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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-881, C-580-882]

Certain Cold-Rolled Steel Flat Products from the Republic of Korea: 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 (Commerce) preliminarily determines that imports of certain cold-rolled steel flat products (CRS), produced in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) manufactured in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from Korea.

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

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Fred Baker, 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) 482-1121 or (202) 482-2924, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

Certain domestic interested parties, ArcelorMittal USA LLC (AMUSA), California Steel Industries (CSI), Nucor Corporation (Nucor), Steel Dynamics, Inc. (SDI), and United States Steel Corporation (USSC) (collectively, the petitioners) filed an allegation<sup>1</sup> that imports of CRS from Vietnam made from HRS sourced from Korea and exported to the United States as CRS from Vietnam are circumventing the *CRS Orders*.<sup>2</sup> In their allegation, the petitioners requested that Commerce 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 Korean-origin HRS substrate for completing into CRS in Vietnam and subsequent sale of that CRS to the United States constitutes circumvention of the *CRS Orders*.

On August 2, 2018, Commerce published the notice of initiation of anti-circumvention inquiries on imports of CRS from Vietnam.<sup>3</sup> For a complete description of the events that followed the initiation of these inquiries, see the Preliminary Decision Memorandum.<sup>4</sup> 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

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<sup>1</sup> See Petitioners' Letter, "Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930," dated June 12, 2018.

<sup>2</sup> See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders*, 81 FR 64432 (September 20, 2016) (*CRS Korea AD Order*); see also *Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (the Republic of Korea) and Countervailing Duty Orders (Brazil and India)*, 81 FR 64436 (September 20, 2016) (*CRS Korea CVD Order*) (collectively, *CRS Orders*).

<sup>3</sup> See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37790 (August 2, 2018) (*Initiation Notice*).

<sup>4</sup> See Memorandum, "Preliminary Decision Memorandum for Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders on Certain Cold-Rolled Steel Flat Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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 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.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.<sup>5</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.

#### 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.

#### Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CRS produced in Vietnam from HRS substrate input manufactured in Korea and subsequently exported from Vietnam to the United States (merchandise under consideration). These preliminary rulings apply to all shipments of the merchandise under consideration on or after the date of the initiation of these inquiries.

Importers and exporters of CRS produced in Vietnam using HRS manufactured in Vietnam or

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<sup>5</sup> *See* Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

third countries must certify that the HRS processed into CRS in Vietnam did not originate in Korea, as provided for in the certifications attached to the *Federal Register* notice at Appendices II, III, and IV. Otherwise, their merchandise may be subject to antidumping and countervailing duties if Commerce makes affirmative final determinations in these inquiries.

#### Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because Vietnam is a non-market economy country within the meaning of section 771(18) of the Act,<sup>6</sup> Commerce 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 Commerce'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 Korea 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 Korea.

#### Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative finding of circumvention of the *CRS Orders* by exports to the United States of CRS produced by any Vietnamese company

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<sup>6</sup> See, e.g., *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)).

from Korean-origin HRS inputs. In accordance with section 19 CFR 351.225(l)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CRS produced in Vietnam, as appropriate, that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of the anti-circumvention inquiry. The suspension of liquidation instructions will remain in effect until further notice.

CRS produced in Vietnam from HRS that is not of Korean origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. However, CRS produced in Vietnam from CRS from China is subject to the AD/CVD orders on CRS from China.<sup>7</sup> Imports of such merchandise are also subject to certification requirements and cash deposits may be required. If an importer imports CRS from Vietnam and claims that the CRS was not produced from HRS substrate manufactured in Korea, 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-Korean-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 the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from the exporter of CRS who did not use Korean-origin HRS substrate.

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<sup>7</sup> *See Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) (*CRS China Circumvention Final*).

In the situation where no certification is provided for an entry, and AD/CVD orders from two countries (China or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CRS China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.76 percent) and the CVD rate established for the China all-others rate (256.44 percent)).<sup>8</sup> This is to prevent evasion, given that the *CRS China Circumvention Final* rates are higher than the AD and CVD rates established for CRS from Korea. In the situation where a certification is provided for the AD/CVD orders on CRS from China (stating that the merchandise was not produced from HRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 20.33 percent and 3.89 percent, respectively) applicable to the AD/CVD orders on CRS from Korea.<sup>9</sup>

#### Verification

As provided in 19 CFR 351.307, Commerce 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

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<sup>8</sup> See *CRS China Circumvention Final*, 83 FR at 23892.

<sup>9</sup> See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders*, 81 FR 64432 (September 20, 2016) (*CRS Korea AD Order*); *Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (the Republic of Korea) and Countervailing Duty Orders (Brazil and India)*, 81 FR 64436 (September 20, 2016) (*CRS Korea CVD Order*).

five days after the deadline date for case briefs.<sup>10</sup> 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, Commerce 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.

#### International Trade Commission Notification

Commerce, 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 Commerce's proposed inclusion of the merchandise under consideration. 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 Commerce to provide written advice.

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<sup>10</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

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).

Dated: June 28, 2019.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix I**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. Scope of the Anti-Circumvention Inquiries
- V. Period of Inquiry
- VI. Surrogate Countries and Methodology for Valuing Inputs from Korea and Processing in Vietnam
- VII. Statutory Framework
- VIII. Use of Facts Available with an Adverse Inference
- IX. Statutory Analysis
- X. Country-Wide Determination
- XI. Certification for Not Using Korean-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 Republic of Korea (Korea), the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

For shipments and/or entries on or after August 2, 2018 through July 18, 2019 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*. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: "This certification was completed at or prior to the time of Entry," could be edited as follows: "The imports referenced herein entered before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the *Federal Register* notice publication of the preliminary determination of circumvention." Similarly, the bullet in the exporter certification that reads, "This certification was completed at or prior to the time of shipment," could be edited as follows: "The shipments/products referenced herein shipped before

July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the *Federal Register* notice publication of the preliminary determination of circumvention. For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after July 19, 2019, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

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 at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce 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 Commerce 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.

In the situation where no certification is provided for an entry, and AD/CVD orders from two countries (China or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CRS China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.76 percent) and the CVD rate

established for the China all-others rate (256.44 percent)).<sup>11</sup> In the situation where a certification is provided for the AD/CVD orders on CRS from China (stating that the merchandise was not produced from HRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 20.33 percent and 3.89 percent, respectively) applicable to the AD/CVD orders on CRS from Korea.<sup>12</sup>

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<sup>11</sup> See *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) (*CRS China Circumvention Final*).

<sup>12</sup> See *CRS Korea AD Order*, 81 FR at 64434; *CRS Korea CVD Order*, 81 FR at 64438.

## 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 into the Customs territory of the United States 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. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have "direct personal knowledge" of the importation of the product (*e.g.*, the name of the exporter) in its records;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);
- These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in Korea;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) 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 (Commerce);
- 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 Commerce;
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
  - o suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
  - o the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;

- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at or prior to the time of Entry; and
- 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 cold-rolled steel flat products that were sold to the United States under invoice number(s) INSERT INVOICE NUMBER(S). "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.
- These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in Korea:
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) 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 by 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 (Commerce);
- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;
- 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) cash deposits equal to the rates as determined by Commerce;
- 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

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DATE

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