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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-042, C-570-043]

Stainless Steel Sheet and Strip from the People's Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: Based on available information, the Department of Commerce (Commerce) is self-initiating a country-wide anti-circumvention inquiry to determine whether imports of stainless steel sheet and strip (stainless sheet and strip), completed in Vietnam using certain stainless steel flat-rolled inputs manufactured in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on stainless sheet and strip from China (collectively, the *Orders*). Commerce is also self-initiating a scope inquiry to determine whether stainless sheet and strip that is produced in China and undergoes further processing in Vietnam before being exported to the United States is subject to the *Orders*.

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

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse at (202) 482-6345, AD/CVD Operations, or Barb Rawdon at (202) 482-0474, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 2016, AK Steel Corporation, Allegheny Ludlum, LLC D/B/A ATI Flat

Rolled Products, North American Stainless, and Outokumpu Stainless USA, LLC filed petitions seeking the imposition of antidumping and countervailing duties on imports of stainless sheet and strip from China.¹ Following Commerce’s affirmative determinations of dumping and countervailable subsidies,² and the U.S. International Trade Commission’s (USITC) finding of material injury,³ Commerce issued AD and CVD orders on imports of stainless sheet and strip from China.⁴

Scope of the Order

The products covered by the *Orders* are stainless sheet and strip, whether in coils or straight lengths. For a full description of the scope of the *Orders*, see the “Scope of the Orders,” in the Appendix to this notice.

Merchandise Subject to the Anti-Circumvention Inquiry

The anti-circumvention inquiry covers stainless sheet and strip completed in Vietnam using certain non-subject stainless steel flat-rolled inputs of Chinese-origin that is subsequently exported from Vietnam to the United States.

Initiation of Anti-Circumvention Inquiry

Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act), provides that

¹ See *Stainless Steel Sheet and Strip from the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 12711 (March 10, 2016); see also *Stainless Steel Sheet and Strip from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 81 FR 13322 (March 14, 2016).

² See *Antidumping Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 82 FR 9716 (February 8, 2017); see also *Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 9714 (February 8, 2017).

³ See *Stainless Steel Sheet and Strip from China; Determinations*, 82 FR 15716 (March 30, 2017); see also *Stainless Steel Sheet and Strip from China*, Inv. Nos. 791-TA-557 and 731-TA-1312, USITC Pub. 4676 (March 2017) (Final).

⁴ See *Stainless Steel Sheet and Strip from the People’s Republic of China: Antidumping Duty Order*, 82 FR 16160 (April 3, 2017) (*AD Order*); see also *Stainless Steel Sheet and Strip from the People’s Republic of China: Countervailing Duty Order*, 82 FR 16166 (April 3, 2017) (*CVD Order*) (collectively, *Orders*).

Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting anti-circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country, (B) the level of research and development in the foreign country, (C) the nature of the production process in the foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.⁵ Accordingly, it is Commerce's practice to evaluate each of

⁵ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No.

these five factors as they exist in the third country, depending on the totality of the circumstances of the particular anti-circumvention inquiry.⁶

Furthermore, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping and/or countervailing duty 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 merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

We have analyzed the criteria above, and from available information we determine pursuant to section 781(b) of the Act and 19 CFR 351.225(b) and (h), that initiation of an anti-circumvention inquiry is warranted to determine whether certain imports of stainless sheet and strip, completed in Vietnam using certain stainless steel flat-rolled inputs manufactured in China, are circumventing the *Orders*. For a full discussion of the basis for our decision to initiate this anti-circumvention inquiry, *see* the Initiation Memo.⁷ As explained in the Initiation Memo, the available information supports initiating this anti-circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior anti-circumvention inquiries, where the facts

103-316 (1994) at 893.

⁶ *See Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

⁷ *See* Memorandum, "Stainless Steel Sheet and Strip from the People's Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping and Countervailing Duty Orders" (Initiation Memo). This memo is a public document dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

supported initiation on a country-wide basis.⁸

Consistent with the approach in the prior anti-circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in Vietnam concerning their shipments of stainless sheet and strip to the United States and the origin of any imported stainless steel flat-rolled inputs being processed into stainless sheet and strip. A company's failure to respond completely 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.

Merchandise Subject to the Scope Inquiry

The scope inquiry covers stainless sheet and strip of Chinese-origin that has undergone further processing in Vietnam (including but not limited to cold-rolling, annealing, tempering, polishing, aluminizing, coating, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders*) that is subsequently exported to the United States.

There is evidence of (a) possible circumvention of the *Orders* pursuant to section 781(b) of the Act through the completion of stainless sheet and strip in Vietnam using inputs from China, and (b) third-country processing in Vietnam of stainless sheet and strip from China that is subsequently exported to the United States. Furthermore, the scope language states that stainless sheet and strip is subject to the *Orders* even if it has undergone processing that would not

⁸ See, e.g., *Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 43585 (August 21, 2019); see also *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); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and 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).

otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the stainless sheet and strip. Accordingly, the initiation of a scope inquiry is warranted to determine whether stainless sheet and strip produced in China that undergoes processing in Vietnam is subject to the *Orders*. For a discussion of the basis for our decision to initiate this scope inquiry, *see* the Initiation Memo.

Notification to Interested Parties

In accordance with section 781(b) of the Act and 19 CFR 351.225(b) and (h), Commerce determines that available information supports initiating anti-circumvention and scope inquiries to determine whether certain imports of stainless sheet and strip are circumventing or subject to the *Orders*. Accordingly, Commerce hereby notifies all parties on Commerce's scope service list of the initiation of anti-circumvention and scope inquiries. In addition, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(b), we have included a description of the products that are the subject of these inquiries, and an explanation of the reasons for Commerce's decision to initiate these inquiries as provided above and in the accompanying Initiation Memo. Commerce will establish a schedule for questionnaires and comments on the issues in these inquiries.

In accordance with 19 CFR 351.225(l)(2), if Commerce issues preliminary affirmative determinations, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of the estimated antidumping and countervailing duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of these inquiries. Moreover, in the event we issue preliminary affirmative determinations of circumvention, pursuant to section 781(b) of the act (Merchandise Completed or Assembled in Other Foreign Countries), we

intend to notify the ITC, in accordance with section 781(b)(1) of the Act and 19 CFR 351.225(f)(7)(i)(B), if applicable.

Commerce will, following consultation with interested parties, establish a schedule for questionnaires and comments on the issues. In accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5), Commerce intends to issue its final scope and circumvention determinations within 120 days and 300 days, respectively, of the date of publication of this initiation.

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

Dated: May 11, 2020.

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

Appendix

Scope of the *Orders*

The merchandise covered by the *Orders* is stainless sheet and strip, whether in coils or straight lengths. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product with a width that is greater than 9.5 mm and with a thickness of 0.3048 mm and greater but less than 4.75 mm, and that is annealed or otherwise heat treated, and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, annealed, tempered, polished, aluminized, coated, painted, varnished, trimmed, cut, punched, or slit, *etc.*) provided that it maintains the specific dimensions of sheet and strip set forth above following such processing. The products described include products regardless of shape, and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above: (1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of the *Orders* unless specifically excluded.

Subject merchandise includes stainless sheet and strip that has been further processed in a third country, including but not limited to cold-rolling, annealing, tempering, polishing, aluminizing, coating, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the stainless sheet and strip.

Excluded from the scope of the *Orders* are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and not pickled or otherwise descaled; (2) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); and (3) flat wire (*i.e.*, cold-rolled sections, with a mill edge, rectangular in shape, of a width of not more than 9.5 mm).

The products under the *Orders* are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.13.0081, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.23.0030, 7219.23.0060, 7219.24.0030, 7219.24.0060, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.32.0045, 7219.32.0060, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.33.0045, 7219.33.0070, 7219.33.0080, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.34.0050, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.35.0050, 7219.90.0010, 7219.90.0020, 7219.90.0025,

7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

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