



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-028]

Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: Preliminary Affirmative Determination of Circumvention with Respect to R-410B, R-407G, and a Certain Custom Blend from the People's Republic of China

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of R-410B, R-407G, and a custom hydrofluorocarbon (HFC) blend of 50-percent R-125 and 50-percent R-134a (custom HFC blend) which are blended in the People's Republic of China (China) using China-origin HFC components and further processed in the United States, are circumventing the antidumping duty (AD) order on HFC blends from China. Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Benjamin Nathan, 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) 482-3834.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 2016, Commerce published in the *Federal Register* the AD order on HFC blends from China.¹ On July 7, 2023, Commerce initiated a country-wide circumvention inquiry to determine whether imports of R-410B, R-407G, and a custom HFC blend which are blended

¹ See *Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order*, 81 FR 55436 (August 19, 2016) (*Order*).

in China using China-origin HFC components and further processed in the United States are circumventing the *Order* and, accordingly, should be covered by the scope of the *Order*, pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.226(h).² In September 2023, Commerce selected the following two mandatory respondents in this circumvention inquiry: HFC Investments LLC (HFC Investments) and TT International Co., Ltd. (TTI).³ On November 20, 2023, Commerce extended the deadline for issuing the preliminary determination in this circumvention inquiry until March 1, 2024.⁴ On February 27, 2024, Commerce further extended the deadline for the preliminary determination until April 5, 2024.⁵ For a complete description of the events that followed the initiation of this circumvention inquiry, *see* the Preliminary Decision Memorandum.⁶

Scope of the *Order*

The merchandise covered by the *Order* is certain HFC blends. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.⁷

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers imports of R-410B, R-407G, and a certain custom HFC blend which are blended in China using China-origin HFC components and further processed in the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(a) of the Act, and 19 CFR 351.226. For a complete description of the methodology underlying this circumvention inquiry, *see* the Preliminary Decision Memorandum. A list of topics discussed in

² *See Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty Order*, 88 FR 43275 (July 7, 2023) (*Initiation Notice*).

³ *See* Memorandum, "Respondent Selection," dated September 21, 2023; *see also* Commerce's Letter, "U.S. Custom Blends Initial Questionnaire," dated September 21, 2023.

⁴ *See* Memorandum, "Extension of Preliminary Determination in Circumvention Inquiry," dated November 20, 2023.

⁵ *See* Memorandum, "Extension of Preliminary Determination in Circumvention Inquiry," dated February 27, 2024..

⁶ *See* Memorandum, "Preliminary Decision Memorandum for the Circumvention Inquiry with Respect to U.S. Custom Blends," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ *Id.* at 3-4.

the Preliminary Decision Memorandum is included in 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>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Preliminary Circumvention Determination

As detailed in the Preliminary Decision Memorandum, Commerce preliminarily determines that R-410B, R-407G, and a certain custom HFC blend which are blended in China using China-origin HFC components and further processed in the United States are circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(a) of the Act, we preliminarily determine that the inquiry merchandise should be included within the scope of the *Order*. See the "Suspension of Liquidation and Cash Deposit Requirements" section below for details regarding suspension of liquidation and cash deposit requirements. See the "Certifications" and "Certification Requirements" sections below for details regarding the use of certifications for inquiry merchandise imported from China.

Suspension of Liquidation

Based on the preliminary affirmative country-wide determination of circumvention for China, in accordance with section 19 CFR 351.226(1)(2), Commerce will direct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of previously suspended entries and to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of R-410B, R-407G, and a certain custom HFC blend that were entered, or withdrawn from warehouse, for consumption on or after July 7, 2023, the date of publication of the initiation of this circumvention inquiry in the *Federal Register*.⁸

⁸ See *Initiation Notice*.

The blends subject to this inquiry not further processed in the United States are not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *Order*. If an importer imports R-410B, R-407G, and a certain custom HFC blend subject to this inquiry from China and claims that they will not be further processed into subject merchandise in the United States, in order to not be subject to the *Order*'s cash deposit requirements, the importer is required to meet the certification and documentation requirements described in the "Certifications" and "Certification Requirements" sections below.

Where no certification is provided for an entry, and the *Order* potentially applies to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits: (1) for entries of R-410B, R-407G, and a certain custom HFC blend for which the exporter has a company-specific cash deposit rate under the AD *Order*, the cash deposit rate will be the company-specific AD cash deposit rate established for that company in the most recently completed segment of the proceeding; (2) for all Chinese exporters of R-410B, R-407G, and a certain custom HFC blend that do not have a company-specific cash deposit rate under the AD *Order*, the AD cash deposit rate will be the cash deposit rate for the China-wide entity (*i.e.*, 216.37 percent);⁹ (3) for all non-Chinese exporters of R-410B, R-407G, and a certain custom HFC blend which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

Certified Entries

Entries for which the importer has met the certification requirements described below and in Appendix II to this notice will not be subject to either the suspension of liquidation or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to duties.

Certifications

⁹ See *Order*.

To administer the preliminary affirmative country-wide determination of circumvention, Commerce established importer certifications, which allow companies to certify that specific entries of R-410B, R-407G, and a certain custom HFC blend are not subject to suspension of liquidation or the collection of cash deposits pursuant to this preliminary affirmative country-wide determination of circumvention because the merchandise is not further processed into subject HFC blends in the United States (*see* Appendix II to this notice).

Importers that claim that their entries of merchandise subject to this inquiry from China are not subject to suspension of liquidation or the collection of cash deposits because the merchandise is not further processed into subject merchandise in the United States must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the importer certification.

Certification Requirements

Importers are required to complete and maintain the applicable importer certification and retain all supporting documentation. The importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit the importer's certification to CBP as part of the entry process by uploading it into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer.

Additionally, the claims made in the certification and any supporting documentation are subject to verification by Commerce and/or CBP. Importers are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all R-410B, R-407G, and a certain custom HFC blend from China that was entered, or withdrawn from warehouse, for consumption during the period July 7, 2023 (the date of initiation of this circumvention inquiry), through the date of publication of the preliminary determination in the *Federal Register*, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should be completed and signed as soon as practicable, but not later than 45 days after the date of publication of this preliminary determination in the *Federal Register*. For such entries, importers have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof.

For unliquidated entries (and entries for which liquidation has not become final) of R-410B, R-407G, and a certain custom HFC blend from China that were declared as non-AD type entries (*e.g.*, type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period July 7, 2023 (the date of initiation of this circumvention inquiry), through the date of publication of the preliminary determination in the *Federal Register*, for which no importer certification may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (*e.g.*, type 01 to type 03). The importer should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

If it is determined that an importer has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this preliminary affirmative country-wide determination of circumvention and the *Order*,¹⁰ all unliquidated entries for which these requirements were not met and to require the importer to post applicable cash deposits equal to the rate noted above.

¹⁰ See *Order*.

Interested parties may comment on these certification requirements, and on the certification language contained in Appendix II to this notice in their case briefs.

Public Comment

Interested parties may submit case briefs to Commerce no later than 14 days after the date of publication of this notice in the *Federal Register*.¹¹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹² Interested parties who submit case briefs or rebuttal briefs in these proceedings must submit: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹³ Case and rebuttal briefs should be filed using ACCESS.

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this circumvention inquiry, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁴ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁵

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

¹¹ Commerce is exercising its discretion, under 19 CFR 351.309(C)(1)(ii), to alter the time limit for filing case briefs.

¹² See 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹³ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁴ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁵ See *APO and Service Procedures*.

Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues that the party intends to discuss at the hearing. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing 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 of the hearing.

U.S. International Trade Commission Notification

Consistent with section 781(e) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to this circumvention inquiry within the *Order*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry 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 Commerce to provide written advice.

Notification to Interested Parties

Commerce is issuing and publishing this determination in accordance with sections 781(a) of the Act and 19 CFR 351.226(g)(1).

Dated: April 4, 2024.

Ryan Majerus,

Deputy Assistant Secretary

for Policy and Negotiations,

performing the non-exclusive functions and duties

of the 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 *Order*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of Circumvention Inquiry
- VI. Surrogate Country and Methodology for Valuing Inputs from China
- VII. Statutory and Regulatory Framework for the Circumvention Inquiry
- VIII. Statutory Analysis for the Circumvention Inquiry
- IX. Summary of Statutory Analysis
- X. Country-wide Affirmative Determination of Circumvention
- XI. Certification Requirement
- XII. Recommendation

Appendix II

IMPORTER CERTIFICATION

I hereby certify that:

- A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS of IMPORTING COMPANY};
- B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the hydrofluorocarbon (HFC) blend R-410B, R-407G, and a certain custom HFC blend produced in China that entered under the entry number(s) identified below, and which 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, including the exporter's and/or foreign seller's identity and location;
- C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The R-410B, R-407G, and a certain custom HFC blend covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

- D. The R-410B, R-407G, and a certain custom HFC blend covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED} located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.
- E. Select the appropriate statement below:

_____ I have direct personal knowledge of the facts regarding the end use of the imported products covered by this certification because my company is the end user of the imported product covered by this certification and I certify that the R-410B, R-407G, and a certain custom HFC blend will not be used to produce subject merchandise. "Direct Personal knowledge" includes information contained within my company's books and records.

_____ I have personal knowledge of the facts regarding the end use of the imported products covered by this certification because my company is not the end user of the imported product covered by this certification. However, I have been able to contact the end user of the imported product and confirm that it will not use this product to produce subject merchandise. The end user of the imported product is {COMPANY NAME} located at {ADDRESS}. "Personal knowledge" includes facts obtained from another party (e.g., correspondence received by the importer from the end user of the product).

- F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller's Address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Producer:

Producer's Address:

- G. I understand that {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, product data sheets, chemical testing specifications, productions records, invoices, etc.) for the later of: (1) the date that is five years after the date of the latest entry covered by the certification or; (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;
- H. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer certification as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, upon request of either agency;
- I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) order on HFC blends from China. I understand that such finding will result in:
- (i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;
 - (ii) the importer being required to post the cash deposits determined by Commerce; and
 - (iii) the importer no longer being allowed to participate in the certification process.
- K. I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.
- L. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the *Federal Register*.

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. Section 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

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