum door thresholds from Vietnam through Houztek. Endura also claimed that Houztek is affiliated with Shanghai Top-Ranking. Specifically, Endura provided testimony that the owner of Houztek is the daughter of the owner of Shanghai Top-Ranking in China. *See* Supplemental Filing, at Exh. 2 (providing details allegedly observed during a visit to Houztek’s facility).

Endura alleged that Houztek imported aluminum extrusion profiles from [ ], which were then assembled into door thresholds by Houztek and imported by Columbia. As Endura noted, under the Order, it does not matter whether the door threshold itself is of Vietnamese origin, if the origin of the extruded aluminum profile is China, the product remains subject to the order.<sup>8</sup>

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<sup>8</sup> *See* Memorandum from Brooke Kennedy, Int’l Trade Analyst, Off. 8, through Wendy J. Frankel, Director, Off. 8, Eugene Degnan, Program Manager, Off. 8, to Christian Marsh, Deputy Assistant Secretary, re: *Antidumping (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions/rom the People's Republic of China (PRC): Final Scope Ruling on Electrolux's Fin Evaporator Systems* (July 13,2012), attached to the Supplemental Filing as Exhibit 3.

In the Supplemental Filing Endura provided an affidavit from [ ], an officer at Endura, as well as information and photos from the Houztek facility in Vietnam, secured through [ ]. See Supplemental Filing, at Exh. 2. According to Endura, Houztek management confirmed [ ] that aluminum extrusions present at the Vietnamese facility were entirely extruded [ ] in China, and shipped to Houztek to be used to make final door thresholds for export to the United States. *Id.* Both the declaration and the photos suggest that during the period of investigation, Columbia has received multiple shipments of covered merchandise from Vietnam, consisting of aluminum extrusions from China.

### Interim Measures

CBP issued a CBP Form 28, Request for Information (“RFI” or “CF28”), to Columbia, requesting full production records for the aluminum thresholds associated with Entry No. [ ]5465, which came from Columbia’s supplier in Vietnam, Houztek, and was entered on August 8, 2017. On March 23, 2018, CBP received Columbia’s response, which included an image of an “[ ] Machine” that Columbia claimed to be located onsite at [ ] in Vietnam. Notably, the image depicts a [ ], which according to the manufacturer’s website, is a [ ], not an aluminum extruding machine. See Columbia’s Response to the RFI (Mar. 23, 2018), at Att. 3. In addition, the RFI response included accounting and shipping documents that demonstrate, among other things, purchase orders and payments made from Columbia to [ ], the Chinese supplier, for aluminum thresholds that appear to be fulfilled by, and ultimately shipped from [ ], in Vietnam. See Columbia Response to the RFI, at Att. 2.

On March 29, 2018, CBP received a second response to the CF28 from Columbia dated March 29<sup>th</sup>, confirming several allegations made by Endura:

(1) Columbia provided its Vietnamese supplier [ ]’s business investment license, which indicates that [ ] is the sole investor in the Vietnamese company. See Columbia’s Supplemental RFI Response, (Mar. 29, 2018), at Att. 1 (“Columbia’s Supp. Resp.”). It also indicates that [ ]’s legal representative and General Manager [ ], is a Chinese national, who also serves as the legal representative for [ ]. See *id.*

(2) Columbia provided [ ]’s Process Chart and relevant shipping documents for invoice number [ ]. These documents indicate that [ ] purchases aluminum profiles from [ ] in China, which are already extruded and cut to certain lengths (notably, in sizes [ ] for U.S. standard exterior doors), prior to shipment to Vietnam. See Columbia’s Supplemental Resp., at Att. 2.<sup>9</sup>

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<sup>9</sup> According to this and accompanying documents, Columbia’s Vietnamese supplier receives pre-cut extruded aluminum profiles from China, and then assembles and packages them in Vietnam for export to the United States.

(3) Columbia provided the Chinese export declaration for the products shipped from [ ] to Vietnam, which indicates that the aluminum profiles used in the thresholds are [ ] aluminum. *See* Columbia’s Supplemental Resp., at Att. 2.

(4) Columbia provided clarification into which manufacturing processes were conducted by [ ] in Vietnam. Specifically, [ ] provided a “Certification” that for invoice numbers [ ], the extruded aluminum profiles were manufactured in China and shipped to Vietnam for assembly. *See id.* at Att. 3.

Not later than 90 calendar days after initiating an investigation under EAPA, CBP will decide if there is reasonable suspicion that covered merchandise has been entered into the customs territory of the United States through evasion. CBP need only have sufficient evidence to support a reasonable suspicion that merchandise subject to an antidumping duty or countervailing duty order was entered into the United States by the importer alleged to be evading by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable antidumping duty or countervailing duty cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 U.S.C. § 1517(e) and 19 CFR § 165.24.

As the AD order on aluminum extrusions from China applies to aluminum extrusions within scope, regardless of subsequent assembly, a door threshold from Vietnam, made from an aluminum profile extruded in China, would be subject to AD duties.<sup>10</sup> The scope language of this AD order, A-570-967, expressly includes “the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise...”<sup>11</sup>

The evidence provided by Columbia in its two responses, along with the information contained in the Allegation, reasonably suggests that Columbia is importing door thresholds from Vietnam, made from aluminum profiles extruded in China, and subject to the scope of A-570-967. Thresholds made from [ ] aluminum would likely fall under the language of the scope,<sup>12</sup> and [ ] certified that the aluminum profiles it has been using come from China. TRLED concludes that based on the record evidence there is a reasonable suspicion that Columbia has entered covered merchandise into the customs territory of the United States through evasion. *See* 19 U.S.C. § 1517(e); 19 C.F.R. §165.24(a).

CBP will impose the following interim measures on relevant shipments of aluminum extrusions that are within the scope of the AD order: Unliquidated entries of subject merchandise under this investigation that entered the United States as not subject to antidumping duties have been rate-adjusted to reflect that they are subject to the Order on aluminum extrusions from China and cash deposits are owed. Additionally, “live entry” is required for all future imports of products believed to be aluminum thresholds by Columbia. The effect of this is that all entry documents and duties must be provided before cargo is released by CBP into U.S. commerce. CBP will also

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<sup>10</sup> *See* Kennedy Memorandum *supra*.

<sup>11</sup> 76 FR at 30,650

<sup>12</sup> *See* 76 FR at 30,650.

reject unliquidated entry summaries submitted prior to this notice,<sup>13</sup> will further suspend the liquidation for any unliquidated entry that has entered on or after February 9, 2018, the date of initiation of this investigation, and will extend the period for liquidation for all unliquidated entries that entered before that date. *See* 19 CFR § 165.24(b)(1)(i) and (ii). Moreover, in light of these new developments, CBP will evaluate Columbia’s continuous bond and may require single transaction bonds as appropriate.

For any future submissions or factual information that you would like to submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP, as well as to Mr. Robert DeFrancesco, counsel for Endura, at [Trade@wileyrein.com](mailto:Trade@wileyrein.com), and [RDeFrancesco@wileyrein.com](mailto:RDeFrancesco@wileyrein.com). *See* 19 CFR §§ 165.4, 165.23(c), and 165.26. Should you have any questions regarding this investigation, please feel free to contact TRLED at [epallegations@cbp.dhs.gov](mailto:epallegations@cbp.dhs.gov). Please include “EAPA Case Number 7232” in the subject line of your email. Additional information on EAPA investigations, including the applicable statute and regulations, may be found on CBP’s website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.

Sincerely,



Troy P. Riley  
Executive Director  
Trade Remedy Law Enforcement Directorate  
Office of Trade

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<sup>13</sup> See CBP Cargo Systems Messaging Service, # 18-000301 (April 23, 2018) (noting that CBP has recently extended the time period for rejecting unliquidated AD/CVD entry summaries from 90 days to 300 days with supervisory approval).