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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-029, C-570-030

Certain Cold-Rolled Steel Flat 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 cold-rolled steel flat products (CRS), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) manufactured in the People's Republic of China (PRC), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from the PRC.

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

FOR FURTHER INFORMATION CONTACT: Victoria Cho, Tyler Weinhold, or John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5075; (202) 482-1121; or (202) 482-0195, 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 cold-rolled steel from Vietnam made from HRS sourced from the PRC and exported to the United States as cold-rolled steel of Vietnamese origin are circumventing the *CRS 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 substrate input for finishing into CRS in Vietnam and subsequent sale of that CRS to the United States constitutes circumvention of the *CRS Orders*.

On November 17, 2016, the Department published the notice of initiation of anti-circumvention inquiries on imports of CRS 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

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 27, 2016 (Circumvention Ruling Request September 27, 2017).

² See *Certain Cold-Rolled Steel Flat Products from Japan and the People's Republic of China: Antidumping Duty Orders*, 81 FR 45955 (July 14, 2016) (*CRS AD Order*), and *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Countervailing Duty Order*, 81 FR 45960 (July 14, 2016) (*CRS CVD Order*) (collectively, *CRS Orders*).

³ See *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 81057 (November 17, 2016) (*Initiation Notice*).

⁴ See Letter, "Certain Cold-Rolled Steel Flat Products (CRS) from the People's Republic of China (PRC): Extension of Anti-Circumvention Final Rulings," August 29, 2017.

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 (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 cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other nonmetallic substances. 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 cold-rolled steel produced in Vietnam from HRS 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.

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

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

Suspension of Liquidation

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

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)).

deposit of estimated duties on unliquidated entries of CRS produced in Vietnam from PRC-origin HRS 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. In the underlying AD and CVD investigations, there were no cooperating respondents and, accordingly, all producers/exporters, as appropriate, of subject merchandise received the same AD rate of 199.76 and CVD rate of 256.44. Therefore, the Department is using these rates, the only rates on the records of these proceedings. Thus, the Department will instruct CBP to require AD cash deposits equal to the rate of 199.76 percent and CVD cash deposits equal to the rate 256.44 percent.

CRS produced in Vietnam from HRS 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 CRS from Vietnam and it claims that the CRS was not produced from HRS 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 CRS produced from non-PRC origin HRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Certification (*see* Appendix IV). In addition, importers of such CRS 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 CRS who did not use the PRC-origin HRC 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 telephone the date, time, and location of the hearing two days before the scheduled date.

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

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 anti-circumvention inquiries within the *CRS 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, 2017e

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
- IX. Statutory Analysis
- X. Country-Wide Determination
- XI. Certification for Not Using PRC-Origin HRS
- XII. Recommendation

APPENDIX II

Certification Requirements

If an importer imports certain cold-rolled steel flat products (CRS) from the Socialist Republic of Vietnam (Vietnam) and claims that the CRS was not produced from hot-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 CRS 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 U.S. Customs and Border Protection (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 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 CRS orders (A-570-029, C-570-030), 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-570-029 and C-570-030 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 cold-rolled steel flat 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 cold-rolled steel flat products produced in Vietnam do not contain hot-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

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 cold-rolled steel flat products identified below.
- These cold-rolled steel flat products produced in Vietnam do not contain hot-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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