

TRADE ALERT

RE: Aluminum Extrusions AD/CVD Trade Remedy Case - ITC Preliminary Injury Conference – Summary

DT: October 25, 2025

FM: Squire Patton Boggs

Petitioner Claims:

The domestic industry is experiencing material injury from the accused imports, such that antidumping (AD) and countervailing duty (CVD) duties should be imposed. In particular:

1. Petitioners represent a majority of the domestic industry, as to the scope of product covered by the investigation.
2. The accused imports are significant and increasing over the 2020 to present period of investigation (POI).
3. The domestic industry lost market share to the accused imports, which led to mass layoffs and lost business.
4. The U.S. industry has added a significant number of aluminum extrusion presses and capabilities in the past few years. Accused imports are making it difficult to justify these and future investments.
5. Purchasers easily switch between domestic and foreign suppliers, as they offer interchangeable and substitutable products. Thus, aluminum extrusion products subject to this case are bought largely on price. Hence, low accused import prices are injurious to U.S. producers who lose sales to lower priced imports.
6. U.S. producers should have seen their businesses recover as they came out of the pandemic. But, instead, their businesses continue to suffer.
7. Big companies now supporting the opposition claim for a narrower range of product covered by the case did not have a problem with the broad product range covered by the prior investigation as to China, where they supported the AD/CVD petition then. issue.

Over 40 Offices across 4 Continents

Squire Patton Boggs (US) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities.

Please visit squirepattonboggs.com for more information.

Opposition Claims:

1. During the ITC period of investigation (POI), the beginning year 2020 was impacted by Covid-19 depressing demand, where thereafter demand spiked in 2021-22. Domestic producers could not meet demand, because they faced severe labor shortages, difficulty sourcing materials, and lack of machinery. Where U.S. producers could supply, lead times were exceptionally long (i.e., 4 months or longer). So the accused imports were necessary and were not to blame for any lost business.
2. Domestic producers only added capacity at the end of the POI.
3. There should be separate ITC injury decisions as to whether a U.S. industry is injured by accused imports, by product type – e.g., separate for various downstream products, extruded aluminum, etc.
4. Accused imports are lately receding as the U.S. market shortage dissipates.

ITC Staff Questions:

1. Should separate ITC injury decisions be made for different products? Which ones? Extruded aluminum? Downstream products made from extruded aluminum? What? See attached for further discussion thereon.
2. Are there specific products U.S. producers cannot supply? How significant?

SPB Observations:

1. Those in opposition were just (a) some extruded aluminum users and (b) exporters just from Mexico and perhaps a little as to Malaysia. But no argument for a separate injury decision by country made except somewhat by Mexico and perhaps Malaysia. But Mexico's claim was only a reference to declining imports by Mexico at the end of the POI, which, the response was, is not relevant except as to a threat of injury decision, where this decision likely to be made on current injury. Also, the ITC data will also show declining imports from other accused countries too. There was also a reference to Malaysia selling different product to USA than others, perhaps solar oriented, where the response was that there only has to be a reasonable overlap in competition among the accused countries to make one injury decision for them all as a group, not a separate decision for a particular country. See attached as to such argument.
2. The ITC votes to continue a case in its preliminary injury decision just because in a rushed preliminary investigation it lacks time to gather and consider all the information. That seems to be the case here. Generally, only if U.S. producer questionnaire responses show that US producers earning too much profit to be found

- injured by imports does the ITC end the case at this preliminary injury stage. That does not appear to be the case here.
- 3 Written comments to the Commission, read by the ITC Commissioners who decide the case, are due October 30, 2023. Anyone can also supplement their prior questionnaire responses and still answer ITC questionnaires now (ITC somewhat flexible on deadlines).
 - 4 A transcript of the conference, which lasted 6 hours, should be available in a day or so, for those desiring. These conferences tend to be repetitive, which is why the short summary.

Best. Squire Patton Boggs

Peter Koenig, peter.koenig@squirepb.com

Jeremy Dutra, jeremy.dutra@squirepb.com

Lily DeBlasio, lily.deblasio@squirepb.com

October 22, 2023

**RE: U.S. AD/CVD Action Against Extruded Aluminum Imports – ITC
Domestic Like Product and Cumulation Issues**

Normally, the U.S. International Trade Commission (“ITC”) decides if all accused imports as a group – i.e., all accused products and all accused countries -- injure or threaten to injure a U.S. industry, such that AD/CVD is imposed on all, if the U.S. Department of Commerce (“DOC”) then also finds dumping and/or subsidies. The ITC does not normally make separate injury decisions by product or country. There are two exceptions to this ITC general practice, as follows:

1. Separate Domestic Like Products.

Here, the investigation covers products made from 1000+ different dies and a myriad of downstream products from various processing of extruded aluminum. The ITC requires “clear dividing lines” between one accused product/s and all other accused products to make a separate injury decision as to one accused product/s as opposed to the other accused products. Again, the ITC generally does not make separate injury decisions by individual product.

In deciding the above, ITC considers the following factors, and has previously commented thereon in the prior China AD/CVD extruded aluminum case as to these factors supporting a single domestic like product considering of all accused products as a group to find injury as to the group, as follows: (1) **product characteristics**, where here the ITC has previously found all accused products share in common that they contain extruded aluminum and tend to be part of appliances, equipment or structures, supporting one domestic like product, (2) **manufacturing**, where here as to the extruded aluminum producers, the ITC has found a continuum of production complexity (simple to complex), and no bright lines separating one accused product/products from all the other accused products that would support separate injury decisions by product. US companies have manufactured all products before, or are willing to manufacture products again, the ITC said; (3) **interchangeability**, where all accused products may not be interchangeable, such that no clear dividing line to break out some for separate injury decision in that regard; (4) **chain of distribution**, where all accused extruded aluminum products go through distributors/end-users supporting finding one domestic like product; (5) **customer and producer perceptions**, where here the ITC found that there are perceived different specific end-uses for the various extruded aluminum products, but no product/s have unique differences that stand out in that regard for a separate injury decision from all the other accused products; (6) **different prices**, where here the ITC found there is a range of prices for the various extruded aluminum products, where all prices are based on base material and conversion cost, indicating no supporting bright line distinctions between the various products supporting a separate injury decision for some from the others.

As ITC concluded in the original China extruded aluminum case:

Aluminum extrusions include a variety of products of different shapes and forms that are subjected to varying amounts of finishing and fabrication processes, but are manufactured in overlapping plants using the same processes and employees at least at the extrusion stage and in some cases at additional stages of finishing and fabrication. Some have specialized physical characteristics to meet specific purchasers' needs and are not viewed as interchangeable with other aluminum extrusions. They are sold in a range of prices. All share similar general features, and variances in physical characteristics do not differentiate any of the claimed products from other extrusions. Consequently, we define a single domestic like product consisting of the aluminum extrusions corresponding to the scope of these reviews, including kitchen appliance components (including certain kitchen appliance door handles), the aluminum components of fin evaporator coil systems, and fittings for engine cooling systems.

In the original investigation, only finished heat sinks (FHS) got a separate injury decision, as a different domestic like product from other subject extruded aluminum, based on the above criteria. As the ITC concluded:

finished heat shields are a different domestic like product than other aluminum extrusions. Our conclusion is based particularly on the customized thermal resistance properties of FHS to remove heat from damaging electronic equipment; the unique aspects of the design, testing and production of FHS in this regard; differences between FHS and other aluminum extrusions in the channels of trade through which they are sold where FHS just goes to electronic equipment manufacturers; evidence that the thermal management industry is perceived by producers and customers as being different from the general aluminum extrusions industry; and the fact that FHS are sold at much higher prices because of high value-added than most other aluminum extrusions

For more as to above, see ITC, Aluminum Extrusions from China Sunset Review, ITC Pub. 4677 at 22-30, https://www.usitc.gov/publications/701_731/pub4677.pdf; ITC, Aluminum Extrusions from China, USITC Pub. 4229 at 6-9, May 2011, https://www.usitc.gov/publications/701_731/pub4229.pdf.

2. Cumulation

As noted above, generally the ITC cumulates imports from all accused countries to make one decision whether the cumulated imports injure a U.S. industry. However, if there is no reasonable overlap in competition between (a) one accused country "X" and (b) all other accused countries and U.S. producers, that country "X" can get a separate ITC injury decision based on whether imports from that country "X" alone injure the U.S. industry such that AD/CVD should be imposed on it. A lack of reasonable overlap can be due to differences in products or geographic markets or times sold, among the different accused countries. Showing the above to support a separate injury decision just for country "X" is difficult, as reasonable overlap does not have to be that much as to imports from each accused country to then, in the ITC practice called

cumulation, lump accused imports from all accused countries together for one ITC injury decision whether the accused countries as a group injure the U.S. industry, such that subject to AD/CVD.

Best. Squire Patton Boggs

Peter Koenig, peter.koenig@squirepb.com

Jeremy Dutra, jeremy.dutra@squirepb.com

Lily DeBlasio, lily.deblasio@squirepb.com