



BILLING CODE: 3510-DS-P

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 Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: The Department of Commerce (Commerce) 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 (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from China.

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

FOR FURTHER INFORMATION CONTACT: 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) 482-1121 or (202) 482-0195, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On December 11, 2017, Commerce published the *Preliminary Determination*<sup>1</sup> of circumvention of the *CRS Orders*.<sup>2</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>3</sup> The Issues and 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>, and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and 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 non-metallic substances. For a complete description of the scope of the orders, *see* the Issues and Decision Memorandum.

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<sup>1</sup> See *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*, 82 FR 58178 (December 11, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

<sup>2</sup> 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*).

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders on Certain Cold-Rolled Steel Flat Products from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

## Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CRS produced in Vietnam using HRS substrate manufactured in China and subsequently exported from Vietnam to the United States (inquiry merchandise). These rulings apply to all shipments of inquiry merchandise 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 third countries must certify that the HRS processed into CRS in Vietnam did not originate in China, as provided for in the certifications attached to this *Federal Register* notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties.

## Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). Because Vietnam and China<sup>4</sup> are non-market economy countries, within the meaning of section 771(18) of the Act, Commerce 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. Because Vietnam and China are non-market economy countries, within the meaning of section 771(18) of the Act, in the *Preliminary Determination* Commerce 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. See Preliminary Decision Memorandum for a full description of the

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<sup>4</sup> 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), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018); 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)).

methodology. We have continued to apply this methodology for our final determination. For further information, *see* Comment 6 of the Issues and Decision Memorandum.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I.

Based on our analysis of the comments received and our findings at verification, we made certain changes to our value of processing calculation since the *Preliminary Determination*. These changes are discussed in the Issues and Decision Memorandum.

#### Final Affirmative Determination of Circumvention

We determine that CRS produced in Vietnam from HRS substrate manufactured in China is circumventing the *CRS Orders*. We, therefore, find it appropriate to determine that this merchandise falls within the *CRS Orders* and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CRS from Vietnam produced using HRS substrate manufactured in China.

#### Continuation of Suspension of Liquidation

As stated above, Commerce has made an affirmative determination of circumvention of the *CRS Orders* by exports to the United States of CRS produced in Vietnam using Chinese-origin HRS substrate. This circumvention finding applies to CRS produced by any Vietnamese company using Chinese-origin HRS substrate. In accordance with 19 CFR 351.225(1)(3), Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CRS produced in Vietnam using Chinese-origin HRS substrate that were entered, or withdrawn from warehouse, for

consumption on or after November 4, 2016, the date of initiation of these anti-circumvention inquiries.

The suspension of liquidation instructions will remain in effect until further notice. Commerce will instruct CBP to require AD cash deposits equal to the rate established for the China-wide entity (199.76 percent) and CVD cash deposits equal to the rate established for China all-others rate (256.44 percent). 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.

CRS produced in Vietnam using HRS substrate that is not of Chinese-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 using HRS substrate manufactured in China, 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 in Vietnam using non-Chinese origin HRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter 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. In addition to 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 produced using non-Chinese-origin HRS substrate.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction or APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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).

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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

May 16, 2018

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Date

## **Appendix I**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. SUMMARY
- II. BACKGROUND
- III. SCOPE OF THE ORDERS
- IV. SCOPE OF THE ANTI-CIRCUMVENTION INQUIRIES
- V. STATUTORY FRAMEWORK
- VI. STATUTORY ANALYSIS
- VII. CHANGES SINCE THE PRELIMINARY DETERMINATION
- VIII. DISCUSSION OF THE ISSUES

Comment 1: Section 781(b) Anti-circumvention Inquiry When Commerce Has Made Previous Substantial Transformation Findings

Comment 2: The Scopes of the Orders Do Not Cover Further Processed Merchandise in a Third Country

Comment 3: Country-Wide Determination is Not Justified

Comment 4: Certification Requirements

Comment 5: Statutory Criteria Benchmarked to HRS Production in China

Comment 6: Assembly or Completion in Vietnam and Value of Processing Performed in Vietnam (Including Use of SV Methodology)

Comment 7: “Pattern of Trade and Sourcing” and “Increased Imports” Findings

Comment 8: Energy

Comment 9: Application of AFA for VNSteel PFS

- IX. RECOMMENDATION

## **APPENDIX II**

### **Certification Requirements**

If an importer imports certain cold rolled steel products (CRS) from the Socialist Republic of Vietnam (Vietnam) and claims that the CRS was not produced using hot-rolled steel substrate (substrate) manufactured in the People's Republic of China (China), the importer is required to complete and maintain the importer certification attached as Appendix III. The importer is further required to maintain a copy of the exporter certification, discussed below. The importer certification must be completed, signed, and dated at the time of filing of the entry summary for the relevant importation. 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.

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. The exporter certification must be completed, signed, and dated before or at the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the merchandise manufactured in Vietnam to the United States, which is not necessarily the producer of the product.

The importer and third-country exporter are also required to maintain sufficient documentation (as indicated in the certifications) 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 U.S. Department of Commerce (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. If it is determined that the certification and/or documentation requirements in a certification have not been met, Commerce intends to instruct CBP to suspend, under the China CRS orders A-570-029 and C-570-030, all unliquidated entries for which these requirements were not met and require the importer to post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits equal to the rates as determined by Commerce. Entries suspended under A-570-029 and C-570-030 will be liquidated pursuant to applicable administrative reviews of the China orders or through the automatic liquidation process.

For CRS produced in Vietnam using Chinese hot-rolled substrate, Commerce has established the following third-country case numbers in the Automated Commercial Environment (ACE): A-552-996 and C-552-997.

For entries suspended pursuant to the *Preliminary Determination* of these anti-circumvention inquiries that were (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the *Federal Register*, which are claimed to be produced using non-Chinese HRS substrate, Commerce permitted importer and exporter certifications to be completed for a limited period following the *Preliminary*

*Determination.*<sup>5</sup> Specifically, Commerce required completion of the importer and exporter certifications within 45 days of publication of the *Preliminary Determination Federal Register* notice. Likewise, for such merchandise, the exporter was required to provide the importer a copy of the exporter certification within 45 days of the *Preliminary Determination* publication.

For unliquidated entries (and entries for which liquidation has not become final) of merchandise entered as type 01 entries that were (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the *Federal Register*, produced from Chinese substrate, importers should file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding possible conversion of such entries from type 1 to type 3 entries and report those type 3 entries using the third-country case numbers A-552-996 and C-552-997. Accordingly, the importer also should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

For merchandise (1) shipped and/or (2) entered, or withdrawn from warehouse, for consumption during the period November 4, 2016, through December 10, 2017, the day preceding publication of the preliminary determination in the *Federal Register*, for which certifications are required, importers and exporters each had the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof.<sup>6</sup> The importer certifications, and copies of the exporter certifications, should be

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<sup>5</sup> Commerce Memorandum, "Clarification of Certification Requirements Pursuant to Preliminary Affirmative Anti-circumvention Rulings and Extension of 30-Day Deadline for Pre-Preliminary Determination Shipments," dated January 9, 2018, at 2-3.

<sup>6</sup> Commerce Memorandum, "Clarification of Certification Requirements Pursuant to Preliminary Affirmative Anti-circumvention Rulings and Extension of 30-Day Deadline for Pre-Preliminary Determination Shipments," dated January 9, 2018, at 2-3.

maintained by the importer and provided to CBP or Commerce upon request by the respective agency.

### APPENDIX III

#### IMPORTER CERTIFICATION

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY};
- This certification pertains to {INSERT ENTRY NUMBER(S), ENTRY LINE NUMBER(S), AND PRODUCT CODE(S) REFERENCED ON ENTRY SUMMARY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the cold-rolled steel products produced in the Socialist Republic of Vietnam (Vietnam) that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct personal knowledge" for purposes of this certification refers to facts in records maintained by the importing company in the normal course of its business. 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" for purposes of this certification includes facts obtained from another party (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the substrate used to produce the imported products);
- The cold-rolled steel products produced in Vietnam that are covered by this certification do not contain hot-rolled steel substrate produced in the People's Republic of China;
- I understand that {INSERT IMPORTING COMPANY NAME} 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 IMPORTING COMPANY NAME} 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 IMPORTING COMPANY NAME} 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 IMPORTING COMPANY NAME} 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 Commerce;

- 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/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates 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 the time of filing the entry summary for the relevant importation;
- 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};
- This certification pertains to {INSERT INVOICE NUMBER(S) TO U.S. CUSTOMERS AND PRODUCT CODE(S) REFERENCED ON INVOICE};
- I have direct personal knowledge of the facts regarding the production and exportation of the cold-rolled steel products from the Socialist Republic of Vietnam (Vietnam) that shipped pursuant to {INSERT INVOICE NUMBER(S) TO U.S. CUSTOMERS} and are covered by this certification. "Direct personal knowledge" for purposes of this certification refers to facts in records maintained by the exporting company in the normal course of its business. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.
- The cold-rolled steel products produced in Vietnam that are covered by this certification do not contain hot-rolled steel substrate produced in the People's Republic of China.
- 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 before or 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 (Commerce);
- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or the 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) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates as determined by the Department;
- This certification was completed before or at the time of shipment of the relevant entries;
- 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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