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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-026, C-570-027

Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that imports of certain corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) or cold-rolled steel (CRS) flat products manufactured in the People's Republic of China (PRC), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from the PRC.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Mark Hoadley, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0196 or (202) 482-3148, respectively.

SUPPLEMENTARY INFORMATION:

Background

Certain domestic interested parties, Steel Dynamics, Inc. (SDI), California Steel Industries (CSI), ArcelorMittal USA LLC (AMUSA), Nucor Corporation (Nucor), United States Steel Corporation, and AK Steel Corporation (collectively, the domestic parties), filed

submissions¹ alleging that imports of CORE from Vietnam made from HRS or CRS sourced from the PRC and exported to the United States as CORE of Vietnamese origin are circumventing the *CORE Orders*.² In their submissions, domestic parties requested the Department initiate anti-circumvention inquiries pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the PRC-origin HRS or CRS substrate input for finishing into CORE in Vietnam and subsequent sale of that CORE to the United States constitutes circumvention of the *CORE Orders*.

On November 14, 2016, the Department published the notice of initiation of anti-circumvention inquiries on imports of CORE from Vietnam.³ On August 29, 2017, the Department postponed the final determination of these inquiries and the revised final deadlines are now February 15, 2018.⁴ For a complete description of the events that followed the initiation of these inquiries, *see* the Preliminary Decision Memorandum.⁵ A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

¹ *See* Domestic Parties' Letter, "Certain Cold-Rolled Steel Flat Products from China: Request for Circumvention Ruling," dated September 22, 2016 (Circumvention Ruling Request September 22, 2017), and Petitioners' Letter, "Certain Cold-Rolled Steel Flat Products from the People's Republic of China - Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930," dated September 23, 2016 (Circumvention Ruling Request September 27, 2017).

² *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016), and *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively *CORE Orders*).

³ *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454 (November 14, 2016) (*Initiation Notice*).

⁴ *See* Letter, "Certain Corrosion-Resistant Steel Products (CORE) from the People's Republic of China (PRC): Extension of Anti-Circumvention Final Determinations," August 29, 2017.

⁵ *See* Memorandum, "Decision Memorandum for the Preliminary Determinations in the Anti-Circumvention Inquiries of Certain Corrosion-Resistant Steel Products from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

(ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Orders

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, *see* the Preliminary Decision Memorandum.⁶

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE produced in Vietnam from HRS or CRS substrate input manufactured in the PRC and subsequently exported from Vietnam to the United States (inquiry merchandise). These preliminary rulings apply to all shipments of inquiry merchandise on or after the date of the initiation of these inquiries. Importers and exporters of CORE produced in Vietnam using (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS or CRS processed into CORE in Vietnam did not originate in the PRC, as provided for in the certifications attached to the *Federal Register* notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties if the Department makes affirmative final determinations in these inquiries.

⁶ *Id.*

Methodology

The Department is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because Vietnam and the PRC⁷ are non-market economy countries, within the meaning of section 771(18) of the Act, the Department has calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. For a full description of the methodology underlying the Department's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CORE produced in Vietnam from HRS or CRS sourced from the PRC is circumventing the *CORE Orders*. We therefore preliminarily determine that it is appropriate to include this merchandise within the *CORE Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of CORE from Vietnam produced from HRS or CRS from the PRC.

Suspension of Liquidation

As stated above, the Department has made a preliminary affirmative finding of circumvention of the *CORE Orders* by exports to the United States of CORE produced in Vietnam from PRC-origin HRS or CRS. This circumvention finding applies to CORE produced by any Vietnamese company from PRC-origin HRS or CRS substrate input. In accordance with section 19 CFR 351.225(1)(2), the Department will direct CBP to suspend liquidation and to

⁷ *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) citing Memorandum to Gary Taverman, "China's Status as a Non-Market Economy," dated October 26, 2017. *See also Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 81 FR 24797 (October 14, 2016) (unchanged in *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18611 (April 20, 2017)).

require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam from PRC-origin HRS or CRS that were entered, or withdrawn from warehouse, for consumption on or after November 4, 2016, the date of initiation of the anti-circumvention inquiry.

The suspension of liquidation instructions will remain in effect until further notice. The Department will instruct CBP to require AD cash deposits equal to the rate established for the PRC-wide entity (199.43 percent) and CVD cash deposits equal to the rate established for the PRC all-others rate (39.05 percent). In the underlying AD and CVD investigations, the Department relied on the rates calculated for the sole cooperative respondent in each investigation to determine the PRC-wide rate of 199.43 percent in the AD investigation and the all-others rate of 39.05 percent in the CVD investigation. The rates are thus based on the cost and sales data and subsidy benefits of Chinese producers.

CORE produced in Vietnam from HRS or CRS that is not of PRC-origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. If an importer imports CORE from Vietnam and it claims that the CORE was not produced from HRS or CRS substrate manufactured in the PRC, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced from non-PRC origin HRS or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Certification (*see* Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer Certification, the importer must also maintain a

copy of an Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CORE who did not use the PRC-origin HRS or CRS substrate.

Verification

As provided in 19 CFR 351.307, the Department intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in these anti-circumvention inquiries, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these anti-circumvention inquiries are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230, at a time and date to be determined. Parties should confirm by

⁸ *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

The Department, consistent with section 781(e) of the Act, has notified the International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these anticircumvention inquiries within the *CORE Orders*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by the Department to provide written advice.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: December 5, 2017

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Voluntary Respondent Treatment
- IV. Scope of the Orders
- V. Scope of the Anti-Circumvention Inquiries
- VI. Period of Review
- VII. Surrogate Countries and Methodology for Valuing Inputs from the PRC and Processing
In Vietnam
- VIII. Statutory Framework
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- X. Country-Wide Determination
- XI. Certification for Not Using PRC-Origin HRS or CRS
- XII. Recommendation

Appendix II

Certification Requirements

If an importer imports CORE from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled or cold-rolled steel substrate (substrate) manufactured in the People's Republic of China (PRC), the importer is required to complete and maintain the importer certification attached hereto as Appendix III. The importer and exporter are required to maintain the exporter certification attached hereto as Appendix IV. The importer certification must be completed, signed, and dated at the time of the entry of the CORE product. The exporter certification must be completed, signed, and dated at the time of shipment of the relevant entries. For shipments and/or entries on or after November 4, 2016, but before the publication of this notice in the *Federal Register*, for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the *Federal Register*. The importer and Vietnamese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to CBP as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation, to the Department and/or U.S. Customs and Border Protection (CBP), as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by the Department and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a

certification have not been met, the Department intends to instruct CBP to suspend, under the PRC CORE orders (A-570-026, C-570-027), all unliquidated entries for which these requirements were not met and require the importer to post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department of Commerce. Entries suspended under A-570-026 and C-570-027 will be liquidated pursuant to applicable administrative reviews of the PRC orders or through the automatic liquidation process.

Appendix III

Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation of the corrosion-resistant steel products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification;
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled or cold-rolled steel substrate produced in the People's Republic of China (PRC);
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (the Department);
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or the Department;
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or the Department;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
 - suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and

- the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at the time of entry;
- 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.

Signature
NAME OF COMPANY OFFICIAL

TITLE

DATE

Appendix IV

Exporter Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the production and exportation of the corrosion-resistant steel products identified below;
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled or cold-rolled steel substrate produced in the People's Republic of China (PRC);
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer at the time of shipment;
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (the Department);
- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or the Department;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
 - suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
 - the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department;
- This certification was completed at or prior to the time of shipment.
- 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;

Signature
NAME OF COMPANY OFFICIAL

TITLE

DATE

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