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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-856]

Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Final Determination of Circumvention Inquiry on the Antidumping Duty Order

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain corrosion-resistant steel products (CORE), completed in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) and/or cold-rolled steel (CRS) flat products manufactured in Taiwan, are circumventing the antidumping duty (AD) order on CORE from Taiwan.

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

FOR FURTHER INFORMATION CONTACT: Shanah Lee or Peter Zukowski, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6386 and (202) 482-0189, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2019, Commerce published the *Preliminary Determination*¹ of circumvention

¹ See *Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 84 FR 32864 (July 10, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

of the *Taiwan CORE Order*.² A summary of 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 IDM.³ The IDM 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>, 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 IDM can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the IDM are identical in content.

Scope of the Order

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the order, *see* the IDM.

Scope of the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers CORE completed in Vietnam from HRS and/or CRS substrate manufactured in Taiwan and subsequently exported from Vietnam to the United States (merchandise under consideration). This final ruling applies to all shipments of merchandise under consideration entered on or after the date of the initiation of this inquiry.

² *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016) (*Taiwan CORE Order*).

³ *See* Memorandum, "Issues and Decision Memorandum for Anti-Circumvention Inquiry on the Antidumping Duty Order on Certain Corrosion-Resistant Steel Products from Taiwan," dated concurrently with, and hereby adopted by, this notice (IDM).

Importers and exporters of CORE produced in Vietnam using: (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS and/or CRS processed into CORE in Vietnam did not originate in Taiwan, as provided for in the certifications attached to the *Federal Register* notice. Otherwise, their merchandise may be subject to antidumping duties.

Methodology

Commerce is conducting this anti-circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). Because Vietnam is a non-market economy, within the meaning of section 771(18) of the Act,⁴ 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 methodology. We have continued to apply this methodology for our final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this inquiry 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 the value of further processing calculation, value of input purchases

⁴ *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 Antidumping Administrative Review; 2014-2015*, 82 FR 18611 (April 20, 2017).

from Taiwan, and pattern of trade analysis since the *Preliminary Determination*. These changes are discussed in the IDM. See the “Changes since the *Preliminary Determination*” section.

Final Affirmative Determination of Circumvention

We determine that exports to the United States of CORE produced in Vietnam from HRS or CRS substrate manufactured in Taiwan are circumventing the *Taiwan CORE Order*. We therefore find it appropriate to determine that this merchandise falls within the *Taiwan CORE Order*, and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CORE from Vietnam produced using HRS or CRS substrate manufactured in Taiwan.

Continuation of Suspension of Liquidation

As stated above, Commerce has made an affirmative determination of circumvention of the *Taiwan CORE Order* by exports to the United States of CORE produced in Vietnam using Taiwan-origin HRS or CRS substrate. This circumvention finding applies to CORE produced by any Vietnamese company using Taiwan-origin HRS or CRS 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 CORE produced in Vietnam using Taiwan-origin HRS or CRS substrate that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of this anti-circumvention inquiry.

The suspension of liquidation and cash deposit instructions will remain in effect until further notice. In order to prevent evasion, and because the AD and countervailing duty (CVD) rates established in *China CORE Circumvention Determination*⁵ are higher than the rates

⁵ See *Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23895 (May 23, 2018) (*China CORE Circumvention Determination*).

established for CORE from Korea and Taiwan, and the rates established for CORE from Korea are higher than the AD rate established for CORE from Taiwan, Commerce will instruct CBP to suspend liquidation and collect cash deposits in the following manner. In the situation where no certification regarding the origin of the substrate is maintained for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce will instruct CBP to suspend the entry and collect cash deposits at the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for the China all-others rate (39.05 percent) pursuant to the *China Core Circumvention Determination*.⁶ In the situation where a certification is maintained for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.⁷ In the situation where a certification is maintained for the AD order on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), and for the AD order on CORE from Korea (stating that the merchandise was not produced from HRS and/or CRS from Korea), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD all-others rate (*i.e.*, 3.66 percent) applicable to the AD order on CORE from Taiwan.

⁶ *Id.*

⁷ See *Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016). The "all-others rate" was subsequently amended as the result to litigation. See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018); see also *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, Korea CORE Orders).

CORE produced in Vietnam from HRS or CRS substrate that is not of Taiwan-origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise. However, CORE produced in Vietnam from HRS and/or CRS from China is subject to the AD/CVD orders on CORE from China, and CORE produced in Vietnam from HRS and/or CRS from Korea is subject to the AD order on CORE from Korea. If an importer imports CORE from Vietnam and claims that the CORE was produced from non-Taiwanese HRS or CRS substrate, 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 CORE produced in Vietnam from non-Taiwan-origin HRS or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such CORE 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 the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CORE produced from non-Taiwan-origin HRS or CRS substrate.

For this final determination, we determine that the following companies are not eligible for the certification process: 190 Steel Pipe Co. Ltd.; Chinh Dai Steel Limited; Hoa Phat Steel Pipe; Perstima Viet Nam; Prima Commodities Co.; Thong Nhat Flat Steel; Trung Nguyen Steel Co.; Vietnam Germany Steel JSC; Vietnam Steel Corp.; Thai Nguyen Iron and Steel Corp.; Vina Kyoei Steel Ltd.; and Vietnam Steel Pipe. Accordingly, importers of CORE from Vietnam produced and/or exported by these ineligible companies are similarly ineligible for the certification process with regard to those imports. Additionally, exporters are not eligible to certify shipments of merchandise produced by the above-listed companies. Accordingly, Hoa

Phat Group Joint Stock Company and Hoa Phat Steel Sheet are not eligible to certify shipments of CORE produced by Hoa Phat Steel Pipe.⁸

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to all 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 of 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

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: December 13, 2019.

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

⁸ See IDM at Comment 9.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Scope of the Anti-Circumvention Inquiry
- V. Changes Since the *Preliminary Determination*
- VI. Statutory Framework
- VII. Statutory Analysis
- VIII. Discussion of the Issues
 - Comment 1: Whether Companies That Did Not Receive Commerce's Quantity and Value (Q&V) Questionnaire Should Be Permitted to Participate in the Certification Process
 - Comment 2: Whether Commerce Abused Its Discretion in Rejecting the Q&V Questionnaire Responses of Certain Companies
 - Comment 3: Whether Commerce Lacks Statutory Authority to Apply AFA Where Respondents Did Not Deprive Commerce of Information Regarding Its Ability To Trace Inputs
 - Comment 4: Whether Commerce's Use of AFA Impermissibly Departs Without Explanation from Its Decision in the China Anti-Circumvention Inquiry
 - Comment 5: Whether Precluding Certain Importers and Exporters from Participating in the Certification Process is Inappropriate and Unfairly Punishes Importers
 - Comment 6: Whether Commerce Should Allow Additional Time for Completing Certification for Pre-Preliminary Determination Entries
 - Comment 7: Whether a Country-Wide Determination is Justified
 - Comment 8: Whether Commerce's Interpretation of Section 781(b) of the Act Applies to the CORE Production Process in Vietnam and Expands the Scope of the *Taiwan CORE Order*
 - Comment 9: Whether Commerce Should Amend the Exporter Certification Language to Prevent Funneling
 - Comment 10: Whether to Apply AFA to Certain Vietnamese Producers that are Affiliated with Those that are Deemed Non-Responsive
 - Comment 11: Whether Commerce Should Preclude Companies that Failed to Cooperate in Both the CORE from China and CORE from Taiwan Inquiries from Participating in the Certification Regime
 - Comment 12: Whether to Apply the Highest of the Petition Rate or Investigation Calculated Rate as the Cash Deposit Rate for Non-Responsive Companies
 - Comment 13: Whether CSVC's Manufacturing Operations in Vietnam Constitute Circumvention Under the Statutory Criteria Established in Section 781(b)(2) of the Act
 - Comment 14: Whether Nam Kim Should Be Eligible for Certification
- IX. Recommendation

Appendix II Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in Taiwan, 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.

As discussed in the Issues and Decisions Memorandum, for this final determination, we are extending the period for completing certifications for shipments and/or entries during the August 2, 2018 through July 18, 2019 period established in the *Preliminary Determination*. Accordingly, 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 final determination notice in the *Federal Register*.

For companies that were not eligible to certify pursuant to the *Preliminary Determination*, but are now eligible pursuant to the final determination, we are also extending the period for completion of their certifications for shipments and/or entries from August 2, 2018 through the date of *Federal Register* publication of the final determination until 30 days after publication of this determination.

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 final 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 final 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 the date of publication of this notice in the *Federal Register*, 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.

For shipments and/or entries made on or after 10 days after the date of publication of this final determination, exporters should use the certification contained below that incorporates additional information that was not in the preliminary determination certification. Specifically, the certification now requires identification of the producer of the merchandise being exported to the United States. 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 maintained for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CORE China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for China all-others rate (39.05 percent)).⁹ In the situation where a certification is maintained for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is maintained, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea. In the situation where a certification is maintained for the AD order on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), and for the AD order on CORE from Korea (stating that the merchandise was not produced from HRS and/or CRS from Korea), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect

⁹ See *CORE China Circumvention Final*, 83 FR at 23896.

cash deposits at the AD all-others rate (*i.e.*, 3.66 percent) applicable to the AD order on CORE from Taiwan.

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 corrosion-resistant steel 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 corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan;
- 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 materially 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 corrosion-resistant steel 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.
- The {MERCHANDISE} covered this certification was produced by {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}; *for each additional company, repeat: {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}.*
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan:
- 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, 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 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 materially false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

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