

Trade Alert: New Antidumping (AD) and Countervailing Duty (CVD) Petitions on Certain Tin Mill Products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey and the United Kingdom

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On January 18, 2023, Cleveland-Cliffs Inc. and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, filed a petition to impose (a) antidumping (AD) duties on imports of Certain Tin Mill Products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey and the United Kingdom; and, (b) countervailing (CVD) duties on the imports from China. Such imports are claimed to be at unfairly low prices (i.e., below cost, comparison market price, normal value), AD, and/or, government subsidized, CVD; and to injure a U.S. industry. Remedial AD/CVD import duties are requested.

The Petition covers the Tin Mill Products in the attached. The Tin Mill Products are used primarily to make cans for food, aerosol, paint, filtration and line applications, and caps and closures for glass containers.

The Tin Mill Products are already subject to Section 232 tariffs of 25% that were imposed on imports of steel and aluminum products from all countries. Certain countries, including Canada, the European Union member states and the United Kingdom received exemptions from these Section 232 tariffs. Tin mill products from China are also subject to a 7.5% Section 301 tariff. Japan tin mill products have been subject to AD for 20+ years.

The U.S. industry seeks AD/CVD import duties in addition to the above. Demand for tin mill products has shrunk as companies developed substitute packaging products to replace tin cans or developed can designs that reduce the amount of steel used.

The U.S. Department of Commerce (“DOC”) and U.S. International Trade Commission (“ITC”) now investigate the petition claims. In particular, DOC investigates whether the subject imports are being sold to the United States at less than fair value (such as below cost or comparison market price, “dumping”) or benefit from unfair government subsidies. The ITC investigates whether the subject imports now materially injure, or threaten material injury to, a domestic industry. If dumping/subsidies and injury are both found, remedial AD/CVD import duties are imposed.

The time schedule is as follows:

3/4/2023	ITC preliminary injury determination. Generally, the ITC preliminarily finds injury and votes to continue the case, given the low statutory standard to so find at this stage. The schedule of this ITC preliminary injury investigation, questionnaires, briefs and conference are at https://ids.usitc.gov/case/8105/investigation/8340 .
6/17/2023	DOC preliminary CVD determination for China, if fully postponed, as normal. CVD import duty liability begins at this point, unless is retroactive 90 days do to <i>inter alia</i> import surge.
8/16/2023	DOC preliminary AD determinations, if fully postponed, as normal. AD liability begins are this point unless is retroactive 90 days do to <i>inter alia</i> import surge.
1/5/2024	DOC final AD/CVD determinations, if both preliminary and final determinations are fully postponed, as normal.
2/26/2024	ITC final injury determination, if DOC determinations are fully postponed. The ITC final injury investigation is more rigorous, where historically the ITC only finds injury as a final matter about 60% of time. Of late, there have been significant notable major, multi-country cases where ITC has not found injury as a final matter.
3/4/2024	AD/CVD orders issued as to AD/CVD liability, if both DOC finds dumping/subsidy and ITC injury as a final matter.

The petition covers about \$1.9 billion of imports as to the January to September 2022 period, as follows:

- Canada – \$376,249,000
- Germany – \$405,822,000

- Netherlands – d\$397,737,000
- China – \$260,545,000
- South Korea – \$162,491,000
- United Kingdom – \$167,182,000
- Taiwan – \$126,134,000
- Turkey – \$74,433,000

Imports from the accused countries are almost 90% of all tin mill steel imports into the United States in 2021.

Petitioner estimated dumping margin for the subject countries:

- Canada – 78.29%
- China – 130.88%
- Germany – 43.64%
- Netherlands – 124.17% – 294.27%
- South Korea – 13.46% – 110.84%
- Taiwan – 47.22% – 60.12%
- Turkey – 96.51% – 106.43%
- United Kingdom – 110.81%

Petitioner did not allege a specific subsidy rate for China.

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