

March 28, 2024

Case Nos. A-570-158, A-301-806, A-247-004,
A-331-804, A-533-920, A-560-840, A-475-846,
A-580-918, A-557-826, A-201-860, A-583-874,
A-549-847, A-489-850, A-520-810, A-552-837,
C-570-159, C-560-841 , C-201-861, C-489-851

Pages:

Investigations

AD/CVD Operations

GameChange's Proprietary Information Redacted
on Pages 3-4, Exhibits 1-3

PUBLIC VERSION

VIA ELECTRONIC FILING

Honorable Gina Raimondo
Secretary of Commerce
Enforcement and Compliance
Room 18022
U.S. Department of Commerce
14th Street & Constitution Avenue, NW
Washington, D.C. 20230

Re: ***GameChange's Comments on Petitioners' March 18, 2024, Submission:*** Aluminum
Extrusions from People's Republic of China, Colombia, Dominican Republic, Ecuador,
India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand,
Republic of Turkey, the United Arab Emirates, and Socialist Republic of Vietnam

Dear Secretary Raimondo:

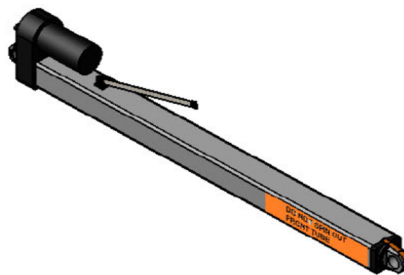
On behalf of our client, GameChange Solar ("GameChange"), a U.S. importer of
actuators potentially subject to these investigations, we hereby provide comments and factual
information addressing the Answers to Scope Questionnaire and Revised Scope Language filed
on March 18, 2024, by the U.S. Aluminum Extruders Coalition and United Steel, Paper and
Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers

International Union (collectively, “Petitioners”).¹ These comments are timely submitted in accordance with the Scope Comment Schedule issued by the U.S. Department of Commerce (“Department”).² GameChange initially filed comments last year, requesting the Department to clarify and confirm that its actuators, *inter alia*, are excluded from the scope.³ Petitioners at that time responded that GameChange’s actuators are within scope.⁴ As demonstrated below, based on Petitioners’ proposed revisions and additions to the scope language, GameChange’s actuators are excluded from the scope. GameChange accordingly requests that the Department clarify and confirm that its imported actuators are excluded from the scope of these investigations.

I. PRODUCT DESCRIPTION

GameChange’s actuators are comprised of two subassemblies, a motor and a retractable arm. The motor powers the retractable arm to angle solar panels into positions that maximize the ability to collect solar energy. In accordance with the proposed revised scope language, the actuators are multiple subassemblies of a larger whole with non-extruded aluminum components beyond fasteners. Set forth below is an illustration of an actuator in its condition as imported:

Motor (in Black) and Retractable Arm (in Gray) as Imported



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¹ Letter from Wiley Rein to U.S. Department of Commerce (Mar. 18, 2023) (“Petitioners’ SQR”).

² U.S. Department of Commerce Memorandum (Mar. 22, 2024).

³ Letter from GDLSK to U.S. Department of Commerce (Nov. 20, 2023) (“GameChange Comments”), at 2-3, 5-8.

⁴ Letter from Wiley Rein to U.S. Department of Commerce (Dec. 7, 2023), at 20-21.

⁵ GameChange Comments at 2, Exhibits 1-2.

Technical specification sheets and assembly details for GameChange’s actuators were submitted as Exhibits 1-2 to the Department on November 20, 2023.⁶ GameChange’s actuators are imported from China or Vietnam, with the aluminum extrusion components sourced from within those countries, respectively. A detailed bill of materials (“BOM”) for two models of the actuators is provided at **Exhibit 1 (BOM – Powernice)** and **Exhibit 2 (BOM-Tomuu)**. These specifications reveal that the only part of the actuators that is made from extruded aluminum is the outer tube. The aluminum extrusion element of the actuator makes up less than [] percent of the actuator’s total cost,⁷ and less than [] percent of its total weight as shown on **Exhibit 3 (Weight Calculations)**.⁸

II. GAMECHANGE’S ACTUATORS ARE EXCLUDED FROM THE LANGUAGE OF THE PROPOSED REVISED SCOPE

GameChange’s actuators are excluded from the proposed revised scope based on Petitioners’ proposed new exclusionary language covering multiple subassemblies:

The scope also excludes merchandise containing multiple subassemblies of a larger whole with non-extruded aluminum components beyond fasteners. A ~~covered~~ subassembly that meets the definition of subject merchandise, including any product expressly identified as subject merchandise in this scope, can only be excluded if it is fully and permanently assembled with at least one other different subassembly, and where (1) at least one of the subassemblies, if entered individually, would not itself be subject to the scope; (2) the aluminum extrusions within the merchandise ~~non-extruded aluminum portion (excluding any fasteners)~~ collectively accounts for more than 50 percent or less of the actual weight of the combined multiple subassemblies (without including any non-extruded aluminum fasteners in the calculations); and (3) the ~~non-extruded aluminum portion (excluding any fasteners)~~ aluminum extrusions within the merchandise collectively accounts for ~~more than~~ 50 percent or less of the number of pieces of the combined multiple subassemblies (without including any non-extruded aluminum fasteners in the calculations).⁹

⁶ GameChange Comments Exhibits 1-2.

⁷ *Id.* at 3.

⁸ Although **Exhibit 3** presents weight calculations for the Tomuu product, calculations for the Powernice product likewise show that the aluminum extrusion element of the actuator is [] percent of its total weight.

⁹ Petitioners’ SQR Exhibit 4.

GameChange’s actuators fall within the exclusionary language. First, the actuators are fully and permanently assembled in their condition as imported. Second, the motor, if entered individually, would not be subject to the revised scope because it does not feature extruded aluminum components. Third, as is demonstrated by the BOMs attached as **Exhibits 1-2** and weight calculations attached as **Exhibit 3**, the single aluminum extrusion component accounts for [] percent of the total weight of the combined multiple subassemblies. Lastly, as **Exhibits 1-2** confirm, the extruded aluminum component of GameChange’s actuators makes up significantly less than 50 percent of the number of pieces used to make the combined subassemblies. Only one piece of the dozens of enumerated parts is made of extruded aluminum; thus, this proposed criterion is readily satisfied. Accordingly, should the Department adopt Petitioners’ revised scope language, GameChange’s actuators undeniably would be excluded.

Finally, while GameChange’s actuators are undeniably non-scope, under a reasonable scope definition, and while Petitioners’ revised scope is more reasonable than initially proposed, GameChange is concerned that adopting Petitioners’ new proposal could create administrability issues for U.S. Customs and Border Protection (“CBP”). For example, Petitioners’ revised scope language requires that CBP calculate and compare “the number of pieces of the combined multiple subassemblies (without including any non-extruded aluminum fasteners in the calculations)” with the number of extrusions.¹⁰ Although this proposed denominator calculation is not an issue for GameChange’s actuators, the exercise raises several issues. First, it is unclear how to calculate the number of non-extrusion pieces. Should labels and stickers be considered pieces? Should a complex and expensive motor be considered merely one piece, or should the motor be deemed multiple pieces because of its cost and importance to the finished article.

¹⁰ Petitioners’ SQR Exhibit 4.

To address these concerns, GameChange suggests that – rather than adopt Petitioners’ proposal as submitted – the Department create a test which is administrable and reasonable, so that parties can quickly and accurately determine whether their products are within scope, prior to production and importation. Creating a reasonable and readily administrable scope is necessary to avoid the confusion surrounding the scope of the initial aluminum extrusion order and to allow the Department to avoid publishing Orders that “would cause uncertainty for the importing community.”¹¹

* * *

These comments contain factual information submitted per 19 C.F.R. § 351.301(c)(5)(ii), including business proprietary information relating to GameChange’s products and production process, production costs, suppliers and related information, 19 C.F.R. §351.105(c)(1), (2), (6), and (11). The release of this information, in whole, or in part, could cause substantial harm to GameChange’s competitive position. Accordingly, pursuant to 19 C.F.R. § 351.304(a)(1)(i), we request that this information be treated as business proprietary information. Single brackets are used to identify business proprietary information. We agree to release this proprietary document to all persons covered by an Administrative Protective Order in this investigation. Should you have questions, please contact the undersigned. Thank you for your consideration.

Respectfully submitted,

/s/ Jordan C. Kahn

Ned H. Marshak

Jordan C. Kahn

Matthew A. Seymour

¹¹ *Antidumping Duties; Countervailing Duties*, 62 Fed. Reg. 27,296, 27,315 (May 19, 1997).

COUNSEL CERTIFICATION

I, Jordan C. Kahn, of Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP, counsel to GameChange Solar, certify that I have read the attached Comments on Petitioner's March 18, 2024, Submission, filed on March 28, 2024, pursuant to the Antidumping and Countervailing Duty Investigations of Aluminum Extrusions From the People's Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam. In my capacity as a counsel, adviser, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: /s/ Jordan C. Kahn

Date: March 28, 2024



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COMPANY CERTIFICATION

I, Hugo Villarreal, Trade Compliance Manager, currently employed by GameChange Solar, certify that I prepared or otherwise supervised the preparation of the attached *Comments on Petitioner's March 18, 2024. Submission*, filed on March 28, 2024, pursuant to the **Antidumping and Countervailing Duty Investigations of Aluminum Extrusions From the People's Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam**. I certify that the public information and any business proprietary information contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

3/28/2024

PUBLIC CERTIFICATE OF SERVICE

Pursuant to the Department's Final Rule Modifying AD/CVD Service Requirements, 88 Fed. Reg. 67,069 (Sept. 29, 2023), this submission will be served via ACCESS to all parties on the public service list.

TABLE OF EXHIBITS

<u>Exhibit #</u>	<u>Document Name</u>	<u>BPI/ Public</u>
1	Powernice – Bill of Materials	BPI
2	Tomuu BOM – Bill of Materials	BPI
3	Weight Calculations	BPI

Exhibit 1

EXHIBIT
PROPRIETARY IN
ITS ENTIRETY AND
NOT SUSCEPTIBLE
TO PUBLIC
SUMMARY

Exhibit 2

EXHIBIT
PROPRIETARY IN
ITS ENTIRETY AND
NOT SUSCEPTIBLE
TO PUBLIC
SUMMARY

Exhibit 3

EXHIBIT
PROPRIETARY IN
ITS ENTIRETY AND
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SUMMARY