

7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

## Appendix II

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- VI. Discussion of The Methodology
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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-026, C-570-027]

### 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

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

**SUMMARY:** In response to requests from ArcelorMittal USA LLC, Nucor Corporation, United States Steel Corporation, and AK Steel Corporation, as well as Steel Dynamics, Inc. and California Steel Industries, (collectively, Domestic Producers), the Department of Commerce (the Department) is initiating anti-circumvention inquiries to determine whether certain imports of corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) and cold-rolled steel (CRS) flat products manufactured in the People's Republic

of China (PRC), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from the PRC.

**DATES:** Effective November 14, 2016.

**FOR FURTHER INFORMATION CONTACT:** Nancy Decker, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0196.

### SUPPLEMENTARY INFORMATION:

#### Background

On June 3, 2015, AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and the United States Steel Corporation (collectively, Petitioners) filed petitions seeking the imposition of antidumping and countervailing duties on imports of CORE from India, Italy, the Republic of Korea, PRC, and Taiwan. Following the Department's affirmative determinations of dumping and countervailable subsidies,<sup>1</sup> and the U.S. International Trade Commission (ITC) finding of material injury,<sup>2</sup> the Department issued antidumping duty and countervailing duty *Orders*<sup>3</sup> on imports of CORE from the PRC.

On September 22, 2016, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), Steel Dynamics, Inc. and California Steel Industries submitted requests for the Department to initiate anti-circumvention inquiries to determine whether producers in Vietnam of CORE are circumventing the *Orders* on CORE from the PRC by exporting to the United States CORE products completed or assembled in various Vietnamese facilities, from inputs of HRS and CRS sourced from

the PRC.<sup>4</sup> On September 23, 2016, pursuant to section 781(b) of the Act and 19 CFR 351.225(h), ArcelorMittal USA LLC, Nucor Corporation, United States Steel Corporation, and AK Steel Corporation, collectively, submitted a request for the Department to initiate anti-circumvention inquiries and to issue in conjunction with initiation of the inquiries preliminary determinations of circumvention of the *Orders* to suspend liquidation of imports of CORE from Vietnam.<sup>5</sup>

On October 17, 2016, we received comments objecting to the allegations from Domestic Producers from Metallia U.S.A., LLC, Metallia, A Division of Hartree Partners, LP, Nippon Steel and Sumiken Bussan Americas Inc., Mitsui & Co. (U.S.A.), Inc., and Marubeni-Itochu Steel America Inc. (collectively, Metallia).<sup>6</sup> Also on October 17, 2016, we received comments objecting to the allegations from Minmetals, Inc. (Minmetals).<sup>7</sup> On October 20, 2016, we received comments objecting to the allegations from China Steel Sumikin Vietnam Joint Stock Company (CSVC)<sup>8</sup> and from Duferco Steel Inc. (Duferco).<sup>9</sup> On October 21, 2016, we received comments objecting to the allegations from T.Co Metals LLC (TCO).<sup>10</sup> On October 26, 2016, we received comments objecting to the allegations from Summit Global Trading, a subsidiary of Sumitomo Corporation of

<sup>4</sup> See Letter from Schagrin Associates to the Secretary of Commerce; "Certain Corrosion-Resistant Steel Products from China: Request for Circumvention Ruling," dated September 22, 2016 (Schagrin Request).

<sup>5</sup> See Letter from Kelley Drye & Warren LLP, King & Spalding LLP, Wiley Rein LLP, and Quinn Emanuel Urquhart & Sullivan, LLP to the Secretary of Commerce, regarding "Certain Corrosion-Resistant Steel Products from the People's Republic of China—Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930," dated September 23, 2016 (Petitioners Request).

<sup>6</sup> See Letter from Morris, Manning & Martin, LLP to the Secretary of Commerce, regarding "Certain Cold-Rolled Steel Flat Products and Corrosion-Resistant Steel Products from the People's Republic of China: Response to Request for Anti-Circumvention Inquiry," dated October 17, 2016.

<sup>7</sup> See Letter from Minmetals, Inc. to the Secretary of Commerce, dated October 17, 2016.

<sup>8</sup> See Letter from Mowry & Grimson, PLLC and Sidley Austin LLP, regarding "Certain Corrosion-Resistant Steel Products from China—Response to Petitioners' Circumvention Allegations," dated October 20, 2016.

<sup>9</sup> See Letter from Arent Fox, regarding "Certain Corrosion-Resistant Steel Products from the People's Republic of China: Response to Request for Anti-Circumvention Inquiry," dated October 20, 2016 (Duferco Comments).

<sup>10</sup> See Letter from Drinker Biddle & Reath, LLP, regarding "Certain Corrosion-Resistant Steel Products from the People's Republic of China: Response to Request for Anti-Circumvention Inquiry," dated October 21, 2016 (TCO Comments).

<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316 (June 2, 2016), and *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016).

<sup>2</sup> See *Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan: Determinations*, 81 FR 47177 (July 20, 2016).

<sup>3</sup> 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), and *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 *Orders*).

Americas (Sumitomo).<sup>11</sup> On October 28, 2016, we received comments objecting to the allegations from thyssenkrupp Materials NA, Inc.<sup>12</sup> On October 31, 2016, we received comments objecting to the allegations from Hoa Sen Group (HSG)<sup>13</sup> and from Maruichi Sun Steel Joint Stock Company (Maruichi).<sup>14</sup> Also on October 31, 2016, we received a letter objecting to the allegations from Vietnam Competition Authority under the Ministry of Industry and Trade of Vietnam.<sup>15</sup> On November 3, 2016, we received comments objecting to the allegations from Ton Dong A Company.<sup>16</sup>

On October 13, 2016, we received comments supporting the allegations from the United Steel Workers.<sup>17</sup>

### Scope of the Orders

The products covered by these orders 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. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in

successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other 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.

Steel products included in the scope of these orders are products in which:

(1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high

strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, 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 in-scope corrosion resistant steel.

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 these orders unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of these orders:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the orders are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers:

7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000,

<sup>11</sup> See Letter from Sandler, Travis & Rosenberg, P.A., regarding “Opposition to Request for Anti-Circumvention Inquiry: Certain Corrosion-Resistant Steel Products and Cold-Rolled Steel Flat Products From the People’s Republic of China,” dated October 26, 2016.

<sup>12</sup> See Letter from Crowell Moring, regarding “Certain Corrosion-Resistant and Cold-Rolled Steel Products from the People’s Republic of China: Comments Opposing Petitioners’ Circumvention Allegations,” dated October 28, 2016.

<sup>13</sup> See Letter from Curtis, Mallet-Prevost, Colt & Mosle LLP, regarding “Opposition to Request for Anti-Circumvention Inquiry: Certain Corrosion-Resistant Steel Products and Cold-Rolled Steel Flat Products from the People’s Republic of China,” dated October 31, 2016.

<sup>14</sup> See Letter from Curtis, Mallet-Prevost, Colt & Mosle LLP, regarding “Opposition to Request for Anti-Circumvention Inquiry: Certain Corrosion-Resistant Steel Products and Cold-Rolled Steel Flat Products from the People’s Republic of China,” dated October 31, 2016.

<sup>15</sup> See Letter from Vietnam Competition Authority under the Ministry of Industry and Trade of Vietnam regarding “Certain Corrosion-Resistant Steel Products from China; Certain Cold-Rolled Steel Flat Products from China—Opposition to Initiation of Anticircumvention Proceedings,” dated October 31 2016, placed on the record on November 4, 2016.

<sup>16</sup> See Letter from Curtis, Mallet-Prevost, Colt & Mosle LLP, regarding “Opposition to Request for Anti-Circumvention Inquiry: Certain Corrosion-Resistant Steel Products and Cold-Rolled Steel Flat Products from the People’s Republic of China,” dated November 3, 2016.

<sup>17</sup> See Letter from United Steel Workers, regarding “Corrosion-Resistant Steel Products from the People’s Republic of China,” dated October 13, 2016.

7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the orders may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the orders is dispositive.

#### **Merchandise Subject to the Anti-Circumvention Inquiries**

These anti-circumvention inquiries cover CORE exported from Vietnam produced from HRS or CRS manufactured in the PRC.

Domestic Producers request that the Department treat CORE imports from Vietnam as subject merchandise under the scope of the *Orders* and impose cash deposit requirements for estimated AD and CVD duties on all imports of CORE from Vietnam.<sup>18</sup>

#### **Initiation of Anti-Circumvention Inquiries**

Section 781(b)(1) of the Act provides that the Department 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 an anti-circumvention inquiry, under section 781(b)(1) of the Act, the Department will rely 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 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. As discussed below, Domestic Producers provided evidence with respect to these criteria.

#### *A. Merchandise of the Same Class or Kind*

The Domestic Producers claim that CORE exported to the United States is the same class or kind as the CORE covered by the *Orders* in these inquiries.<sup>19</sup> Domestic Producers provided evidence to show that the merchandise from Vietnam enters the United States under the same tariff classification as the subject merchandise.<sup>20</sup>

#### *B. Completion of Merchandise in a Foreign Country*

Section 781(b)(1)(B)(ii) of the Act requires the Department to determine if, “before import into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is produced in the foreign country with respect to which such order or finding applies.” Domestic Producers presented evidence demonstrating how CORE in Vietnam is produced from HRS or CRS manufactured and imported from the PRC. Additionally, Domestic Producers provided evidence that there is currently no capacity in Vietnam to produce HRS, and thus any CORE manufactured in Vietnam must use imported HRS.<sup>21</sup> Domestic Producers stated that while imports of CORE from the PRC into the United States significantly decreased after the imposition of the *Orders*, imports of CORE from Vietnam into the United States have increased significantly. All the while, imports of Chinese HRS and CRS into Vietnam have also increased significantly.<sup>22</sup> Finally, Domestic Producers state that China Minmetals Corporation, the state-owned Chinese trading company, currently has arrangements to ship HRS and/or CRS from the PRC to Vietnam, and to convert

the PRC-sourced HRS or CRS to CORE for export to the United States with the purpose of evading the *Orders*.<sup>23</sup>

#### *C. Minor or Insignificant Process*

Under section 781(b)(2) of the Act, the Department is required to consider five factors to determine whether the process of assembly or completion is minor or insignificant. Domestic Producers alleged that the production of HRS and CRS in the PRC, which is subsequently further processed into CORE in Vietnam, comprises the majority of the value associated with the merchandise imported from Vietnam into the United States, and that the processing of HRS and CRS into CORE which occurs in Vietnam adds relatively little to the overall value.

#### *(1) Level of Investment*

Domestic Producers argue that the level of investment necessary to construct a factory which can produce CORE from CRS or HRS in Vietnam is insignificant. In support of their contention, Domestic Producers compare the investment necessary to install re-rolling and coating facilities with the investment necessary to produce HRS or CRS using a fully-integrated production process for melting iron and casting steel.<sup>24</sup> Domestic Producers estimate that the investment necessary to construct re-rolling and coating (in some cases including a CRS mill) facilities in Vietnam that uses HRS and/or CRS substrate to produce CORE would be between \$70 million and \$90 million, with possible expansions of \$150 million.<sup>25</sup> In contrast, Domestic Producers estimate that the investment necessary to construct a fully integrated steel production facility, including a blast furnace or basic oxygen furnace in the PRC that produces HRS and/or CRS would be between \$295 million and \$10.1 billion.<sup>26</sup> Domestic Producers also argue that using investment levels in the PRC for basic steel making including a blast furnace or basic oxygen furnace, as opposed to an electric arc furnace which relies on scrap steel, is appropriate as approximately 90 percent of the steel production in the PRC comes from a fully integrated steel mill.<sup>27</sup>

<sup>23</sup> See Schagrin Request at 18 and Exhibit 13.

<sup>24</sup> See Schagrin Request at 18–20 and Exhibits 14–16 and 19, Petitioners Request at 12–14 and Attachments 7–10.

<sup>25</sup> See Schagrin Request at 19–20 and Exhibits 15, 16, and 19, Petitioners Request at 14 and Attachment 10.

<sup>26</sup> See Schagrin Request at 19 and Exhibit 14, Petitioners Request at 13–14 and Attachment 7–9.

<sup>27</sup> See Petitioners Request at 13 at Attachment 8.

<sup>18</sup> See Schagrin Request at 1–2; and see Petitioners Request at 1–2.

<sup>19</sup> See Schagrin Request at 9, Petitioners Request at 8.

<sup>20</sup> See Petitioners Request at Attachment 1.

<sup>21</sup> See Schagrin Request at 6 and 13 and Exhibits 2, 4, and 5, Petitioners Request at 10 and Attachments 4 and 5.

<sup>22</sup> See Schagrin Request at 11–16 and Exhibits 1 and 7, Petitioners Request at 9–11 and Attachments 1 and 3.

## (2) Level of Research and Development

Domestic Producers assert that the level of research and development in Vietnam to produce CORE from substrate is either minimal or non-existent. Domestic Producers state that Vietnam is importing technology from other sources and countries, rather than developing its own technology.<sup>28</sup>

## (3) Nature of Production Process in Vietnam

According to Domestic Producers, the additional processing undertaken by Vietnamese producers of CORE is minimal.<sup>29</sup> Conversely, the manufacturing process to produce HRS is complex. Specifically, the manufacturing processes for HRS consist of three stages: melting and refining, casting molten steel into semi-finished forms, and hot-rolling the semi-finished forms into HRS.<sup>30</sup> In contrast, the processing of CORE from HRS involves only unrolling, descaling, cold-reducing (if HRS), and coating or plating, all of which is done by continuous processing lines.<sup>31</sup>

## (4) Extent of Production in Vietnam

Domestic Producers argue that production facilities in Vietnam are more limited compared to facilities in the PRC. This is because Vietnam has fewer than a dozen large producers of flat steel products.<sup>32</sup> Moreover, Domestic Producers cite information indicating Vietnam had no HRS capacity, only a few cold-rolling facilities, and limited CORE production facilities, with only one coating facility that produces galvanized steel sheet.<sup>33</sup>

## (5) Value of Processing in Vietnam

Domestic Producers assert that production of HRS or CRS in the PRC accounts for a large percentage of the total value of CORE that is produced in Vietnam. Using information from the recent CORE investigation by the ITC, Domestic Producers state that the price of HRS is between 69 percent and 79 percent of the price of CORE, and CRS is between 84 percent and 90 percent of the price of CORE.<sup>34</sup> Thus, the value

added in Vietnam is estimated to be between 10 percent and 31 percent, depending on whether the underlying substrate is already cold-rolled. Using a different approach focusing solely on the cost of production in Vietnam, Domestic Producers estimate that the cost of manufacture for the CORE operations in Vietnam, including both cold-rolling and coating, is a small portion of the export value.<sup>35</sup>

*D. Value of Merchandise Produced in the PRC*

As Domestic Producers argued previously (and noted above), the price of HRS is between 69 percent and 79 percent of the price of CORE and the price of CRS is between 84 percent and 90 percent.<sup>36</sup> Alternatively, using the other method (comparing the cost of manufacture of CORE in Vietnam to the export value of CORE), the value of the Chinese inputs constitute a significant portion of the total value of the merchandise exported to the United States.<sup>37</sup>

*E. Additional Factors To Consider in Determining Whether Inquiry Is Warranted*

Section 781(b)(3) of the Act directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of the *Orders*, such as: “(A) the pattern of trade, including sourcing patterns, (B) whether the manufacturer or exporter of the merchandise . . . is affiliated with the person who uses the merchandise . . . to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and (C) whether imports into the foreign country of the merchandise . . . have increased after the initiation of the investigation which resulted in the issuance of such order or finding.”

## (1) Pattern of Trade

Domestic Producers note that at the time the petition was filed for the original investigation of CORE from the PRC, Vietnam was a very small source of U.S. CORE imports (in 2014), and that the volume of imports from Vietnam from January 2015 to July of 2015 was low.<sup>38</sup> However, subsequent to the preliminary injury determination by the

ITC, the last five months of 2015 saw imports of CORE from Vietnam increase.<sup>39</sup> After the preliminary affirmative determination by the Department for countervailing duties on CORE from the PRC in November 2015, Domestic Producers note that imports of CORE from Vietnam surged dramatically.<sup>40</sup> Domestic Producers further note that imports of CORE from the PRC decreased substantially over the same time period.<sup>41</sup> No other factual information on the record contradicts this claim.

## (2) Affiliation

Domestic Producers have provided no information regarding the affiliation between producers of HRS or CRS in the PRC and producers of CORE in Vietnam. However, Domestic Producers assert that China Minmetals Corporation, which as noted above currently has arrangements to ship HRS or CRS from the PRC to Vietnam and convert the HRS or CRS to CORE for export to the United States, is affiliated with a major Chinese steel producer.<sup>42</sup>

## (3) Increase of HRS and CRS Shipments From the PRC to Vietnam After Initiation of the AD and CVD Investigation of CORE From the PRC

Domestic Producers presented evidence indicating that shipments of HRS and CRS from the PRC to Vietnam have increased since the initiation of the CORE investigations.<sup>43</sup> No other factual information contradicts this claim.

**Analysis of the Allegation**

Based on our analysis of Domestic Producers' anti-circumvention inquiry allegation, the Department determines that the Domestic Producers have satisfied the criteria under section 781(b)(1) of the Act to warrant an initiation of anti-circumvention inquiries of the AD and CVD *Orders* on CORE from the PRC.

With regard to whether the merchandise from Vietnam is of the same class or kind as the merchandise produced in the RC, Domestic Producers presented information to the Department indicating that, pursuant to section 781(b)(1)(A) of the Act, the merchandise being produced in and/or exported from Vietnam may be of the

<sup>39</sup> *Id.*

<sup>40</sup> See Petitioners Request at 21–22 and Attachment 1, Schagrin Request at 23 and Exhibit 18.

<sup>41</sup> See Petitioners Request at 6 and 21–22 and Attachment 1, Schagrin Request at 23 and Exhibit 18.

<sup>42</sup> See Schagrin Request at 18.

<sup>43</sup> *Id.*, at 14–16 and 24 and Exhibit 7, Petitioners Request at 9–11, 22–23, and Attachment 3.

<sup>28</sup> See Schagrin Request at 20–21 and Exhibits 2 and 19, Petitioners Request at 14–15 and Attachments 1, 4, and 11.

<sup>29</sup> See Schagrin Request at 18 and 21, Petitioners Request at 15 and Attachments 12–13 (ITC reports on HRS and CORE).

<sup>30</sup> See Petitioners Request at 15–18 and Attachment 12.

<sup>31</sup> *Id.*, at 18 and Attachment 13.

<sup>32</sup> See Schagrin Request at 21 and Exhibit 2.

<sup>33</sup> See Petitioners Request at 18–19 and Attachment 4, Schagrin Request at 21 and Exhibit 2.

<sup>34</sup> See Schagrin Request at 22 and Exhibit 17.

<sup>35</sup> See Petitioners Request at 19–20 and Attachment 14. This estimate incorporates business proprietary information, but falls within the range of 10 percent to 31 percent identified above.

<sup>36</sup> See Schagrin Request at 22 and Exhibit 17.

<sup>37</sup> See Petitioners Request at 20 and Attachment 14.

<sup>38</sup> *Id.*, at 21 and Attachment 1.

same class or kind as CORE produced in the PRC, which is subject to the *Orders*.<sup>44</sup> Consequently, the Department finds that Domestic Producers provided sufficient information in their request regarding the class or kind of merchandise to support the initiation of these anti-circumvention inquiries.

With regard to completion or assembly of merchandise in a foreign country, pursuant to section 781(b)(1)(B) of the Act, Domestic Producers also presented information to the Department indicating that the CORE exported from Vietnam to the United States is produced in Vietnam using HRS or CRS from the PRC that accounts for a significant portion of the total costs related to the production of CORE.<sup>45</sup> We find that the information presented by Domestic Producers regarding this criterion supports their request to initiate these anti-circumvention inquiries.

The Department finds that Domestic Producers sufficiently addressed the factors described in section 781(b)(1)(C) and 781(b)(2) of the Act regarding whether the assembly or completion of CORE in Vietnam is minor or insignificant. In particular, Domestic Producers' submission asserts that: (1) The level of investment of CORE facilities is minimal when compared with the level of investment for basic steel-making facilities; (2) research and development is not taking place in Vietnam; (3) the production process involves the simple processing of HRS or CRS from a country subject to the *Orders*; (4) the production facilities in Vietnam are more limited compared to facilities in the PRC; and (5) the value of the processing performed in Vietnam is minimal, as the production of HRS and CRS in the PRC accounts for 68 to 90 percent of the value of finished CORE.<sup>46</sup>

With respect to the value of the merchandise produced in the PRC, pursuant to section 781(b)(1)(D) of the Act, Domestic Producers relied on published sources, a simulated cost structure for producing CORE in Vietnam, and arguments in the "minor or insignificant process" portion of their anti-circumvention allegations to indicate that the value of the major inputs, HRS or CRS, produced in the PRC may be significant relative to the total value of the CORE exported from

Vietnam to the United States.<sup>47</sup> We find that this information adequately meets the requirements of this factor, as discussed above, for the purposes of initiating these anti-circumvention inquiries.

With respect to the additional factors listed under section 781(b)(3) of the Act, we find that Domestic Producers presented evidence indicating that shipments of CORE from Vietnam to the United States increased since the imposition of the *Orders* and that shipments of HRS and CRS from the PRC to Vietnam also increased since the *Orders* took effect, further supporting initiation of these anti-circumvention inquiries.<sup>48</sup>

Accordingly, we are initiating a formal anti-circumvention inquiry concerning the AD and CVD Orders on CRS from the PRC, pursuant to section 781(b) of the Act.

In connection with these anti-circumvention inquiries, in order to determine, (1) the extent to which PRC-sourced HRS or CRS is further processed into CORE in Vietnam before shipment to the United States, (2) the extent to which a country-wide finding applicable to all exports might be warranted, as alleged by Domestic Producers, and (3) whether the process of turning PRC-sourced HRS or CRS into CORE is minor or insignificant, the Department will issue questionnaires to Vietnamese producers or exporters of CORE to the United States. The Domestic Producers did not identify any Vietnamese producers or exporters in their allegations.<sup>49</sup> The Department will issue questionnaires to solicit information from the Vietnamese producers and exporters concerning their shipments of CORE to the United States and the origin of the imported HRS or CRS being processed into CORE. Companies failing to respond completely and timely to the Department's questionnaire may be deemed uncooperative and an adverse inference may be applied in determining whether such companies are circumventing the *Orders*. See section 776 of the Act.

Finally, while we believe sufficient factual information has been submitted by Domestic Producers supporting their request for an inquiry, we do not find that the record supports the simultaneous issuance of a preliminary

ruling. Such inquiries are by their nature complicated and require additional information regarding production in both the country subject to the order and the third country completing the product. As noted above, the Department intends to request additional information regarding the statutory criteria to determine whether shipments of CORE from Vietnam are circumventing the AD and CVD *Orders* on CORE from the PRC. Thus, further development of the record is required before a preliminary ruling can be issued.

#### Notification to Interested Parties

In accordance with 19 CFR 351.225(e), the Department finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, the Department will notify by mail all parties on the Department's scope service list of the initiation of anti-circumvention 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(e), we have included a description of the product that is the subject of these anti-circumvention inquiries (*i.e.*, CORE that contains the characteristics as provided in the scope of the *Orders*), and an explanation of the reasons for the Department's decision to initiate these anti-circumvention inquiries, as provided above.

In accordance with 19 CFR 351.225(l)(2), if the Department issues affirmative preliminary determinations, we will then instruct CBP to suspend liquidation and require cash deposits of estimated antidumping and countervailing duties, at the applicable rates, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiries. The Department will establish a schedule for questionnaires and comments for these inquiries. In accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5), the Department intends to issue its final determinations within 300 days of the date of publication of this initiation.

This notice is published in accordance with 19 CFR 351.225(f).

Dated: November 4, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

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<sup>44</sup> See Schagrin Request at 9, Petitioners Request at 8 and Attachment 1.

<sup>45</sup> See Schagrin Request at 6 and 11-18 and Exhibits 1-2, 4-5, 7 and 13, Petitioners Request at 8-11 and Attachments 1-5.

<sup>46</sup> See discussion of these five factors above.

<sup>47</sup> See Schagrin Request at 22 and Exhibits 17, Petitioners Request at 20 and Attachments 14.

<sup>48</sup> See Schagrin Request at 14-16 and 24 and Exhibit 7, Petitioners Request at 9-11, 22-23, and Attachment 3.

<sup>49</sup> Domestic Producers only identified a Chinese trading company, China Minmetals Corporation, in its allegation. See Schagrin Request at 18.