



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-028]

Hydrofluorocarbon Blends from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order for HFC Components; and Extension of Time Limit for Final Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that imports of hydrofluorocarbon (HFC) components R-32 (difluoromethane), R-125 (pentafluoroethane), and R-143a (1,1,1-trifluoroethane) from the People's Republic of China (China) are circumventing the antidumping duty (AD) order on HFC blends from China. As a result, imports of R-32, R-125, and R-143a from China will be subject to suspension of liquidation effective June 18, 2019. We invite interested parties to comment on this preliminary determination.

DATES: Applicable [insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Benjamin Lubberda or Jacob Garten, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2185 or (202) 482-3342, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2019, Commerce initiated an anti-circumvention inquiry to determine whether imports of certain HFC components (*i.e.*, R-32, R-125, and R-143a) from China, that are

further processed into finished HFC blends in the United States,<sup>1</sup> are circumventing the *Order* on HFC blends from China.<sup>2</sup> For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.<sup>3</sup>

#### Scope of the *Order*

The products subject to the *Order* are HFC blends. HFC blends covered by the scope are R-404A, R-407A, R-407C, R-410A, and R-507A/R-507.<sup>4</sup> HFC blends covered by the scope of the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3824.78.0020 and 3824.78.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

#### Merchandise Subject to the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers imports of the HFC components R-32 (difluoromethane), R-125 (pentafluoroethane), and R-143a (1,1,1-trifluoroethane), from China that are further processed in the United States to create an HFC blend that would be subject to the *Order*.

#### Methodology

Commerce made this preliminary finding of circumvention in accordance with section 781(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(g). We relied on information placed on the record by the American HFC Coalition (the petitioners); by Arkema

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<sup>1</sup> *See Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order; Components*, 84 FR 28273 (June 18, 2019).

<sup>2</sup> *See Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order*, 81 FR 55436 (October 16, 2017) (*Order*).

<sup>3</sup> *See* Memorandum, "Preliminary Decision Memorandum for Anti-Circumvention Inquiry of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: HFC Components" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

Inc., BMP USA Inc., IGas USA, Inc., and their affiliated importers, National Refrigerants, Inc. (collectively, U.S. importers and blenders); and by Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd., Zhejiang Sanmei Chemical Ind. Co., Ltd., and T.T. International Co., Ltd. (collectively, Chinese producers and/or exporters). Further, because Golden G Imports LLC and Taizhou Qingsong Refrigerant New Material Co., Ltd. did not cooperate to the best of their ability in responding to Commerce's requests for information, we have based parts of our preliminary determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. 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 <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached at the Appendix to this notice.

#### Affirmative Preliminary Determination of Circumvention

As detailed in the Preliminary Decision Memorandum, we preliminarily determine, pursuant to section 781(a) of the Act, that imports of HFC components R-32, R-125, and R-143a from China, that are further processed in the United States into finished HFC blends subject to the *Order* are circumventing the *Order*.

## Suspension of Liquidation

In accordance with 19 CFR 351.225(1)(2), Commerce will instruct CBP to suspend liquidation of all HFC components R-32, R-125, and R-143a (as defined in the Merchandise Subject to the Anti-Circumvention Inquiry section above) from China that are entered, or withdrawn from warehouse, for consumption on or after June 18, 2019, the date of initiation of this anti-circumvention inquiry.<sup>5</sup> CBP shall require cash deposits in accordance with those rates prevailing at the time of entry, depending upon the exporter in question, under the HFC blends *Order*. The suspension of liquidation instructions will remain in effect until further notice.

We received comments from multiple parties with respect to certification regimes to exclude certain imports of HFC components from the *Order*.<sup>6</sup> At this time, we have not included a certification requirement; however, we invite further comments on this issue, and based upon any such comments, we may consider such a certification requirement for the final determination.

## Public Comment

Interested parties may submit case briefs to Commerce no later than 14 days after the date of publication of this notice.<sup>7</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.<sup>8</sup> Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1)

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<sup>5</sup> See, e.g., *Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672, 54675-6 (October 13, 1998).

<sup>6</sup> See, e.g., Hudson Technologies Company's Letter, "Hydrofluorocarbon Blends from the People's Republic of China, Anti-Circumvention Inquiry – HFC Components (A-570-028): Hudson Technology Company's Pre-Preliminary Determination Comments," dated March 6, 2020.

<sup>7</sup> Commerce is exercising its discretion, under 19 CFR 351.309(c)(1)(ii), to alter the time limit for filing of case briefs.

<sup>8</sup> Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>9</sup> Case and rebuttal briefs should be filed electronically via ACCESS.<sup>10</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.<sup>11</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically and received successfully in its entirety, via ACCESS by 5:00 p.m. Eastern Time within 14 days after the date of publication of this notice.<sup>12</sup> Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.<sup>13</sup>

#### Postponement of Final Determination

Section 781(f) of the Act provides that, to the maximum extent practicable, Commerce shall make its anti-circumvention determinations within 300 days from the date of initiation of the inquiry. We determine that it is not practicable to make a final determination in this anti-circumvention inquiry by the current deadline of April 13, 2020, because Commerce will require additional time to notify the U.S. International Trade Commission (ITC), and to review and

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<sup>9</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>10</sup> See 19 CFR 351.303.

<sup>11</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020).

<sup>12</sup> See 19 CFR 351.310(c).

<sup>13</sup> *Id.*

analyze case and rebuttal briefs. Therefore, we are extending the time period for issuing the final determination in this inquiry by 80 days, to July 2, 2020.

Notification to the ITC

Consistent with section 781(e) of the Act, Commerce is notifying the ITC of this affirmative preliminary determination to include the merchandise subject to this inquiry within the AD order on HFC blends from China. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the subject merchandise. These consultations must be concluded within 15 days after the date of the request. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days to provide written advice to Commerce.

Notification to Interested Parties

This notice is published in accordance with section 781(a) of the Act and 19 CFR 351.225(g).

Dated: April 3, 2020.

Christian Marsh,  
Deputy Assistant Secretary  
for Enforcement and Compliance.

## Appendix

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

- I. Summary
- II. Background
- III. Merchandise Subject to the Anti-Circumvention Inquiry
- IV. Scope of the Order
- V. Period of Anti-Circumvention Inquiry
- VI. Surrogate Countries and Methodology for Valuing Inputs from China
- VII. Statutory and Regulatory Framework for Anti-Circumvention Inquiry
- VIII. Use of Facts Available with An Adverse Inference
- IX. Allegations of Circumvention as Identified in the Initiation of Inquiry
- X. Anti-Circumvention Analysis
- XI. Intent to Consider Certification Requirement
- XII. Country-Wide Determination
- XIII. Recommendation

[FR Doc. 2020-07605 Filed: 4/9/2020 8:45 am; Publication Date: 4/10/2020]