

Sayı: 70430465-TİM.OAİB.GSK.İDARİ.2023/3373-12971 **Ankara, 12/12/2023**
Konu: ÇHC Menşeli Hidroflorokarbon Karışımı Ürünlerine Yönelik ABD Tarafından
Uygulanan Damping Önlemlerinin Ülkemiz İle ÇHC ve Malezya Üzerinden Etkisiz
Kılınması Soruşturması

Sayın üyemiz,

T.C. Ticaret Bakanlığı İthalat Genel Müdürlüğünden alınan bir yazıda, Amerika Birleşik Devletleri (ABD) Uluslararası Ticaret İdaresi (ITA) tarafından, güncel ABD Harmonize Tarife Cetvelinde 3827.61.0000, 3827.63.0000, 3827.64.0000, 3827.65.0000, 3827.68.0000 ve 3827.69.0000 gümrük tarife pozisyonları altında kayıtlı Çin Halk Cumhuriyeti (ÇHC) menşeli “hidroflorokarbon (HFC) karışımları” ithalatına uygulanan anti-damping (AD) önlemlerinin; bu ürünlerin ÇHC, Malezya ve Türkiye’den sevk edilmesi suretiyle, muhtemel etkisiz kılınması ile ilgili olarak 15 Mayıs 2023 tarihinde alınan şikayete binaen, şikayet konusu ürünlere yönelik olarak 4 adet “ülke geneli” önlemlerin etkisiz kılınması soruşturması açıldığına dair bildirimim 7 Temmuz 2023 tarihinde ABD Resmi Gazetesi’nde yayımlandığı ifade edildiği bildirilmektedir.

Bu defa, 11 Aralık 2023 tarihli ABD Resmî Gazetesi’nde yayımlanan ve ekte bir örneği yer alan ön kararın incelenmesinden; ÇHC menşeli bileşenler kullanılarak Türkiye’de tamamlanan ve Türkiye’den ABD’ye ihraç edilen R-410A karışımının, ÇHC menşeli “HFC karışımları” ithalatına uygulanan AD önlemini “ülke geneli” etkisiz kıldığı anlaşılmış olduğu belirtilmektedir.

Diğer yandan, söz konusu kararda 7 Temmuz 2023 tarihinden itibaren tüketim amacıyla ithal edilen veya antrepodan çekilen ve Türkiye’de ÇHC menşeli bileşenler kullanılarak tamamlanan R-410A girişlerinin gümrüklenmesinin askıya alınması ve ÇHC genelinde belirlenen oran olan %216,37 oranında nakit teminat talep edilmesi yönünde ABD Gümrük ve Sınır Muhafaza yetkililerine talimat verileceği ifade edilmektedir.

Türkiye’de “HFC karışımlarından üretilen ve ÇHC menşeli olmayan R-410A ithalatında anılan teminattan muaf olabilmek için, ithalatçı ve ihracatçılara sertifika yükümlülüğü getirildiği bildirilmektedir.

Bu kapsamda, kamu dinleme toplantısı; ilgili tarafların görüşleri (*case brief*) ve itirazları (*rebuttal brief*) kapsamında belirttikleri hususlarla sınırlı olmak üzere, ön kararın ABD Resmî Gazetesi’nde yayımlanma tarihinden itibaren 30 gün içinde yazılı bir biçimde talep edilebileceği belirtilmektedir.

Bilgilerine sunulur.

Emre OLGUNER
Genel Sekreter A.
Şube Müdürü V.

Ek: HFC - Ön Karar Duyurusu

Ayrıntılı bilgi için: Fahriye Serinova -

Orta Anadolu İhracatçı Birlikleri Genel Sekreterliği

Ceyhan Atuf Kansu Cad. No: 120

06520 BALGAT ÇANKAYA ANKARA

Tel : (312) 447 27 40 Faks : (312) 446 96 05 - 447 01 80

e-posta : info@oai.org.tr / www.oai.org.tr

Emre Olguner tarafından 5070
sayılı kanun gereğince güvenli
elektronik imza ile
imzalanmıştır.



Harrison, Program Analyst, Performance and National Programs Division, Economic Development Administration, U.S. Department of Commerce, via email to MHarrison@eda.gov or by phone, (202) 482-4696.

SUPPLEMENTARY INFORMATION:

I. Abstract

Guided by the basic principle that sustainable economic development should be locally driven, the Economic Development Administration (EDA) works directly with communities and regions to help them build the capacity for economic development based on local business conditions and needs.

The EDA Revolving Loan Fund (RLF) Program, authorized under section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149), has served as an important pillar of EDA investment programs since the establishment of the RLF Program in 1975. The purpose of the RLF Program is to provide regions with a flexible and continuing source of capital, to be used with other economic development tools, for creating and retaining jobs and inducing private investment that will contribute to long-term economic stability and growth. EDA provides RLF grants to eligible recipients, which include State and local governments, Indian Tribes, and non-profit organizations, to operate a lending program that offers loans with flexible repayment terms, primarily to small businesses in distressed communities that are unable to obtain traditional bank financing. These loans enable small businesses to expand and lead to new employment opportunities that pay competitive wages and benefits.

A unique feature of the RLF Program is that the federal interest in RLF awards does not terminate but may be released by EDA seven years after completion of the grant disbursement. EDA RLF regulations therefore require RLF recipients to submit to EDA RLF Financial Report, Form ED-209, which collects limited performance information for RLF awards (13 CFR 307.14(a)). EDA currently requires Form ED-209 to be submitted on an annual basis for high-performing RLFs and on a semi-annual basis for other RLFs.

Through implementation of the Reinvigorating Lending for the Future Act (RLF Act), EDA released its federal interest in a substantial portion of the RLF awards that were previously required to submit Form ED-209. As a result, the number of respondents required to submit Form ED-209 will decrease. Although Form ED-209 is being extended without change, and the estimated amount of time required to

complete Form ED-209 remains unchanged at three hours, the estimated annual burden hours for Form ED-209 is decreasing because of the decreased number of RLF awards and respondents required to complete Form ED-209.

II. Method of Collection

RLF recipients must complete and submit the information collected by Form ED-209 online through a Salesforce application (“RLF Portal”) for Revolving Loan Fund (RLF) reporting that is accessible at <https://doc-eda.my.site.com/RLF/s/login/>.

III. Data

OMB Control Number: 0610-0095.

Form Number(s): ED-209.

Type of Review: Extension of a currently approved information collection.

Affected Public: EDA RLF recipients: State and local governments, Indian Tribes, and non-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annual Cost to Public: \$173,520 (cost assumes application of U.S. Bureau of Labor Statistics first quarter 2020 mean hourly employer costs for employee compensation for professional and related occupations of \$57.84).

Respondent's Obligation: Mandatory.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your

personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-028]

Antidumping Duty Order on Hydrofluorocarbon Blends From the People's Republic of China: Preliminary Affirmative Determination of Circumvention With Respect to R-410A From the Republic of Turkey

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

SUMMARY: The U.S. Department of Commerce preliminarily determines that imports of R-410A, completed in the Republic of Turkey (Turkey) using People's Republic of China (China)-origin components, and exported from Turkey, as specified below, are circumventing the antidumping duty (AD) order on hydrofluorocarbon (HFC) blends from China.

DATES: Applicable December 11, 2023.

FOR FURTHER INFORMATION CONTACT: Paul Senoyuit, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6106.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 2016, Commerce published in the **Federal Register** the AD order on HFC blends from China.¹ On July 7, 2023, Commerce initiated a country-wide circumvention inquiry to determine whether imports of R-410A, completed in Turkey using HFC components R-32 (difluoromethane) and R-125 (pentafluoroethane) (collectively, China-origin components) manufactured in China, are circumventing the *Order* and, accordingly, should be covered by the

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

scope of the *Order*.² In August 2023, Commerce selected the following two mandatory respondents in this circumvention inquiry: Cantas Ic Ve Dis Ticaret Sogutma Sistemleri Sanayi A.S. (Cantas) and ICE Sogutma Sanayi Ve Ticaret Ltd. (ICE).³ For a complete description of the events that followed the initiation of this circumvention inquiry, see the Preliminary Decision Memorandum.⁴

Scope of the Order

The merchandise covered by the *Order* is certain HFC blends. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.⁵

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers R-410A, completed in Turkey using China-origin HFC components and subsequently exported from Turkey to the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. For a complete description of the methodology underlying this circumvention inquiry, see the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is included in Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

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

³ See Memorandum, "Respondent Selection," dated August 23, 2023; see also Commerce's Letter, "R-410A from Turkey Initial Questionnaire," dated August 28, 2023.

⁴ See Memorandum, "Hydrofluorocarbon Blends from the People's Republic of China: Preliminary Decision Memorandum for the Circumvention Inquiry on the Antidumping Duty Order with Respect to Imports of R-410A from the Republic of Turkey," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁵ *Id.* at 2–3.

Preliminary Circumvention Determination

As detailed in the Preliminary Decision Memorandum, and the "Use of Adverse Facts Available (AFA)" section, Commerce preliminarily determines that R-410A completed in Turkey using HFC components from China, that is subsequently exported from Turkey to the United States, is circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we preliminarily determine that the inquiry merchandise should be included within the scope of the *Order*. See the "Suspension of Liquidation and Cash Deposit Requirements" section below for details regarding suspension of liquidation and cash deposit requirements. See the "Certifications" and "Certification Requirements for Turkey" sections below for details regarding the use of certifications for inquiry merchandise exported from Turkey.

Use of AFA

Pursuant to section 776(a) of the Act, if the necessary information is not available on the record, or an interested party withholds requested information, fails to provide requested information by the deadline or in the form and manner requested, or significantly impedes a proceeding, Commerce shall use the facts otherwise available in reaching the applicable determination. Moreover, pursuant to section 776(b) of the Act, Commerce may use inferences adverse to the interests of an interested party in selecting from among the facts otherwise available if the party fails to cooperate by not acting to the best of its ability to provide requested information.

Commerce requested information from Cantas and ICE. In these initial questionnaires, Commerce explained that, if the company to which Commerce issued the questionnaire fails to respond to the questionnaire, or fails to provide the requested information, Commerce may find that the company failed to cooperate by not acting to the best of its ability to comply with the request for information, and may use an inference that is adverse to the company's interests in selecting from the facts otherwise available. Cantas, one of the mandatory respondents in Turkey, received, but failed to respond to, Commerce's questionnaire.⁶

Therefore, we preliminarily find that Cantas failed to provide requested information by the deadline or in the form and manner requested, and significantly impeded this inquiry.

⁶ *Id.* at 5; see also Memorandum, "Delivery Confirmation," dated September 1, 2023.

Moreover, we find that these companies failed to cooperate to the best of its ability to provide the requested information because it did not provide a response to Commerce's initial questionnaires. Consequently, we used adverse inferences with respect to Cantas in selecting from among the facts otherwise available on the record, pursuant to sections 776(a) and (b) of the Act. For details regarding the adverse facts available used in these preliminary determinations, see the Preliminary Decision Memorandum.

As detailed in the Preliminary Decision Memorandum, based on AFA, we preliminarily determine that Cantas exported inquiry merchandise and that U.S. entries of that merchandise are circumventing the *Order*. Additionally, we are preliminarily precluding Cantas from participating in the certification program that we are establishing for exports of R-410A completed in Turkey using HFC components from China, that is subsequently exported from Turkey to the United States.

Preliminary Determination of No Shipments

ICE timely responded to Commerce's circumvention questionnaire, in which it reported that it did not sell or export the merchandise covered by the circumvention inquiry to the United States during the period of inquiry.⁷ Based on the information and documentation provided by ICE, we preliminarily determine that ICE had no shipments of inquiry merchandise to the United States during the period of inquiry.

Suspension of Liquidation and Cash Deposit Requirements

Based on the preliminary affirmative country-wide determination of circumvention for Turkey, in accordance with 19 CFR 351.226(l)(2), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of R-410A, completed in Turkey using China-origin components, that were entered, or withdrawn from warehouse, for consumption on or after July 7, 2023, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.⁸ CBP shall require cash deposits in accordance with the rate established for the China-wide entity, *i.e.*, 216.37 percent,⁹ for entries

⁷ See ICE's Letter, "ICE Sogutma Sanayi Ve Ticaret Ltd. STI's Response to the Department's August 28, 2023 Initial Questionnaire," dated October 5, 2023.

⁸ See *Initiation Notice*, 88 FR at 43275.

⁹ See *Order*, 81 FR at 55438.

of such merchandise produced in Turkey.

R-410A produced in Turkey from HFC blends that is not of China origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *Order*. If an importer imports R-410A from Turkey and claims that it was not produced using China-origin HFC components, in order to not be subject to the *Order* cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in the “Certifications” and “Certification Requirements for Turkey” sections, below.

Commerce has established the following third-country case number for Turkey in the Automated Commercial Environment (ACE) for such entries: A-489-400-000. For Cantas, which will not be permitted to certify that its merchandise was not produced from China-origin HFC components, Commerce will direct CBP, for all entries of R-410A from Turkey produced or exported by Cantas, to suspend liquidation and require a cash deposit at the rate established for the China-wide entity, *i.e.*, 216.37 percent, under this third country case number.¹⁰

Where no certification is provided for an entry, and the *Order* potentially applies to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate established for the China-wide entity, *i.e.*, 216.37 percent, under the third country case number above. These suspension of liquidation instructions will remain in effect until further notice.

Certified Entries

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

Certifications

To administer the preliminary affirmative country-wide determination of circumvention, Commerce established importer and exporter certifications, which allow companies to certify that specific entries of R-410A

from Turkey are not subject to suspension of liquidation or the collection of cash deposits pursuant to this preliminary affirmative country-wide determination of circumvention because the merchandise is not made with China-origin components (*see* Appendix II to this notice).

Because Cantas was non-cooperative, it is not currently eligible to use the certification described above.¹¹ Commerce may reconsider the eligibility of Cantas in the certification process in a future administrative review. Each year during the anniversary month of the publication of an AD or countervailing duty (CVD) order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an administrative review of the *Order* should wait until Commerce announces via the **Federal Register** the next window during the anniversary month of the publication of the *Order* to submit such requests. The anniversary month for this *Order* is August.

Importers and exporters that claim that the entry of R-410A from Turkey is not subject to suspension of liquidation or the collection of cash deposits because the merchandise is not made with China-origin components must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Turkey

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the

importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.*, invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the R-410A that was manufactured in Turkey to the United States.

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

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

For unliquidated entries (and entries for which liquidation has not become final) of R-410A from Turkey that were declared as non-AD type entries (*e.g.*,

¹⁰ Cantas is not currently eligible to participate in the certification program as either producer or exporter. In addition, other parties exporting R-410A produced by Cantas will likewise not be eligible to participate in the certification program with regard to such products.

¹¹ See Preliminary Decision Memorandum at the “Use of Facts Available with Adverse Inferences” section; *see also, e.g., Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672, 54675–76 (October 13, 1998).

type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period July 7, 2023 (the date of initiation of these circumvention inquiries), through the date of publication of the preliminary determination in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (e.g., type 01 to type 03). Importers should report those AD type entries using the third country case numbers identified in the "Suspension of Liquidation and Cash Deposit Requirements" section, above. The importer should pay cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties.

If it is determined that an importer and/or exporter has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this preliminary affirmative country-wide determination of circumvention and the *Order*,¹² all unliquidated entries for which these requirements were not met and to require the importer to post applicable cash deposits equal to the rate noted above.

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

Verification

As provided in 19 CFR 351.307, Commerce may verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments should be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the verification report is issued. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹³ Interested parties who submit case briefs or rebuttal briefs in these proceedings must submit: (1) a statement of the issue; (2)

a brief summary of the argument; and (3) a table of authorities.¹⁴

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In these circumvention inquiries, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁵ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination of this circumvention inquiry. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues that the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

U.S. International Trade Commission Notification

Consistent with section 781(e) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of this preliminary determination to

include the merchandise subject to these circumvention inquiries within the *Order*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

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

Dated: December 4, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Application of Facts Available and Use of Adverse Inferences
- VII. Statutory and Regulatory Framework for the Circumvention Inquiry
- VIII. Analysis of Statutory Criteria for the Circumvention Inquiry
- IX. Summary of Statutory Analysis
- X. Country-Wide Affirmative Determination of Circumvention and Certification Requirements
- XI. Recommendation

Appendix II

Importer Certification

I hereby certify that:

A. {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the hydrofluorocarbon (HFC) blend R-410A produced in Turkey that entered under the entry number(s) identified below, and which are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The R-410A covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

¹² See *Order*.

¹³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁶ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).

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

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

D. The R-410A covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED} located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. 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 HFC components (i.e., R-32 and R-125) used to produce the R-410A);

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

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller's Address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Country of Origin of HFC Components:

Producer:

Producer's Address:

G. The R-410A covered by this certification do not contain HFC components (i.e., R-32 and R-125) produced in the People's Republic of China (China);

H. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, chemical testing specifications, productions records, invoices, etc.) for the later of: (1) the date that is five years after the date of the latest entry covered by the certification or; (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification or; (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer and exporter certifications as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) order on R-410A from Turkey. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

O. 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 OF COMPANY OFFICIAL}

{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES}; located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES};

B. I have direct personal knowledge of the facts regarding the production and exportation of the hydrofluorocarbon (HFC) blend R-410A for which sales are identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

C. The R-410A, and the individual components thereof, covered this certification were produced by {NAME OF PRODUCING COMPANY}, located at

{ADDRESS OF shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The R-410A produced in Turkey do not contain HFC components (i.e., R-32 and R-125) produced in the People's Republic of China (China);

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer

Line item #:

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller: (If the foreign seller and the producer are the same party, put NA here.)

Name of Producer of HFC Components:

Location (Country) of Producer of HFC Components:

F. The R-410A covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, chemical testing specifications, productions records, invoices, etc.) for the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty order on R-410A from Turkey. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**; and

M. 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 OF COMPANY OFFICIAL}

{DATE}

[FR Doc. 2023-27130 Filed 12-8-23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-028]

Antidumping Duty Order on Hydrofluorocarbon Blends From the People's Republic of China: Preliminary Affirmative Determination of Circumvention With Respect to R-410A and R-407C From Malaysia

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of R-410A and R-407C, completed in Malaysia using the People's Republic of China (China)-origin components, and exported from Malaysia, as specified below, are circumventing the antidumping duty (AD) order on hydrofluorocarbon blends (HFC blends) from China.

DATES: Applicable December 11, 2023.

FOR FURTHER INFORMATION CONTACT: Jerry Xiao, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2273.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 2016, Commerce published in the **Federal Register** the AD order on HFC blends from China.¹ On July 7, 2023, Commerce initiated a country-wide circumvention inquiry to determine whether imports of R-410A and R-407C, completed in Malaysia using HFC components, R-32 (difluoromethane), R-125 (pentafluoroethane), and R-134a (1,1,1,2-tetrafluoroethane) (collectively, China-origin components) manufactured in China, are circumventing the *Order* and, accordingly, should be covered by the scope of the *Order*.² The sole respondent in this circumvention inquiry is Juara Teguh Resources PLT (Juara).³ For a complete description of the events that followed the initiation of this circumvention inquiry, see the Preliminary Decision Memorandum.⁴

Scope of the Order

The merchandise covered by the *Order* is certain HFC blends. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.⁵

Merchandise Subject to the Circumvention Inquiries

This circumvention inquiry covers R-410A and R-407C, completed in Malaysia using China-origin HFC components and subsequently exported from Malaysia to the United States.

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. For a complete description of the methodology underlying this circumvention inquiry, see the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is

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

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

³ See Memorandum, "Respondent Selection," dated August 14; see also Commerce's Letter, "Custom Blends from Malaysia Initial Questionnaire," dated August 23, 2023 (Initial Questionnaire).

⁴ See Memorandum, "Hydrofluorocarbon Blends from the People's Republic of China: Preliminary Decision Memorandum for the Circumvention Inquiry of the Antidumping Duty Order with Respect to Imports of R-410A and R-407C from Malaysia," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁵ *Id.* at 2-3.

included in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Preliminary Circumvention Determination

As detailed in the Preliminary Decision Memorandum, and based on the "Use of Adverse Facts Available (AFA)" section, Commerce preliminarily determines that R-410A and R-407C completed in Malaysia using HFC components from China, that are subsequently exported from Malaysia to the United States, are circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we preliminarily determine that the inquiry merchandise should be included within the scope of the *Order*. See the "Suspension of Liquidation and Cash Deposit Requirements" section below for details regarding suspension of liquidation and cash deposit requirements. See the "Certified Entries" section below for details regarding Commerce's preliminary decision concerning certifications for inquiry merchandise exported from Malaysia.

Use of AFA

Pursuant to section 776(a) of the Act, if the necessary information is not available on the record, or an interested party withholds requested information, fails to provide requested information by the deadline or in the form and manner requested, or significantly impedes a proceeding, Commerce shall use the facts otherwise available in reaching the applicable determination. Moreover, pursuant to section 776(b) of the Act, Commerce may use inferences adverse to the interests of an interested party in selecting from among the facts otherwise available if the party fails to cooperate by not acting to the best of its ability to provide requested information.

We requested information from Juara. In the Initial Questionnaire, Commerce explained that, if the company to which Commerce issued the questionnaire fails to respond to the questionnaire, or fails to provide the requested information, Commerce may find that the company failed to cooperate by not acting to the best of its ability to comply with the