



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-028]

### Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty Order

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

**SUMMARY:** In response to a request from the American HFC Coalition, a domestic interested party, the U.S. Department of Commerce (Commerce) is initiating a country-wide circumvention inquiry to determine whether U.S. imports from Mexico of R-410B, which are completed in Mexico using Chinese components and further processed in the United States, are circumventing the antidumping duty (AD) order on hydrofluorocarbon (HFC) blends from the People's Republic of China (China).

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

**FOR FURTHER INFORMATION CONTACT:** Genevieve Coen or Jerry Xiao, 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) 482-3251 or (202) 482-2273, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On September 22, 2023, pursuant to sections 781(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.226(c), the American HFC Coalition<sup>1</sup> filed a circumvention inquiry request alleging that HFC blends completed in Mexico from Chinese components and

---

<sup>1</sup> The American HFC Coalition consists of individual members, including Arkema, Inc., The Chemours Company FC LLC, Honeywell International Inc., and Mexichem Fluor Inc. (collectively, domestic interested parties).

further processed in the United States are circumventing the AD order on HFC blends from Mexico<sup>2</sup> and, accordingly, should be included within the scope of the *Order*.<sup>3</sup> On October 17, 2023, the American HFC Coalition responded to our supplemental questionnaire.<sup>4</sup>

### Scope of the *Order*

The products subject to the *Order* are HFC blends. HFC blends covered by the scope of the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3827.61.0000, 3827.63.0000, 3827.64.0000, 3827.65.0000, 3827.68.0000, 3827.69.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive. For a full description of the scope the *Order*, see the attachment to the Initiation Checklist.<sup>5</sup>

### Merchandise Subject to the Circumvention Inquiry

The circumvention inquiry covers R-410B from Mexico that is completed in Mexico using Chinese R-32 and R-125 and then subsequently exported to and further processed in the United States into an in-scope blend (*i.e.*, R-410A).

### Initiation of Circumvention Inquiry

Section 351.226(d) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce "will accept the request and initiate a circumvention inquiry." Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each circumvention inquiry request allege "that the elements necessary for a circumvention determination under section 781 of the Act exist" and be "accompanied by information reasonably available to the interested party supporting these

---

<sup>2</sup> See *Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 81 FR 55436 (August 19, 2016) (*Order*).

<sup>3</sup> See American HFC Coalition's Letter, "Request to Initiate Anti-Circumvention Inquiry with Respect to Imports of R-410B from Mexico Pursuant to Section 781(a) of the Act," dated September 22, 2023.

<sup>4</sup> See American HFC Coalition's Letter, "HFC Coalition's Response to Circumvention Supplemental Questionnaire – R-410B from Mexico," dated October 17, 2023.

<sup>5</sup> See Initiation Checklist, "Circumvention Initiation Checklist: Hydrofluorocarbon Blends from the People's Republic of China," dated concurrently with this notice (Initiation Checklist).

allegations.” The American HFC Coalition alleged circumvention pursuant to section 781(a) of the Act (merchandise completed or assembled in the United States).

Section 781(a)(1) of the Act provides that Commerce may find circumvention of an order when merchandise of the same class or kind subject to the order is completed or assembled in the United States. In conducting a circumvention inquiry, under section 781(a)(1) of the Act, Commerce relies on the following criteria: (A) merchandise sold in the United States is of the same class or kind as any merchandise that is the subject of an AD or countervailing duty (CVD) order; (B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies; (C) the process of assembly or completion in the United States is minor or insignificant; and (D) the value of the parts or components referred to in subparagraph (B) is a significant portion of the total value of the merchandise.

In determining whether the process of assembly or completion in the United States is minor or insignificant under section 781(a)(1)(C) of the Act, section 781(a)(2) of the Act directs Commerce to consider: (A) the level of investment in the United States; (B) the level of research and development in the United States; (C) the nature of the production process in the United States; (D) the extent of production facilities in the United States; and (E) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States. However, no single factor, by itself, controls Commerce’s determination of whether the process of assembly or completion in the United States is minor or insignificant.<sup>6</sup> Accordingly, it is Commerce’s practice to evaluate each of these five factors as they exist in the United States, and to reach an affirmative or negative

---

<sup>6</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, Vol. 1 (1994), at 893.

circumvention determination based on the totality of the circumstances of the particular circumvention inquiry.<sup>7</sup>

In addition, section 781(a)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in the United States within the scope of an AD or CVD order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order applies; and (C) whether imports into the United States of the parts or components products in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order.

#### Analysis

Based on our analysis of the American HFC Coalition's circumvention request, Commerce determines that the American HFC Coalition has satisfied the criteria under 19 CFR 351.226(c) to warrant the initiation of a circumvention inquiry of the *Order*. For a full discussion of the basis for our decision to initiate this circumvention inquiry, *see* the Initiation Checklist. As explained in the Initiation Checklist, the information provided by domestic interested parties warrants initiating this circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.<sup>8</sup>

---

<sup>7</sup> *See Hydrofluorocarbon Blends from the People's Republic of China: Final Negative Scope Ruling on Gujarat Fluorochemicals Ltd.'s R-410A Blend; Affirmative Final Determination of Circumvention of the Antidumping Duty Order by Indian Blends Containing CCC Components*, 85 FR 61930 (October 1, 2020), and accompanying Issues and Decision Memorandum at 20 (specifying the same in the context of a section 781(b) inquiry).

<sup>8</sup> *See, e.g., Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty Order*, 88 FR 43275 (July 7, 2023); *see also Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018); *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and*

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in Mexico, concerning their shipments to the United States and the origin of any imported HFC blends being further processed into HFC blends subject to the *Order*.

#### Respondent Selection

Commerce intends to base respondent selection on U.S. Customs and Border and Protection (CBP) data. Commerce intends to place CBP data on the record within five days of the publication of the initiation notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after placement of the CBP data on the record of this inquiry.

Commerce intends to establish a schedule for questionnaire responses after respondent selection. A company's failure to completely respond to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

#### Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce will notify CBP of the initiation of this circumvention inquiry and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation under the *Order* and to apply the cash deposit rate that would be applicable if the product was determined to be covered by the scope of the *Order*. Should Commerce issue a

---

*Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

preliminary or final circumvention determination, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)-(4).

Notification to Interested Parties

In accordance with 19 CFR 351.226(d) and section 781(a) of the Act, Commerce determines that the American HFC Coalition's request for this circumvention inquiry satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of this circumvention inquiry to determine whether U.S. imports from Mexico of R-410B that are completed in Mexico using Chinese components and then blended into in-scope R-410A in the United States are circumventing the *Order*. In addition, we included a description of the product that is the subject of this inquiry and an explanation of the reasons for Commerce's decision to initiate this inquiry as provided above and in the accompanying Initiation Checklist. In accordance with 19 CFR 351.226(e)(1), Commerce intends to issue its preliminary determination no later than 150 days from the date of publication of the notice of initiation of this circumvention inquiry in the *Federal Register*.

This notice is published in accordance with section 781(a) of the Act and 19 CFR 351.226(d)(1)(ii).

Dated: October 23, 2023.

Lisa W. Wang,  
Assistant Secretary

for Enforcement and Compliance.

[FR Doc. 2023-23850 Filed: 10/27/2023 8:45 am; Publication Date: 10/30/2023]