

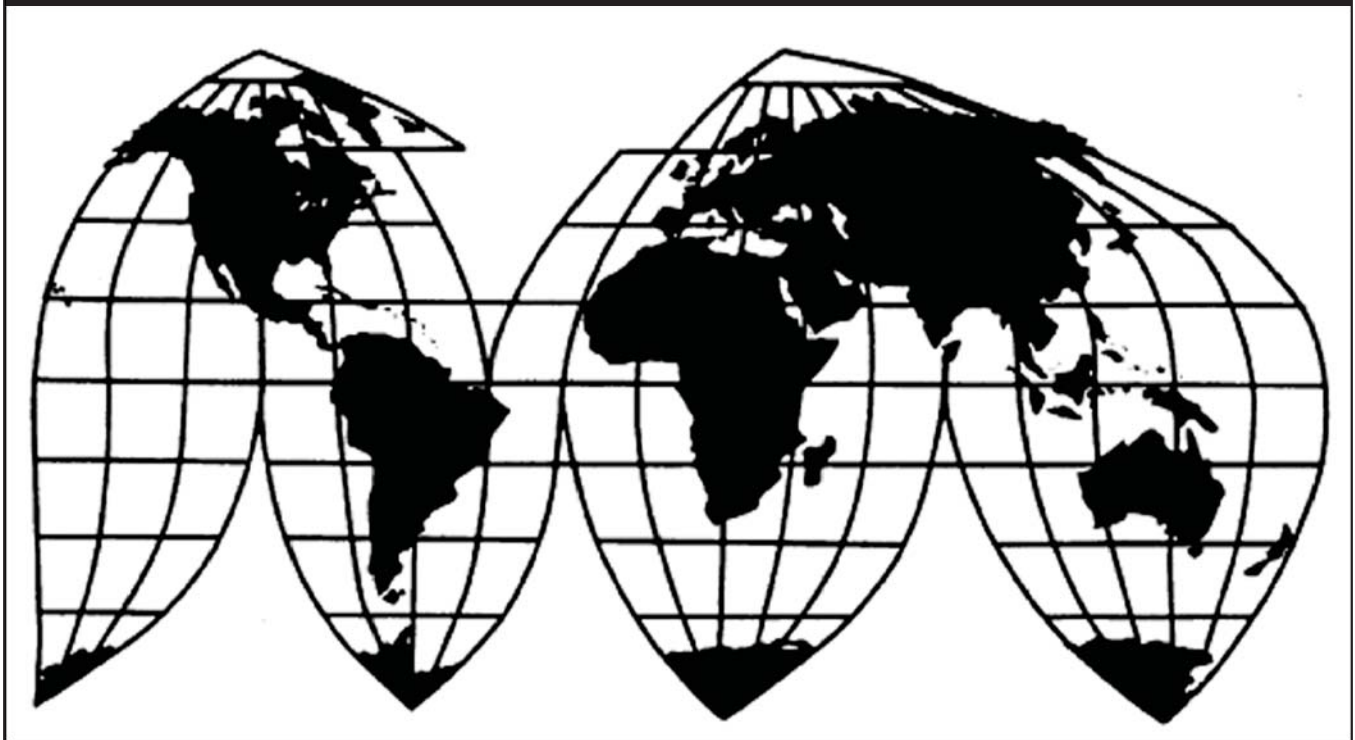
High Pressure Steel Cylinders from China

Investigation Nos. 701-TA-408 and 731-TA-1188 (Final)

Publication 4328

June 2012

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-480 and 731-TA-1188 (Final)

HIGH PRESSURE STEEL CYLINDERS FROM CHINA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) and (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports of high pressure steel cylinders from China, provided for in subheading 7311.00.00 of the Harmonized Tariff Schedule of the United States, that the U.S. Department of Commerce has determined are subsidized and sold in the United States at less than fair value (“LTFV”).²

BACKGROUND

The Commission instituted these investigations effective May 11, 2011, following receipt of a petition filed with the Commission and Commerce by Norris Cylinder Company, Longview, Texas. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of high pressure steel cylinders from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and dumped within the meaning of 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission’s investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on January 23, 2012 (77 FR 3281). The hearing was held in Washington, DC, on May 1, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR § 207.2(f)).

² All six Commissioners voted in the affirmative.

VIEWS OF THE COMMISSION

Based on the record in the final phase of these investigations, we find that an industry in the United States is materially injured by reason of imports of high pressure steel cylinders (“HPSCs”) from China found by the U.S. Department of Commerce (“Commerce”) to be subsidized and sold in the United States at less than fair value.

I. BACKGROUND

The Norris Cylinder Company (“Norris”) filed the petitions in these investigations. It appeared at the hearing and submitted prehearing and posthearing briefs. Chinese producer and exporter Beijing Tianhai Industry Co. Ltd. and its wholly owned U.S. subsidiary, importer America Fortune Company (collectively, “BTIC”), entered appearances, participated in the hearing, and submitted joint prehearing and posthearing briefs.¹

U.S. industry data are based on the questionnaire response of Norris, which accounted for all U.S. production of HPSCs during 2011.² U.S. import data are based on responses to importer questionnaires.³ Two importers, ***, accounted for *** percent of subject imports during 2011.⁴ Chinese industry data are based on the questionnaire response of Respondent BTIC, which accounted for an estimated *** percent of total production of HPSCs in China and accounted for an estimated *** percent of total exports of HPSCs from China in 2011.⁵

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁶ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁷ In turn, the Tariff Act defines “domestic like product” as “a

¹ Confidential Staff Report, INV-KK-056 (May 17, 2012) “CR” at I-3 n.5; Public Report, High Pressure Steel Cylinders from China, Inv. Nos. 701-TA-480 and 731-TA-1188 (Final), USITC Pub 4238 (June 2012) (“PR”) at I-3 n.5.

² CR/PR at III-1. Norris also provided complete data for the Huntsville, Alabama facility previously owned by Taylor Wharton International Incorporated (“TWI”) and which produced HPSCs of 150 cubic feet and less. CR/PR at VI-1 n.2; VI-6 n.10, PR at VI-3 n.10. TWI entered bankruptcy and ceased operations during the period examined. CR/PR at III-1 n.2.

³ CR/PR at IV-1. None of the parties objected to using the questionnaire data rather than import statistics to measure imports.

⁴ CR/PR at IV-1.

⁵ CR/PR at VII-2.

⁶ 19 U.S.C. § 1677(4)(A).

⁷ 19 U.S.C. § 1677(4)(A).

product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”⁸

The decision regarding the appropriate domestic like product in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁹ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹⁰ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹¹ Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹² the Commission determines what domestic product is like the imported articles Commerce has identified.¹³

B. Scope of These Investigations

Commerce defined the scope of the imported merchandise under investigation (HPSCs) as follows:

seamless steel cylinders designed for storage or transport of compressed or liquefied gas (“HPSCs”). HPSCs are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (“DOT”) approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT-E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. HPSCs covered by the investigation have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702

⁸ 19 U.S.C. § 1677(10).

⁹ See, e.g., Cleo Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

¹⁰ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹¹ Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

¹² See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

¹³ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); Torrington, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations in which Commerce found five classes or kinds).

cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of the investigation are HPSCs manufactured to UN-ISO-9809-1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.¹⁴

HPSCs within the scope of the investigations are seamless steel containers that are circular in cross section and tapered at the top to form a neck that is fitted with a screw-in steel or brass shut-off valve. They are designed for transporting, storing, and dispensing a wide variety of compressed gases for industrial, medical, laboratory, welding, fire suppression, and other applications.¹⁵ Compressed gases are often corrosive or flammable, so the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (DOT) has set manufacturing process and product performance standards for HPSCs sold in the U.S. market.¹⁶ All HPSCs within the scope have the symbol of a DOT-approved manufacturer permanently impressed into the steel. The DOT's specifications provide for each cylinder type the requirements for sizes, service pressures, steel grades, product-quality standard, heat treatment, hydrostatic pressure and leakage testing, yield, tensile, and elongation testing, and marking.¹⁷ As noted above, Commerce's scope specifically excludes high pressure cylinders made to certain international ISO standards: UN-ISO-9809-1 and 2 specifications.

C. Analysis

Respondent BTIC contends that certain HPSCs that Commerce has explicitly excluded from its scope definition, HPSCs manufactured to the UN-ISO-9809-1 specification ("ISO cylinders"), should be included in the Commission's definition of the domestic like product.¹⁸ BTIC also argues that the Commission should find two domestic like products, one corresponding to HPSCs of 150 cubic feet or less, and a second like product defined as HPSCs greater than 150 cubic feet.¹⁹

Petitioner Norris maintains that the Commission should define a single domestic like product that is coextensive with Commerce's scope definition.²⁰ We discuss each of these issues in turn.

1. Whether to Include ISO Cylinders in the Definition of the Domestic Like Product

In past investigations, the Commission has considered whether to define the domestic like product to include a product outside the scope by comparing merchandise within the scope with the product outside the scope using the same six like product factors that it considers when deciding whether

¹⁴ Notice of Final Determination of Sales at Less than Fair Value: High Pressure Steel Cylinders from the People's Republic of China, 77 Fed. Reg. 26739 (May 7, 2012); High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 77 Fed. Reg. 26738 (May 7, 2012).

¹⁵ CR at I-7, PR at I-6.

¹⁶ CR at I-8-I-9, PR at I-7-I-8.

¹⁷ See CR at I-9 n.14, PR at I-7 n.14.

¹⁸ BTIC's Prehearing Brief at 5-7.

¹⁹ BTIC's Prehearing Brief at 10.

²⁰ Norris's Prehearing Brief at 11.

to find separate like products within the scope of the investigation.²¹ We find that these factors, on balance, do not support expanding the domestic like product to include ISO cylinders.

Physical Characteristics and End Uses. The record indicates that within-scope HPSCs (“DOT cylinders”) and ISO cylinders share similar physical characteristics and end uses; they are all steel cylinders designed for transportation and storage of compressed gases.²² One distinction between the two types of cylinders is that the great majority of the ISO cylinders that Norris produces are made with a steel alloy, AISI 4137, that is not used for DOT cylinders.²³ AISI 4137 reportedly has a greater tensile strength than the steel alloys used for DOT cylinders, and results in an ISO cylinder that weighs up to 22 percent less than a comparably-sized DOT cylinder.²⁴

Interchangeability. In September 2006, the DOT adopted a final rule permitting shippers to use either a DOT cylinder or ISO cylinder, “as appropriate for individual gases and circumstances.”²⁵ Further, approximately *** percent of Norris’s HPSCs are dual stamped, which means they comply with both DOT and ISO standards.²⁶ Therefore, there is at least theoretical interchangeability between ISO and DOT HPSCs in some sizes and specifications.²⁷ Norris, however, provided evidence that interchangeability is limited because ISO cylinders cannot be used for certain gases at certain pressures.²⁸

Channels of Distribution. Norris argues that the limited market for ISO cylinders in the United States means that ISO cylinders and DOT cylinders do not share the same channels of distribution.²⁹ While the majority of Norris’s ISO cylinders are exported,³⁰ Norris did report shipping *** ISO cylinders to U.S. customers in 2011.³¹ Thus ISO cylinders and HPSCs do share some channels of distribution.

Manufacturing Facilities, Production Processes, and Employees. Norris produces ISO cylinders and DOT cylinders in the same production facilities using the same employees.³² The production processes are the same except that ISO cylinders must undergo additional expensive ultrasonic and hardness testing not required for DOT cylinders.³³

Producer and Customer Perceptions. Purchasers generally reported that they do not consider ISO cylinders and HPSCs to be similar products. Purchasers were asked whether they perceived ISO cylinders and HPSCs to be similar and eight of the fourteen who responded to the question answered

²¹ See Superalloy Degassed Chromium, USITC Pub. 3768 at 7; Aluminum Plate from South Africa, USITC Pub 3734 at 7; Ironing Tables and Certain Parts Thereof from China, Inv. No. 731-TA-1047 (Final), USITC Pub. 3711 (July 2004) at 6-7; Certain Wax/Resin Thermal Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 (Apr. 2004) at 8.

²² See Conference Tr. at 33-34 (Van Auken). See High Pressure Steel Cylinders from China, Inv. Nos. 701-TA-480 and 731-TA-1188 (Preliminary), USITC Pub 4241 (July 2011) (“USITC Pub. 4241”) at I-10 n.40 (describing ISO standards).

²³ Hearing Transcript (“Tr.”) at 95 (Van Auken).

²⁴ Tr. at 96-97 (Van Auken); Norris’s Prehearing Brief at 14.

²⁵ Cyl-Tec Postconference Brief at Exhibit 1.

²⁶ Norris’s Posthearing Brief, Answers to Commission Questions at 16.

²⁷ See Tr. at 158 (ISO specification 9809-1 is essentially the same as DOT specification) (Bennett).

²⁸ Norris’s Prehearing Brief at 15.

²⁹ Norris’s Prehearing Brief at 13.

³⁰ CR at I-19 n.79 and Table E-1, PR at I-16 n.79 and Table E-1.

³¹ CR/PR at Table E-1.

³² Tr. at 98 (Van Auken).

³³ Tr. at 95 (Van Auken); CR at I-18, PR at I-15; Norris’s Prehearing Brief at 16.

“no.”³⁴ ISO cylinders were introduced only recently to the United States as the ISO standards are relatively new.³⁵ Testimony at the hearing indicates that customers’ unfamiliarity with the metric markings on ISO cylinders has resulted in limited acceptance of ISO cylinders in the United States.³⁶

Price. ISO cylinders are priced substantially higher in the United States than DOT cylinders due to ISO cylinders’ higher cost of production. Norris reports that its cost of production is approximately \$*** more for an ISO cylinder than a DOT cylinder.³⁷ BTIC maintains that the sales values are comparable.³⁸ Importer Cyl-Tec indicates that ISO cylinders ***.³⁹ The majority of purchasers also reported that ISO cylinders are priced higher than HPSCs.⁴⁰

Conclusion. ISO cylinders have many of the same physical characteristics and end uses as DOT cylinders, and they are interchangeable with DOT cylinders for at least some uses. Both ISO cylinders and DOT cylinders are made by a similar production process in the same facilities by the same employees.

Purchasers, however, do not view the two types of cylinders as interchangeable because the ISO specifications are relatively new and clearly distinct from the more-familiar DOT specifications and because ISO cylinders are priced substantially higher. Additionally, ISO cylinders are generally made from a different steel alloy than HPSCs and undergo more rigorous testing procedures. Although it is a close question, we do not include ISO cylinders in the definition of the domestic like product.

2. Whether to Define Two Domestic Like Products: HPSCs 150 Cubic Feet and Below and HPSCs above 150 Cubic Feet

In the preliminary phase of the investigations, the Commission found that large HPSCs (over 150 cubic feet) and small HPSCs (150 cubic feet or less) share physical characteristics and end uses, although the production processes, facilities, and employees used to manufacture the products differed.⁴¹ The record in the preliminary phase was less clear with respect to price, channels of distribution, and producer and customer perceptions, and the Commission found that the 150 cubic feet sized cylinders did not constitute a clear dividing line upon which to base a finding of separate like products. The Commission noted that it does not generally divide a continuum of sizes of products absent a clear dividing line and declined to find two separate domestic like products.⁴²

In the final phase of the investigations, there is no additional information suggesting that large and small HPSCs should be defined as separate domestic like products. The subject merchandise includes HPSCs across a continuum of sizes. Large and small HPSCs share physical characteristics and end uses. The record, as it did in the preliminary phase, indicates two distinctions between large and small HPSCs. Large and small HPSCs are, to some extent, produced at different facilities by different production

³⁴ In response to question II-9 in the purchaser questionnaire, which asks purchasers whether they or their customers perceive HPSCs and ISO cylinders to be similar products, eight of 20 purchasers answered “no” and five answered “yes,” one answered both “yes” and “no,” and six did not respond to the question.

³⁵ Cyl-Tec’s Postconference Brief at 5; Norris’s Postconference Brief at 14.

³⁶ Tr. at 95 (Van Auken). See also CR at I-19 n. 76, PR at I-15 n.76 (purchasers unfamiliar with metric specifications).

³⁷ By comparison, Norris average unit value of shipments for its HPSCs was \$*** in 2011. CR/PR at Table C-1.

³⁸ CR at II-11 n.13, PR at II-7 n.13; BTIC’s Prehearing Brief at 6.

³⁹ CR at G-10, PR at G-6.

⁴⁰ CR at II-11, PR at II-6.

⁴¹ USITC Pub. 4241 at 9-10.

⁴² USITC Pub. 4241 at 9-10.

processes and with different employees⁴³ and end users tend to lease larger HPSCs as opposed to purchasing smaller HPSCs.⁴⁴ Although we acknowledge these limited distinctions between the size ranges, we find similarities in physical characteristics and end uses and a continuum of domestically produced HPSCs. Consequently, we find that there is no clear dividing line between large and small HPSCs and we define one domestic like product coextensive with Commerce's scope.

III. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁴⁵ In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. Based upon our definition of the domestic like product, we define the domestic industry to be Norris, the sole U.S. producer of HPSCs.⁴⁶

IV. LEGAL STANDARDS

A. In General

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.⁴⁷ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁴⁸ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁴⁹ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵⁰ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁵¹

⁴³ At the time of the preliminary determination, Norris was using the “billet piercing process” for HPSCs sized above 150 cubic feet and the “spun-from-tube process” for HPSCs up to 150 cubic feet. CR at I-13-I-14, PR at I-11-I-12. Norris now billet pierces some of its small HPSCs (85, 125, and 150 cu. ft.) at Longview, TX and then performs finishing operations at Huntsville, AL. Norris also primarily produces large HPSCs in its facility in Longview, Texas, and small HPSCs in its facility in Huntsville. CR/PR at III-1. See VI-6 n.10, PR at VI-3 n.10.

⁴⁴ See CR at I-12, PR at I-10.

⁴⁵ 19 U.S.C. § 1677(4)(A).

⁴⁶ There are no related party issues in these investigations, as Norris is not related to a foreign producer or importer and did not import the subject merchandise during the period examined. CR at III-2, PR at III-1.

⁴⁷ 19 U.S.C. §§ 1671d(b), 1673d(b).

⁴⁸ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each {such} factor ... and explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

⁴⁹ 19 U.S.C. § 1677(7)(A).

⁵⁰ 19 U.S.C. § 1677(7)(C)(iii).

⁵¹ 19 U.S.C. § 1677(7)(C)(iii).

Although the statute requires the Commission to determine whether the domestic industry is “materially injured or threatened with material injury by reason of” unfairly traded imports,⁵² it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.⁵³ In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.⁵⁴

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.⁵⁵ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.⁵⁶ Nor does the

⁵² 19 U.S.C. §§ 1671d(a), 1673d(a).

⁵³ Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), aff’d, 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

⁵⁴ The Federal Circuit, in addressing the causation standard of the statute, observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred “by reason of” the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

⁵⁵ SAA at 851-52 (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, 542 F.3d at 877.

⁵⁶ SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Invs. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an ‘other causal factor,’

continue...

“by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.⁵⁷ It is clear that the existence of injury caused by other factors does not compel a negative determination.⁵⁸

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”⁵⁹ ⁶⁰ Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁶¹

The Federal Circuit’s decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject

⁵⁶ ...continue

then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

⁵⁷ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

⁵⁸ See Nippon Steel Corp., 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

⁵⁹ Mittal Steel, 542 F.3d at 877-78; see also id. at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

⁶⁰ Commissioner Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal Steel, held that the Commission is required, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of nonsubject imports, albeit without reliance upon presumptions or rigid formulas. Mittal Steel explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price-competitive, nonsubject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether nonsubject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

⁶¹ Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

imports.⁶² The additional “replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission’s interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record” to “show that the harm occurred ‘by reason of’ the LTFV imports,” and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.⁶³ Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.⁶⁴

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.⁶⁵ Congress has delegated this factual finding to the Commission because of the agency’s institutional expertise in resolving injury issues.⁶⁶

V. CONDITIONS OF COMPETITION AND THE BUSINESS CYCLE

The following conditions of competition inform our analysis of whether there is material injury by reason of subject imports.

A. Demand Considerations

HPSCs are used for the transportation and storage of compressed or liquified gases.⁶⁷ Demand for HPSCs is related to overall economic activity and more particularly to their use in several markets,

⁶² Mittal Steel, 542 F.3d at 875-79.

⁶³ Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

⁶⁴ To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission’s causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

⁶⁵ We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

⁶⁶ Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 (“The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.”).

⁶⁷ CR at I-3, PR at I-3.

which include construction, industrial and manufacturing, medical, beverage, and specialty gas/scuba.⁶⁸ Construction and industrial and manufacturing are the largest market sectors.⁶⁹

As a result of the recession, construction spending in the United States fell sharply throughout 2009 and early 2010 and then stabilized at the 2010 level.⁷⁰ The consequent decline in demand for HPSCs was dramatic, and apparent U.S. consumption of HPSCs was *** percent lower in 2009 than during 2008.⁷¹ Apparent U.S. consumption fell sharply from *** units in 2008 to *** units in 2009, rebounded by *** percent to *** units in 2010, and then increased by an additional *** percent to *** units in 2011.⁷² Apparent consumption of both small HPSCs (150 cubic feet capacity and below) and large HPSCs (above 150 cubic feet) increased over the period examined, although the rate of increase was higher for large cylinders (146.2 percent compared to 53.9 percent for small).⁷³

There were three principal types of customers for HPSCs during the period of investigation, “majors,” original equipment manufacturers (“OEMs”), and buying groups.⁷⁴ The so-called “majors” are compressed-gas distributors that purchase cylinders directly from manufacturers. OEMs – often in the fire-suppressant or breathing-air supply markets – package HPSCs into their products for sales to their end-use customers.⁷⁵ The third group of customers are “buying groups,” which are consortia of smaller end-use customers that use their collective negotiating power to negotiate annual price and payment terms with vendors of construction materials, including HPSCs. The buying groups compare these offers from HPSC vendors and may or may not select a “preferred” vendor for the buying group. Norris reports that its sales volume to buying groups has recently declined. In 2010, buying groups accounted for *** of Norris’s sales volume, but in 2011, they accounted for only *** percent.⁷⁶

B. Supply Considerations

Norris, the only remaining domestic producer, has production facilities at its headquarters in Longview, Texas, as well as in Huntsville, Alabama. Norris acquired the Huntsville facility from former

⁶⁸ Tr. at 152-153 (Bennet).

⁶⁹ See CR at I-8, PR at I-7. Petitioner and Respondent BTIC estimate that these uses constitute about *** percent of the market. The relative sizes of each market segment are not entirely clear since Norris and BTIC defined the market segments differently.

⁷⁰ See CR at II-7 and Fig II-1, PR at II-4 and Fig II-1.

⁷¹ Memorandum INV-JJ-073 (June 20, 2011) at Table C-1. We agree with Respondent BTIC that it is not appropriate in these investigations to expand the period of investigation to four years from the Commission’s standard three years. Nonetheless, the statute directs the Commission to evaluate factors relevant to the condition of the industry within the context of the business cycle. 19 U.S.C. § 1677(7)(C)(iii). In these investigations, we believe it is important to recognize that the severe economic downturn in 2008 and 2009 led to wide swings in apparent U.S. consumption. We therefore take account of the level of apparent U.S. consumption in 2008.

⁷² CR/PR at Table C-1 and Memorandum INV-JJ-073 (June 20, 2011) at Table C-1.

⁷³ The compressed-gas industry treats HPSCs as either “asset” or “non-asset” cylinders, depending on their size and ownership. Smaller HPSCs, *i.e.*, those 150 cubic feet and under, are generally considered “non-asset” cylinders, because they are generally purchased by the end user. HPSCs over 150 cubic feet are treated as assets by distributors and are more likely to be leased to customers. HPSCs can have a life span of many years although they require re-certification every 10 years. CR at I-12, PR at I-10-I-11; Tr. at 64 (Van Auken).

⁷⁴ CR at I-11, PR at I-10.

⁷⁵ CR at I-11, PR at I-10.

⁷⁶ CR at II-3, PR at II-1.

domestic producer TWI.⁷⁷ Norris focuses on the production of HPSCs with gas capacities over 150 cubic feet at its Longview plant and HPSCs with gas capacities of 150 cubic feet and under at its Huntsville plant.⁷⁸ Until its acquisition of the Huntsville plant in June 2010, Norris relied upon Canadian producer Worthington Industries to supply it with HPSCs with gas capacities of up to 80 cubic feet.⁷⁹

China was the largest source of HPSCs to the U.S. market by the end of the period of investigation.⁸⁰ The Chinese producers' share of apparent U.S. consumption by quantity increased from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.⁸¹ Nonsubject imports were the second largest source of HPSCs.⁸² They accounted for *** percent of apparent U.S. consumption in 2009, *** percent in 2010, and *** percent in 2011.⁸³ The majority of nonsubject imports throughout the period examined were from Canada.⁸⁴

C. Substitutability and Other Conditions

We find that there is a high degree of substitutability between domestic and imported HPSCs. DOT requires manufacturers of HPSCs, including overseas producers, to obtain production site and product-type approvals for all HPSCs sold and/or used in the United States. The testing is the same for all HPSCs sold in the United States regardless of source.⁸⁵ In addition, most purchasers report that the subject imports and domestically produced HPSCs are interchangeable. Thirteen of 17 responding purchasers reported that subject imports and domestically produced HPSCs were "always" or "frequently" interchangeable.⁸⁶ Also, a majority or plurality of purchasers rated domestic HPSCs and subject imports as comparable on all 15 enumerated factors except for price.⁸⁷ There was a significant overlap of competition between domestically produced cylinders and subject imports in all size categories.⁸⁸

⁷⁷ CR/PR at VI-1 n.2. TWI maintained production facilities in Harrisburg, Pennsylvania, and Huntsville, Alabama. Norris acquired the Huntsville plant and a forge (billet pierce press) from the Harrisburg, Pennsylvania plant. That plant is currently idle and was not acquired by Norris. CR/PR at VI-1 n.2. Production at the Huntsville facility continued throughout the bankruptcy and Norris's acquisition. Norris's Posthearing Brief, Answers to Commissioners' Questions at 3.

⁷⁸ CR/PR at VI-1. Respondents have alleged that the Huntsville facility is antiquated, but Norris has certified that its plant at Huntsville, AL is a state-of-the-art facility with ***. See CR at VI- 5 n.5, PR at VI-3 n.5.

⁷⁹ See CR/PR at III-1-III-2.

⁸⁰ See CR/PR at Table IV-3.

⁸¹ CR/PR at Table IV-3.

⁸² See CR/PR at Table IV-3.

⁸³ CR/PR at Table IV-3.

⁸⁴ See CR/PR at Table IV-3.

⁸⁵ CR at I-8-I-9, PR at I-7-I-8.

⁸⁶ CR/PR at Table II-5.

⁸⁷ See CR/PR at Table II-7.

⁸⁸ CR/PR at Tables III-3 and VII-3 (indicating that in 2011 *** percent of Norris's shipments and *** percent of subject imports were HPSCs with capacities above 150 cubic feet).

Raw materials represent a substantial share of the cost of HPSCs. They accounted for *** percent of the cost of goods sold (“COGS”) in 2011.⁸⁹ Chrome alloy steel is the principal raw material used in the fabrication of HPSCs.⁹⁰

VI. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

Based on the record in the final phase of these investigations, we find that an industry in the United States is materially injured by reason of imports of HPSCs from China that Commerce has found to be sold in the United States at less than fair value and subsidized by the Government of China.

A. Volume of Subject Imports

In evaluating the volume of subject imports, section 771(7)(C)(i) of the Tariff Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”^{91 92}

We find the volume of subject imports and the increase in volume to be significant, both in absolute terms and relative to consumption and production in the United States. The volume of subject imports measured by quantity increased overall by 155.9 percent during the period of investigation, from *** HPSCs in 2009 to *** HPSCs in 2010 and *** HPSCs in 2011.^{93 94} Subject imports increased their share of the U.S. market by quantity from *** percent in 2009 to *** percent in 2010 and *** percent in 2011, and by value, from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.^{95 96}

The ratio of subject imports to U.S. production was also significant and increased significantly during the period, despite increased U.S. production. The ratio increased from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.⁹⁷

Subject imports captured market share from both the domestic industry and from nonsubject imports in both the large and small-sized HPSC segments of the market. In the over 150 cubic feet

⁸⁹ CR/PR at V-1.

⁹⁰ CR/PR at V-1.

⁹¹ 19 U.S.C. § 1677(7)(C)(i).

⁹² The imported HPSCs subject to these investigations are generally reported under HTS statistical reporting numbers 7311.00.0030 and 7311.00.0090. CR/PR at IV-1 n.1. The Commission has relied upon U.S. importer questionnaire data because the official import statistics may include some nonsubject merchandise. Id.

⁹³ CR/PR at Table IV-1.

⁹⁴ Subject imports measured by value increased from \$*** million in 2009 to \$*** million in 2010, and then to \$*** million in 2011. CR/PR at Table IV-1.

⁹⁵ CR/PR at Table IV-3.

⁹⁶ Between 2010 and 2011, America Fortune agreed to act as the importer of record for certain U.S. customers that previously had imported HPSCs directly from BTIC in China. Therefore, certain U.S. customers, including *** switched from being importers to purchasing HPSCs from America Fortune. Tr. at 139 (Zheng). Norris notes that as a result of this shift, reported subject importers’ end-of-period inventories of subject imports in 2011 are understated as these inventories are held by purchasers rather than the importer of record. *** was the only firm to report its 2011 end-of-period inventories purchased from America Fortune which were (*** units. Norris’s Posthearing Brief, Answers to Commissioners’ Questions at 24. As a result, subject imports’ market share, which is measured in terms of U.S. importers’ domestic shipments of imports, is likely slightly overstated for 2011 as some shipments of subject imports were shipments from America Fortune to these new customers that were subsequently held for some period in purchaser inventories rather than importer inventories.

⁹⁷ CR/PR at Table IV-4.

segment, subject imports increased their market share from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.⁹⁸ In the 150 cubic feet and below portion, subject imports increased their share from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.⁹⁹

Apparent U.S. consumption increased in quantity by *** percent during the period examined,¹⁰⁰ but subject import shipments increased by *** percent.¹⁰¹ As subject imports made significant gains in market share over the period, increasing from *** percent in 2009 to *** percent in 2011 (by quantity), the domestic industry's market share dropped from *** percent in 2009 to *** percent in 2011.¹⁰² The increase in subject imports' share of the U.S. market (by value) from *** percent in 2009 to *** percent in 2011 was accompanied by a decline in the domestic industry's market share (by value) from *** percent in 2009 to *** percent in 2011.¹⁰³

Nonsubject imports' share of the market decreased during the period; their share of apparent U.S. consumption decreased from *** percent in 2009 to *** percent in 2010, and then to *** percent in 2011.¹⁰⁴ Some of the decrease in nonsubject imports market share from 2010 to 2011 is to be expected given Norris's acquisition of TWI's Huntsville plant to source its smaller cylinders that it previously sourced from Canadian supplier Worthington. However, nonsubject imports also lost market share to subject imports.

Although the domestic industry's market share increased somewhat from 2010 to 2011, the industry's market share was lower overall at the end of the period than at the beginning.¹⁰⁵ Although the industry was able to increase its sales and shipments during the period examined, these increases were significantly less than the increases in apparent U.S. consumption and in subject imports. Throughout the period the industry had available excess capacity that would have allowed it to increase shipments and fill a greater share of the increased demand.

For the foregoing reasons, we find that the volume and the increase in volume of subject imports are significant, both in absolute terms and relative to consumption and production in the United States.

B. Price Effects of the Subject Imports

In evaluating the price effects of the subject imports, section 771(7)(C)(ii) of the Tariff Act provides that the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹⁰⁶

⁹⁸ CR/PR at Table C-2.

⁹⁹ CR/PR at Table C-3.

¹⁰⁰ See CR/PR at Table C-1.

¹⁰¹ CR/PR at Table C-1.

¹⁰² By quantity, the U.S. producer's market share dropped from *** percent in 2009 to *** percent in 2010, and it then rose to *** percent in 2011. CR/PR at Table IV-3.

¹⁰³ See CR/PR at Table C-1.

¹⁰⁴ CR/PR at Table IV-3.

¹⁰⁵ See CR/PR at Table IV-3.

¹⁰⁶ 19 U.S.C. § 1677(7)(C)(ii).

The record in these final phase investigations indicates that subject imports from China and domestically produced HPSCs are highly substitutable with the domestic like product.¹⁰⁷ As discussed previously, all HPSCs, domestic and imported, must meet stringent DOT standards and therefore can be considered a commodity-type product.¹⁰⁸ A majority of purchasers (13 of 17) reported that domestically produced HPSCs and subject imports are either always or frequently used interchangeably. Moreover, subject imports and the domestic like product compete for sales of both small and large HPSCs to the same customers (the majors, OEMs, and buying groups).¹⁰⁹ Price is an important factor in purchasing decisions; 17 of 20 purchasers listed price as among their top three factors considered in purchasing decisions.¹¹⁰ Most sales of HPSCs are on a spot basis.¹¹¹

The Commission collected quarterly f.o.b. pricing data for four different pricing products that accounted for a substantial share of both domestic production and subject imports. Three pricing products were HPSCs made to DOT specification 3AA2015 in three different sizes: (1) 40 cubic feet, (2) 80 cubic feet, and (3) 150 cubic feet.¹¹² The fourth pricing product was an HPSC of 300 cubic feet made to DOT specification 3AA2400. Reported pricing data accounted for *** percent of Norris's U.S. shipments of HPSCs and *** percent of U.S. shipments of subject imports from China from 2009 to 2011.¹¹³

Subject imports undersold the domestic like product in *** quarterly pricing comparisons from January 2009 to December 2011.¹¹⁴ The average margins of underselling were 28.6 percent for product 1, 27.0 percent for product 2, 19.7 percent for product 3, and 13.9 percent for product 4.¹¹⁵ Given the consistent and widespread underselling by the subject imports, we find that underselling was significant during the period examined.¹¹⁶

The available data do not provide persuasive evidence of significant price depressing or suppressing effects by the subject imports. Prices for both the domestically produced products and the subject imports fluctuated over the period.¹¹⁷ Norris's prices for all four products *** between the first quarter of 2009 and the first quarter of 2010. Its prices for products 2, 3, and 4 *** in 2010 and *** in

¹⁰⁷ See CR at II-18.

¹⁰⁸ CR/PR at Table II-5.

¹⁰⁹ Compare CR/PR at Table III-3 with CR/PR at Table VII-3.

¹¹⁰ See CR/PR at Table II-3.

¹¹¹ CR/PR at V-1 (Norris reported that *** percent of its sales were on a spot basis and all importers reported selling entirely on a spot basis.).

¹¹² CR/PR at V-2.

¹¹³ CR/PR at V-2.

¹¹⁴ CR/PR at Table V-6.

¹¹⁵ See CR Tables at V-1-V-4.

¹¹⁶ BTIC has argued that its affiliated importer, America Fortune, competes at a different level of distribution than Norris because America Fortune sells to distributors who in turn compete with Norris for sales. Tr. at 174 (Marshak); CR at V-13, PR at V-4. Even with America Fortune excluded from the underselling data, however, prices of subject imports from China were lower than U.S. prices in *** comparisons, although the average margins of underselling were smaller than those of the dataset that included America Fortune. CR at V-13, PR at V-4. The average margins of underselling were *** percent for product 1, *** percent for product 2, *** percent for product 3, and *** percent for product 4. There was one quarter of overselling of product 3 with an overselling margin of *** percent and one instance of overselling of product 4 with an overselling margin of *** percent. See CR/PR at Tables V-1-V-4. Thus, we find significant underselling even if America Fortune's sales are excluded.

¹¹⁷ CR at V-3, PR at V-2.

2011 while its prices for product 1 remained ***.¹¹⁸ These price increases occurred during a period of rapid growth in demand and increasing raw material costs.¹¹⁹ In light of the price increases in 2010 and 2011, we do not find significant price depression by reason of subject imports.

Regarding possible suppression of domestic prices, the record indicates that the domestic industry's unit COGS declined overall between 2009 and 2011, and the domestic industry's ratio of cost of goods sold ("COGS") to net sales declined during the period under examination.¹²⁰ The ratio fell from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.¹²¹ We do not find that subject imports prevented price increases, which otherwise would have occurred, to a significant degree.

The significant underselling during the period allowed subject imports to gain market share at the expense of the domestic industry. The high degree of substitutability between the subject imports and domestically produced HPSCs, the importance of price to purchasers in the U.S. market, and the prevalence of spot sales in this market exacerbate the impact of the underselling on the domestic industry's market share and facilitate the displacement of the domestic industry's sales. Responses to the lost sales allegations and to other staff questions confirm some instances in which the domestic industry lost sales to lower-priced subject imports.¹²² For the foregoing reasons, we find that there has been significant price underselling by the increasing volumes of subject imports from China that has had significant adverse effects on the domestic industry.

C. Impact of the Subject Imports¹²³

In examining the impact of subject imports, section 771(7)(C)(iii) of the Tariff Act provides that the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."¹²⁴ These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."¹²⁵

¹¹⁸ CR at V-3, PR at V-2.

¹¹⁹ CR/PR at Table VI-1 (Norris's unit raw material costs ***)).

¹²⁰ CR/PR at Table VI-1.

¹²¹ See CR/PR at Table VI-1.

¹²² See CR/PR at Table V-7. The 14 lost sales allegations were valued by Norris at \$*** million and involved over *** units. The nine lost revenue allegations were valued by Norris at about \$*** and involved over *** units of HPSCs. Lost sales of \$*** were confirmed. CR at V-13 and Tables V-7 and V-8. Although the two largest alleged lost sales totaling over \$*** to *** were not confirmed by Commission staff, Norris provided additional documentation demonstrating the domestic industry's inability to compete with subject imports' unfairly low prices. See, e.g., CR/PR at Table V-7; Norris's Prehearing Brief at 29-30 and Exhibit 4.

¹²³ The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination of sales at less than fair value for China, Commerce found the following weighted-average dumping margins: 6.62 percent for six specific producer and exporter combinations including BTIC, and 31.21 percent for all others. CR at I-6, PR at I-5; 77 Fed. Reg. at 26739 (May 7, 2012).

¹²⁴ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

¹²⁵ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Publication 3155 at 25 n.148 (Feb. 1999).

Bolstered by a strong increase in apparent U.S. consumption, many of the domestic industry's indicators improved during the period examined. As apparent U.S. consumption and general economic conditions improved in 2010 and 2011, the domestic industry returned to profitability and many of its other performance indicators rose.¹²⁶ The industry's production,¹²⁷ shipments,¹²⁸ and net sales¹²⁹ all increased during the period, and its capacity¹³⁰ remained ***. The domestic industry's productivity, hours worked, wages paid, and capital expenditures all increased as well.¹³¹ Inventories rose modestly¹³² and capacity utilization improved but remained very low.¹³³

The industry's financial performance also improved somewhat during the period examined. Although the domestic industry reported a \$*** operating *** in 2009, that improved to a \$*** operating *** in 2010, and a \$*** operating *** in 2011.¹³⁴ The industry reported a ratio of operating income to net sales of *** percent in 2009, *** percent in 2010, and *** percent in 2011.¹³⁵

On the other hand, employment decreased by *** percent during the period of investigation. The industry's number of production workers *** in 2011.¹³⁶

The U.S. industry and U.S. market began the period of investigation at the bottom of the economic downturn. In light of the subsequent recovery, it would be expected that the U.S. market and domestic industry's condition would have improved overall during the period of investigation. Despite the strong rebound in apparent U.S. consumption following a *** percent decrease during 2008-09, domestic shipments continued to fall during 2009-10 while subject imports grew significantly. As a result, subject imports increased their share of the U.S. market by *** percentage points and the domestic industry continued to ***.¹³⁷

The lost market share affected the industry's revenues and profitability, and the industry was not able to benefit fully from the recovery in the market. During 2009-11, subject imports not only increased

¹²⁶ See CR/PR at Table C-1.

¹²⁷ The domestic industry's production was *** units in 2009, *** units in 2010, and *** units in 2011. CR/PR at Table III-1.

¹²⁸ U.S. producers' U.S. shipments (by quantity) were *** units in 2009, *** units in 2010, and *** units in 2011. CR/PR at Table III-2.

¹²⁹ U.S. producers' net sales (by quantity) were *** units in 2009, *** units in 2010, and *** units in 2011. Net sales by value were \$*** million in 2009, *** million in 2010 and \$*** million in 2011. CR/PR at Table VI-1.

¹³⁰ The domestic industry's capacity was *** units throughout the period. CR/PR at Table III-1.

¹³¹ Productivity increased from *** units per 1,000 hours in 2009 to *** units per 1,000 hours in 2010, and *** units per 1,000 hours in 2011. The number of hours worked by PRWs was *** hours in 2009, *** hours in 2010, and *** hours in 2011. The wages paid to PRWs were *** in 2009, *** in 2010, and *** in 2011. CR/PR at Table III-6. Capital expenditures totaled \$*** in 2009, \$*** in 2010, and \$*** in 2011. CR/PR at Table VI-3.

¹³² CR/PR at Table III-4.

¹³³ The domestic industry's capacity utilization increased from *** percent in 2009 to *** percent in 2010 and *** percent in 2011. CR/PR at Table III-1. We note that BTIC has argued that ***. See BTIC's Prehearing Brief at 14-17. We believe Norris has ***. We find that the downtime alleged by BTIC ***. See Norris's Posthearing Brief, Answers to Commission Questions at 18.

¹³⁴ CR/PR at Table VI-1.

¹³⁵ CR/PR at Table VI-1. BTIC argues that one-time non-recurring charges distorted the financial picture of the domestic industry. See BTIC's Prehearing Brief at 29. BTIC does not dispute that these items were accounted for properly as expenses. See CR/PR at Table VI-1 n.1. Regardless of the inclusion or exclusion of these non-recurring charges in Norris's profitability data, our conclusion regarding the industry's reduced volume of sales and shipments due to the subject imports and the resulting financial impact on the industry remains the same.

¹³⁶ CR/PR at Table III-6.

¹³⁷ See CR/PR at Table C-1.

their share of the market at the expense of the domestic industry, but they did so during a period when the U.S. market was expanding rapidly (by *** percent).¹³⁸ Thus, during 2009-11 while the total U.S. market increased by *** units, subject importers were able to increase their shipments by *** units whereas U.S. producers' shipments increased by only *** units.¹³⁹ Given the close substitutability of HPSCs from all sources and the importance of price in this market, it is likely that if subject imports had not significantly undersold U.S.-produced HPSCs, a larger share of these sales would have gone to the U.S. producer with a beneficial effect on the condition of the domestic industry commensurate with the volume of additional sales.^{140 141}

We find a causal link between the subject imports and the condition of the domestic industry. While the large increase in apparent U.S. consumption enabled the industry to return to profitability and improve its financial and trade indicators to some extent, the significant increases in subject imports resulted in smaller increases in the sales, shipments, and profitability of the domestic industry at a time of significant demand growth.¹⁴²

¹³⁸ See CR/PR at Table C-1.

¹³⁹ See CR/PR at Table C-1.

¹⁴⁰ There is no record evidence to suggest that the domestic industry was unable to supply the U.S. market during the period examined. The industry's capacity utilization rate remained low throughout the period at *** percent in 2009, *** percent in 2010, and *** percent in 2011. CR/PR at Table III-1. As recently as 2008, the domestic industry reported a rate of capacity utilization of *** percent, indicating that the industry would have been able to supply a substantially greater portion of the U.S. market during the period examined. See Memorandum INV-JJ-073 (June 20, 2011) at C-1; CR/PR at Table C-1.

¹⁴¹ Commissioners Pearson, Pinkert, and Johanson find, in light of the massive increase in apparent consumption during the period under examination (2009 to 2011) and its effect on other indicia of impact, that it is instructive to compare the domestic industry's performance in 2011 with its performance in 2008, when apparent consumption was roughly at the level experienced in 2011 and subject import market share was ***. In 2008, the domestic industry had a market share of *** and enjoyed significantly more robust performance than in 2011. See Table C-1 at OINV Memorandum INV-55-073 (June 20, 2011).

¹⁴² We reach this conclusion without according less weight to the 2011 data under 19 U.S.C. § 1677(7)(I) (post-petition information). This statutory provision provides that "the Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation . . . is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury . . ." The petitions in these investigations were filed on May 11, 2011. Commerce made its preliminary countervailing duty determination on October 18, 2011, and its preliminary LTFV determination on December 15, 2011. CR/PR at I-1. The pendency of these investigations had no clear effect on subject import volumes. See CR/PR at Table F-2 (shipments of *** units in second half of 2011 versus *** units in the first half of 2011). On the other hand, there is evidence in the record that the domestic industry received significant new orders in anticipation of the suspension of liquidation. See, e.g., Norris's Prehearing Br. at Ex. 6; Norris's Posthearing Brief at Exh. A(1) (affidavit and attachments). Moreover, subject import prices increased toward the end of the POI, CR/PR at Fig. V-1, reducing but not eliminating subject import underselling taking place in the U.S. market.

We have also examined the role of nonsubject imports.¹⁴³ The quantity of nonsubject imports increased from *** units in 2009, to *** units in 2010, and to *** units in 2011.¹⁴⁴ However, their share by quantity of apparent U.S. consumption decreased from *** percent in 2009 to *** percent in 2010, and then to *** percent in 2011.¹⁴⁵ Despite their presence in the market, nonsubject imports do not appear to have adversely affected the industry's condition. While subject imports increased rapidly and substantially increased their market share, nonsubject imports lost significant market share.¹⁴⁶ Furthermore, the prices of imports from Canada, the largest nonsubject import source, were consistently higher than the prices of subject imports and similar to or higher than prices for the domestic product over the period examined.¹⁴⁷

Based on the record in the final phase of these investigations, we conclude that the domestic industry has been materially injured by reason of subject imports from China. In particular, we find that subject import levels have increased significantly, both absolutely and relative to domestic production and consumption, and that subject imports have significantly undersold the domestic product, gained significant market share at the expense of the domestic industry, and adversely affected the performance of the domestic industry. The increasing volumes of subject imports also resulted in reduced growth in sales volumes and U.S. shipments despite a robust recovery in demand. This resulted in a material adverse impact on the domestic industry's performance during the period examined, with effects that included lost profits, lower rates of capacity utilization and a reduced number of domestic workers, as well as a declining market share.

VII. CONCLUSION

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of subject imports of HPSCs from China that are sold in the United States at less than fair value and subsidized by the Government of China.

¹⁴³ Based on the record evidence in these investigations, Commissioner Pinkert finds that price competitive, nonsubject imports were a significant factor in the U.S. market during the period under examination. CR/PR at Table IV-1. Imports from Canada, by far the largest source of nonsubject imports in the U.S. market, however, were priced at a higher level than the subject imports in all of the available comparisons. CR/PR at Table H-1. Accordingly, for purposes of the analysis required under Bratsk and Mittal Steel, Commissioner Pinkert finds that, had the subject imports exited the U.S. market during the period, their replacement by nonsubject imports would have been at higher prices and thus to the benefit of the domestic industry.

¹⁴⁴ See CR/PR at Table IV-1.

¹⁴⁵ See CR/PR at Table IV-3.

¹⁴⁶ See CR/PR at Table IV-1.

¹⁴⁷ CR/PR at Table H-1 (prices of nonsubject imports from Canada higher than subject imports in *** instances and higher than domestic HPSCs in *** instances). Imports from the second largest nonsubject source, Korea, only entered in relatively small quantities during the period examined. See CR/PR at Table IV-1.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by Norris Cylinder Company (“Norris”), Longview, TX, on May 11, 2011, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of high pressure steel cylinders (“HPSCs”)¹ from China. Information relating to the background of these investigations is provided below.²

Effective date	Action
May 11, 2011	Petition filed with Commerce and the Commission; institution of Commission investigations (76 FR 28807, May 18, 2011)
June 8, 2011	Commerce’s notice of initiation of countervailing duty investigation (76 FR 33239); Commerce’s notice of initiation of antidumping duty investigation (76 FR 33213)
July 1, 2011	Commission’s preliminary determinations (76 FR 38697)
October 18, 2011	Commerce’s preliminary countervailing duty determination (76 FR 64301)
December 15, 2011	Commerce’s preliminary antidumping duty determination (76 FR 77964); Commission’s scheduling of its final phase investigations (77 FR 3281)
May 7, 2012	Commerce’s final countervailing duty determination (77 FR 26738); Commerce’s final antidumping duty determination (77 FR 26739)
May 1, 2012	Commission’s hearing ¹
May 30, 2012	Commission’s vote
June 14, 2012	Commission’s determinations transmitted to Commerce

¹ A list of witnesses that appeared at the hearing is presented in app. B.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission—

shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . .

¹ See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to these investigations.

² *Federal Register* notices cited in the tabulation are presented in app. A.

may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

...

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

...

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

...

(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Organization of the Report

Part I of this report presents information on the subject merchandise, subsidy and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume of subject imports and pricing of domestic and imported products, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

U.S. MARKET SUMMARY

HPSCs are used for the storage or transport of compressed or liquefied gases.³ Norris is currently the only U.S. producer of HPSCs, while leading producers of HPSCs outside the United States include Beijing Tianhai Industrial Co., Ltd., (“BTIC”) and Zhejiang Jindun Pressure Vessel Co., Ltd. (“Jindun”) of China.⁴ The leading U.S. importers of HPSCs from China are America Fortune Company (“America Fortune”)⁵ and Cyl-Tec, Inc. (“Cyl-Tec”). The leading U.S. importers of HPSCs from nonsubject countries include: ***.

Apparent U.S. consumption of HPSCs totaled approximately *** in 2011. Norris’ U.S. commercial shipments of HPSCs totaled *** in 2011, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from China totaled *** in 2011 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from nonsubject sources totaled *** in 2011 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations is presented in appendix C.⁶ Except as noted, U.S. industry data are based on the questionnaire response of Norris, which accounted for all of U.S. production of HPSCs during 2011 (see Part III of this report). U.S. import data are based on questionnaire responses from U.S. importers (see Part IV of this report).⁷ Information on the industries that produce HPSCs in China are based on questionnaire responses from foreign producers and exporters and publicly available data (see Part VII of this report). Data from other sources are referenced and footnoted where appropriate.

³ Petition, p. 4.

⁴ Conference transcript, p. 104 (Zheng); and respondent BTIC’s corrections to the transcript, June 7, 2011. BTIC was the only producer of HPSCs from China to respond to the Commission’s questionnaire. Based on its questionnaire response, BTIC estimates that it accounts for *** percent of total production of HPSCs in China and *** percent of total U.S. exports of HPSCs from China in 2011.

⁵ America Fortune is a wholly owned subsidiary of BTIC.

⁶ Table C-1 presents summary data for the U.S. market for all HPSCs. Tables C-2 and C-3 present trade and financial data on HPSCs with capacities above 150 cubic feet (“large”) and HPSCs with capacities of 150 cubic feet and below (“small”), respectively. Table C-4 presents summary data for the U.S. market for all HPSCs as well as UN-ISO-9801-1 cylinders. Tables D-1 and D-2 present Norris’ trade and financial data for its production facilities in Longview, TX and Huntsville, AL, respectively. Table E-1 present trade and financial data for UN-ISO-9801-1 cylinders as reported by ***; table E-2 presents import and shipment data for UN-ISO-9801-1 as reported by ***; and table E-3 presents import and shipment data for high pressure aluminum cylinders as reported by ***. The Commission requested firms that testified at the hearing to provide detailed trade and financial data for 2011, which are presented in appendix F of this report. Table F-1 presents Norris’ trade and financial information for 2011 on a quarterly and six month basis; table F-2 presents U.S. apparent consumption for 2011 on a six month basis; and table F-3 presents U.S. market share information for 2011 on six month basis. Table F-4 presents BTIC’s trade data for 2001 on a six month basis.

⁷ Due to instances of misclassification/misreporting, official Commerce statistics regarding U.S. imports of HPSCs from China, Canada, and Korea contain discrepancies. Conference transcript, pp. 80-81 (Bennett); pp. 47-48 (Klett); and email to Commission staff from ***, June 6, 2011.

PREVIOUS AND RELATED INVESTIGATIONS

There have been no known prior import injury investigations in the United States on the merchandise subject to these investigations.

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidies

On May 7, 2012, Commerce published a notice in the *Federal Register* of its final determination of its countervailing duty investigation on HPSCs from China.⁸ Commerce identified the following government programs in China:

- A. Preferential Loans to SOEs
- B. “Two Free, Three Half” Program for Foreign-Invested Enterprises (“FIEs”)
- C. Enterprise Income Tax Rate Reduction in the Tianjin Port Free Trade Zone
- D. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- E. Provision of Hot-Rolled Steel for Less Than Adequate Remuneration (“LTAR”)
- F. Provision of Seamless Tube Steel for LTAR
- G. Provision of Standard Commodity Steel Billets and Blooms, and High- Quality Chromium Molybdenum Alloy Steel Billets and Blooms for LTAR
- H. Provision of Electricity for LTAR
- I. Pension Fund Grants

The final weighted-average countervailable subsidy margins (in percent *ad valorem*), as reported by Commerce, are presented in the following tabulation:

Entity	Final countervailable subsidy margin (<i>percent</i>)
Beijing Tianhai Industry Co., Ltd./Tianjin Tianhai High Pressure Container Co., Ltd./Langfang Tianhai High Pressure Container Co., Ltd.	15.81
All Others	15.81
Source: <i>High Pressure Steel Cylinders From the People’s Republic of China: Final Affirmative Countervailing Duty Determination</i> , 77 FR 26738, May 7, 2012.	

Sales at LTFV

On May 7, 2012, Commerce published a notice in the *Federal Register* of its final determination of its antidumping duty investigations on HPSCs from China. The weighted-average dumping margins

⁸ *High Pressure Steel Cylinders From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738, May 7, 2012.

for Chinese firms selling HPSCs in the U.S. market ranged from 6.62 percent to 31.21 percent.⁹ The weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce, are presented in the following tabulation:

Entity	Final dumping margin (percent)
Beijing Tianhai Industry Co., Ltd./Langfang Tianhai High Pressure Container Co., Ltd.	6.62
Beijing Tianhai Industry Co., Ltd./ Tianjin Tianhai High Pressure Container Co., Ltd.	6.62
Beijing Tianhai Industry Co., Ltd./ Beijing Tianhai Industry Co., Ltd.	6.62
J.S.X. International Trading Company/Shanghai High Pressure Special Gas Cylinder Co., Ltd.	6.62
Zhejiang Jindun Pressure Vessel Co., Ltd./Zhejiang Jindun Pressure Vessel Co., Ltd.	6.62
Shijiazhuang Enric Gas Equipment Co., Ltd./Shijiazhuang Enric Gas Equipment Co., Ltd.	6.62
China-Wide	31.21
Source: <i>High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 77 FR 26739, May 7, 2012.	

THE SUBJECT MERCHANDISE

Commerce's Scope¹⁰

Commerce has defined the scope of these investigations as follows:

{S}eamless steel cylinders designed for storage or transport of compressed or liquefied gas ("high pressure steel cylinders"). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration ("DOT") approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT-E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by the investigation have a water capacity up to 450

⁹ *High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 26739, May 7, 2012.

¹⁰ *High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 26739, May 7, 2012.

liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of the investigation are high pressure steel cylinders manufactured to UN-ISO-9809-1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Tariff Treatment

Merchandise covered by the investigations is classified in the Harmonized Tariff Schedule of the United States ("HTS") under heading 7311.00.00 and imported under statistical reporting number 7311.00.0030. Subject merchandise may also be imported under HTSUS statistical reporting numbers 7311.00.0060 or 7311.00.0090. The general rate of duty on such merchandise, applicable to products of China, is free. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.¹¹

THE PRODUCT

Physical characteristics and uses

HPSCs are seamless, chromium-alloy steel containers, that are circular in cross section and characteristically tapered at the top to form a neck that is fitted with a screw-in steel or brass shut-off valve. A steel safety cap is twisted onto the threaded neck ring at the top of the cylinder to protect the valve from accidental breakage during transit and handling. The bottom surface is concave so that the cylinder is stable while standing upright. The interior wall may be coated or plated, particularly to protect the steel in cylinders that contain corrosive gases. HPSCs are designed specifically for transporting, storing, and dispensing a wide variety of compressed gases in various end-use applications. The petitioner and the respondent provided the following end-use applications and estimates of end-use market shares for HPSCs:

¹¹ *High Pressure Steel Cylinders From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 76 FR 77964, December 15, 2011.

End-use applications	End-use market shares	
	Petitioner's estimates	Respondent's estimates
	<i>(percent)</i>	
Construction	***	(1)
Industrial and manufacturing	***	***
Specialty gases	***	(1)
Breathing-air supply	***	(1)
Fire suppressants	***	***
Medical	***	***
Beverage dispensing	***	***
Research and development	(1)	***
¹ End-use application was not specified and end-use market share was not estimated. Sources: Petitioner's posthearing brief, Affidavit of Jerry Van Auken, p. 5; and respondent BTIC's posthearing brief, Answers to Commission's questions, p. 12.		

According to petitioner's witness, "high pressure" refers to ranges from 1,800 to 6,000 pounds per square inch ("psi").¹² Although the scope language specifies cylinder sizes with gas capacities ranging from 8 to 720 cubic feet ("cu. ft."), sizes between 20 to 670 cu. ft. are the ones most commonly listed on the Internet websites of producers and distributors. Cylinder sizes are also designated in terms of the equivalent water capacity, measured in liters. For any given cylinder size, its wall thicknesses can vary by the manufacturer, being designed to meet minimum tensile strength requirements for the steel.¹³

To minimize the risk of leakage or even explosion of compressed gases—and given the fact that some gases can be hazardous, corrosive, flammable, or otherwise highly reactive—in transporting filled HPSCs, the U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) issues manufacturer certifications, manufacturing process standards, and product performance standards for HPSCs sold into the U.S. market,^{14 15} regardless of whether the

¹² Conference transcript, p. 16 (Van Auken).

¹³ Conference transcript, pp. 54-55 (Van Auken).

¹⁴ The DOT specifications listed in Commerce's product scope provide for each type of seamless steel cylinders the requirements for sizes; service pressures; steel grades; product-quality standards; heat treatment; hydrostatic pressure and leakage testing; yield, tensile, and elongation testing; marking; etc. See petition, exhibit I-3.

¹⁵ Petitioner's cylinders are stamped with approval marks of both the DOT and Transport Canada ("TC") for sale and use in the United States and Canada, respectively. Moreover, petitioner refers to its cylinders stamped with both DOT/TC and ISO markings as being "dual stamped," which a respondent's witness refers to as being "triple stamped." Petitioner's posthearing brief, Answers to Commission's questions, p. 16.

A respondent's witness claimed that most cylinders sold in the U.S. market are dual stamped with both DOT and TC approval marks, and that a Norris-made cylinder is triple stamped with approvals of the U.S. DOT, TC, and ISO. Hearing transcript, p. 204 (Bennett).

According to another witness for the respondents, global customers increasingly prefer multiple-approval stamped cylinders (e.g., with TPED approval for use in Europe) that can be sold into various international markets rather than having to bear the record-keeping burden and expense of maintaining inventories of separately approved
continue...

cylinders are of domestic or foreign origin.^{16 17 18} For traceability purposes, the PHMSA requires a series of identifying markings to be permanently impressed into the steel along the tapered portion of the cylinder below the base of the neck and on the neck ring. These marks indicate the manufacturer's assigned hallmark or number, DOT specification, pressure rating, cylinder serial number, date of manufacture or original hydrostatic pressure testing, date(s) of subsequent re-testing(s), and other identifying information (figure I-1). Additional markings (e.g., the heat (batch) of the purchased steel) appear, either on the tapered top or on the bottom of the cylinder, and on the purchased valve for complete traceability of all materials and components, per DOT requirements.¹⁹ HPSCs are painted to customer specifications, but the colors should not be considered as uniform indicators of the cylinder's contents.²⁰

¹⁵ ...continue

cylinders for each individual market. Hearing transcript, pp. 204-206 (Rottmann).

¹⁶ Conference transcript, pp. 48-49 (Klett); and petitioner's prehearing brief, pp. 6-7.

¹⁷ A petitioner's witness estimated that more than one-half of foreign manufacturers are capable of producing HPSCs as being certified by the DOT. Conference transcript, p. 49 (Van Auken).

¹⁸ A respondent's witness mentioned three Chinese producers of HPSCs (BTIC, Jeng Dun, and a producer in Shanghai) have DOT certification. Conference transcript, p. 104 (Zheng); and respondent BTIC's corrections to the transcript, June 7, 2011.

¹⁹ Conference transcript, p. 63 (Van Auken).

²⁰ A notable exception is the U.S. Food and Drug Administration's standard colors for medical cylinders, for example, green for oxygen. Conference transcript, pp. 99-100 (Bennett).

Figure I-1

U.S. Department of Transportation (DOT) markings for high-pressure steel cylinders and acetylene cylinders

What do the letters and numbers stamped on the neck of high-pressure cylinders indicate?

The stampings indicate which US Department of Transportation specifications the cylinder meets, what type of steel was used, who fabricated the cylinder and when.

- Steel stamp markings such as “DOT-3A-2400” indicate that the cylinder was made to US Government Department of Transportation (DOT) specifications, the “3A” denotes chrome manganese steel (or “AA” for molybdenum steel) and the “2400” the maximum filling pressure in psi.
- The oldest date indicates the month and year of manufacture. Subsequent dates, usually at five year intervals, indicate when mandatory hydrostatic pressure testing was performed and by whom. See Figures 1 and 2.

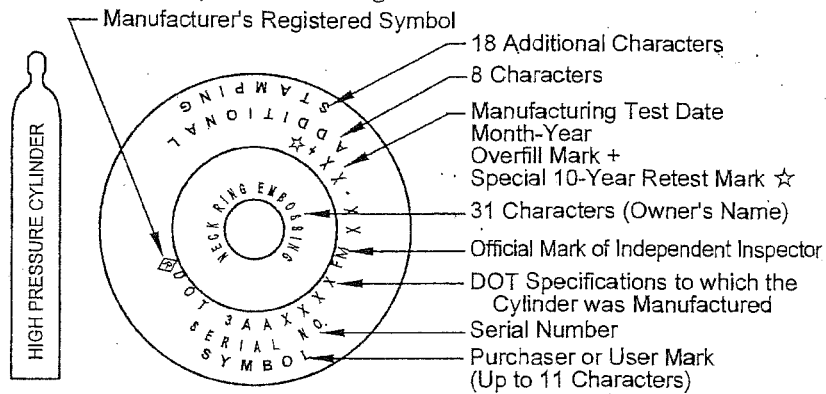


Figure 1. High-pressure cylinder markings.

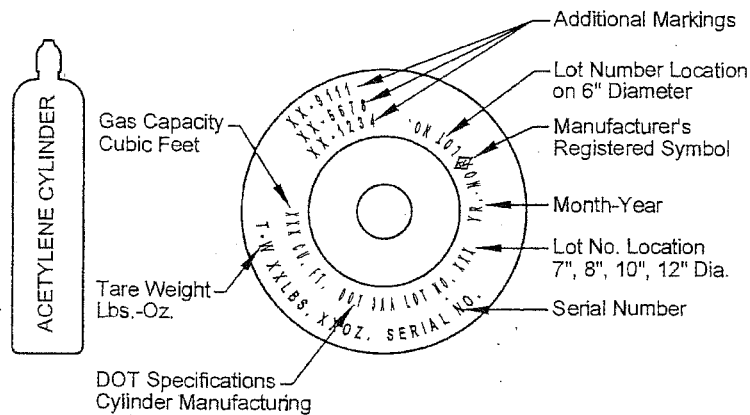


Figure 2. Acetylene cylinder markings.

Source: Metal Arts Press, “Number & Letter Codes on Gas Cylinders,” www.metalartspress.com/PDFs/cylinder_markings.pdf.

Generally, the market for HPSCs is split between three groups of customers.²¹ First, the “majors” are compressed-gas distributors that purchase cylinders directly from vendors,²² consisting of both the large-sized suppliers of compressed gases as well as a second tier of smaller sized suppliers.²³ Second, there are “buying groups” or “buying consortiums” of smaller distributors and end users of construction materials and welding equipment, who band together to enhance their buying power in negotiating annual price terms with vendors to procure the best possible prices for their members.^{24 25} Third, original equipment manufacturers (“OEMs”), commonly in the fire-suppressant, breathing-air supply, and other markets, package HPSCs into their equipment offered for sale to end-use customers.²⁶ Regardless of the type of customer, a witness for the respondents testified that end-use customers do not tend to inventory HPSCs, but rather, purchase cylinders to meet their business needs.²⁷ The petitioner offered additional details, that both producers and distributors generally maintain larger inventories of the smaller sized cylinders that are needed by customers for immediate resale. By contrast, the need is not as immediate for larger sized cylinders, for they are generally sold for augmenting the stock of “asset” cylinders (see following page) held by large compressed-gas companies, who place large orders with negotiated lead times.²⁸

The compressed-gas industry considers HPSCs as either “asset” or “non-asset” cylinders, depending on their size and ownership. Smaller ones, with gas capacities—either less than 150 cu. ft. according to petitioner²⁹ or of 150 cu. ft. and below, according to respondent³⁰—are considered “non-asset” (or “resale”³¹) cylinders, because they are not tracked and recorded as company assets, even though they may be returned and refilled.³² The larger ones, generally with gas capacities—either of 150 cu. ft.

²¹ Hearing transcript, pp. 29 and 30-31 (Van Auken).

²² Petition, p. 6; and conference transcript, pp. 23-25 (Van Auken).

²³ The large-sized suppliers of compressed gases, who generate and separate gases, include Airgas Inc., Air Liquide Group, Matheson Tri-Gas Inc., and Praxair Inc., among others. Hearing transcript, p. 29 (Van Auken) and pp. 200-201 (Bennett); and company Internet websites. Otherwise, most of the industry consists of distributors who act as middlemen between the producers and end-use customers of compressed gases. Hearing transcript, p. 201-202 (Bennett).

²⁴ Petition, p. 6; and conference transcript, pp. 23-25 (Van Auken).

²⁵ In the past, buying groups sought bids from vendors and selected a “preferred supplier” with the best sales prices, rebates, or terms for the year. Other vendors can be designated as “approved suppliers” for purchases by members of the buying group. More recently, some buying groups moved away from designating a preferred supplier and instead designate several approved suppliers for their members to negotiate specific prices on each order rather than accepting prices that are negotiated annually. Hearing transcript, pp. 29-30 and 81-82 (Van Auken).

²⁶ Hearing transcript, p. 30 (Van Auken).

²⁷ Hearing transcript, p. 165 (Iffland).

²⁸ Petitioner’s posthearing brief, Answers to Commission’s questions, p. 18.

²⁹ Petitioner’s prehearing brief, p. 23; and petitioner’s posthearing brief, Answers to Commission’s questions, p. 15.

³⁰ Respondent BTIC’s prehearing brief, p. 9.

³¹ Smaller sized HPSCs are also referred to as “resale” cylinders for they are purchased by the compressed-gas supplier for resale to the customer who purchases the compressed gas contained therein. Hearing transcript, p. 43 (Roberts).

³² Conference transcript, pp. 37 and 70 (Van Auken).

and above, according to petitioner³³ or above 150 cu. ft., according to respondent³⁴—are more likely to be rented out or leased by compressed-gas distributors who track them as company assets in their inventory records, track where and how long they are out, and charge compressed-gas customers for their use.³⁵

All HPSCs are required to undergo re-testing and re-certification, most typically in 10-year intervals, although in 5-year intervals for some.³⁶ For example, cylinders that contain certain gases (e.g., carbon dioxide, hydrogen, and methane, among others) that can adversely affect the inner surface over time are in particular need of re-testing.³⁷ There are several hundred firms (predominantly re-testers as well as some compressed-gas distributors) that inspect and re-certify HPSCs for hydrostatic pressure.³⁸ The date stamp is checked on returned cylinders before refilling them, and those that are due will be re-tested. Re-certified cylinders are re-stamped with a new future date for hydrostatic pressure re-testing.³⁹ The small portion that fail⁴⁰ are taken out of service, typically by punching a hole through the wall to prevent refilling,⁴¹ and are subsequently sold off to scrap metal dealers.⁴²

Manufacturing Processes

Producers utilize a multi-stage process, in coordination with outside testing and certifying companies, to (1) press and form; (2) heat treat, quench, and temper; (3) machine, clean, and coat; (4) test and mark; and (5) finish HPSCs. Both petitioner and respondents concur that both domestic and foreign producers rely on the same manufacturing processes to produce HPSCs,⁴³ as their processes and products must adhere to DOT requirements for their cylinders to be sold into the U.S. market.⁴⁴

Pressing and forming

Manufacturing of HPSCs begins with pressing operations, under elevated temperatures and pressures, that shape the steel into an open-ended cylindrical shell. There are two alternative methods for the pressing step, based on the form of the steel mill product used as the raw input materials. The “billet

³³ Petitioner’s prehearing brief, p. 23; and petitioner’s posthearing brief, Answers to Commission’s questions, p. 15.

³⁴ Respondent BTIC’s prehearing brief, p. 9.

³⁵ Conference transcript, pp. 37 and 70 (Van Auken).

³⁶ Hearing transcript, p. 64 (Van Auken).

³⁷ Hearing transcript, pp. 65-66 (Van Auken).

³⁸ Conference transcript, pp. 64-65 (Van Auken).

³⁹ Witnesses for both the petitioner and respondents testified about some HPSCs dating back to the 1940s through 1970s, and some even dating back to the 1910s, that are still being re-tested and re-certified as still being in serviceable condition. Hearing transcript, pp. 64-65 (Van Auken), pp. 130-131 (Powers), and p. 202 (Bennett).

⁴⁰ A witness for the petitioner testified that only 1 or 2 percent of HPSCs are damaged, destroyed, or fail the re-testing requirements and are removed from service in any given year. Hearing transcript, p. 131 (Roberts).

⁴¹ Conference transcript, p. 64 (Van Auken).

⁴² Hearing transcript, p. 127-128 (Roberts).

⁴³ Among HPSCs producers worldwide, some rely on either the billet-piercing or the tube-spinning process, whereas others utilize both processes. Norris is moving more toward billet piercing for all of its operations, including sizes 80 through 150 cu. ft. cylinders. Conference transcript, p. 44 (Van Auken). BTIC and other Chinese producers utilize both of these processes as well. Conference transcript, p. 74 (Van Auken), p. 115 (Bennett), and pp. 115-116 (Rottmann).

⁴⁴ Differences in product quality were not noted by either petitioner or respondents. Conference transcript, p. 74 (Van Auken); and p. 97 (Bennett).

piercing process”—typically for HPSCs with gas capacities over 150 and up to 702 cu. ft.⁴⁵—starts with a semi-finished steel billet. The billet is cut into sections (“mults”), which are subsequently heated either in an induction furnace or by a natural-gas-fired heating process⁴⁶ to working temperature (over 2,000° F). The heated mults are first pierced with a mandrel in a piercing press and then forged into rough-shaped billet tube cups. Next, a billet tube cup is extruded through a series of roller dies to produce a shell of the desired diameter, length, and uniform wall thickness.⁴⁷ Alternatively, the “spun-from-tube process”—typically for HPSCs with gas capacities up to 150 cu. ft.⁴⁸—starts with a seamless steel tube. The tube is cut into sections of the desired length. In a separate step, one end of the tube is heated to working temperature (over 2,000° F), and the tube is spun in a lathe, as pressure is applied to close the heated end.⁴⁹ Afterwards, the closed-end of the shell, resulting from either method described above, is “bumped back” in another pressing operation to create a concave bottom.⁵⁰ The neck of the cylinder is formed, in a manner similar to the spun-from-tube process, by heating the open end of the shell to working temperature (over 2,000° F) and applying pressure as the shell is spun on a lathe.⁵¹

Heat treatment, quenching, and tempering

After the pressing and forming stage, cylinders pass through heat treating, quenching, and tempering procedures to set the mechanical properties of the steel. Because uniformity of the steel is critical for product safety of a cylinder containing compressed gases under high pressures,⁵² one cylinder from the production lot is destructively tested to validate that the steel meets the DOT specifications.⁵³

Machining, cleaning, and coating

The neck is tapped to cut screw threads into the interior surface to receive the shut-off valve. A threaded neck ring is welded onto the top of cylinder at the base of the neck for securing the valve-protection safety cap.⁵⁴ Cylinders are cleaned by shot blasting, both inside and out, followed by visual inspection on the inside for any remaining debris which must be removed.⁵⁵ The extent of shot blasting and degree of cleanliness required for inside surfaces varies by the intended end use, especially for

⁴⁵ Petition, p. 5.

⁴⁶ Petitioner utilizes induction furnaces to heat mults, but reports that Chinese producers rely on the more gradual natural-gas-fired heating process. Petitioner’s response to Commerce letter, May 20, 2011, exhibit III-64, p. 3.

⁴⁷ Norris website, “High Pressure, Billet Pierce;” conference transcript, p. 17 (Camp); and hearing transcript, p. 21 (Camp).

⁴⁸ Petition, p. 5.

⁴⁹ Petitioner’s conference exhibit, p. 3; conference transcript, p. 17 (Camp); and hearing transcript, pp. 21-22 (Camp).

⁵⁰ Conference transcript, p. 17 (Camp).

⁵¹ Conference transcript, pp. 17-18 (Camp); and hearing transcript, p. 22 (Camp).

⁵² Conference transcript, p. 18 (Camp).

⁵³ At Norris, one cylinder from each lot of 200 or less is selected for such testing. Hearing transcript, p. 23 (Camp).

⁵⁴ Valve-protection caps are produced by a deep-draw process from steel plate of similar grade as the chromium-alloy steel for the cylinder itself, but of lower carbon content. The cap is secured by twisting it onto the threaded rim of a neck ring attached to the top of the cylinder around the base of the neck. Conference transcript, p. 56 (Camp); and petitioner’s response to Commerce letter, May 20, 2011, exhibit III-64, p. 3.

⁵⁵ Conference transcript, 55-56 (Van Auken).

cylinders that will contain specialty gases.⁵⁶ As needed, the interior surface can be plated or coated (e.g., with nickel⁵⁷), particularly for cylinders that will contain corrosive gases.⁵⁸

Testing and marking

Cylinders are subject to hydrostatic pressure testing, in accordance with DOT specifications, in which the cylinder is subject to pressure five-thirds (1.67 times) that of the rated service pressure.⁵⁹ Testing is either overseen or actually performed by third-party testing and certification firms.⁶⁰ For HPSCs produced from steel tube, there are additional proof-pressure and other testing requirements to certify that the bottom was sealed properly during the spinning process.⁶¹ Tested and certified cylinders are subsequently marked with permanent impressions rolled into the sloping top portion below the neck (see figure I-1).

Finishing

Before shipping, a cylinder is primed, and may be painted in accordance with the customer's specifications. Likewise, a cylinder may be provided with a specific type of shut-off valve, per the customer's specifications.⁶² Some Chinese-origin cylinders are imported by large distributors who paint and add on the neck rings, caps, and valves prior to sale to the end user.⁶³

DOMESTIC LIKE PRODUCT ISSUES

In the preliminary phase of these investigations, the Commission found a single domestic like product coextensive with the scope of the investigations. In its Views, the Commission noted that it would seek additional information concerning UN-ISO-9809-1 high pressure steel cylinders in any final phase investigations. Additionally, the Commission extended the opportunity for parties to request the Commission to collect additional information concerning high pressure aluminum cylinders and HPSCs of 150 cubic feet and below in capacity ("small") and HPSCs of greater than 150 cubic feet in capacity ("large") in their written comments to the draft questionnaires.

In light of the Commission's stated intention to solicit additional information concerning UN-ISO-9809-1 high pressure steel cylinders and requests from respondent BTIC to solicit additional information concerning high pressure aluminum cylinders and small and large high pressure steel cylinders, the Commission requested that Norris report separately, its operations concerning the its production of UN-ISO-9809-1 high pressure steel cylinders; high pressure aluminum cylinders; and small and large high pressure steel cylinders. Similarly, the Commission requested that U.S. importers report imports of UN-ISO-9809-1 high pressure steel cylinders; high pressure aluminum cylinders; and small

⁵⁶ Hearing transcript, p. 66 (Van Auken).

⁵⁷ A petitioner's witness estimated that less than 1 percent of HPSCs are coated or plated on the inside, either by or for the customer. Hearing transcript, p. 66 (Van Auken).

⁵⁸ Conference transcript, 57 (Van Auken).

⁵⁹ Hearing transcript, p. 24 (Camp).

⁶⁰ Conference transcript, p. 18 (Camp).

⁶¹ Conference transcript, p. 36 (Camp).

⁶² Conference transcript, p. 19-20 (Camp).

⁶³ Petitioner's response to Commerce letter, May 20, 2011, exhibit III, p. 3.

and large high pressure steel cylinders separately as well. These data are presented in appendixes C and E.⁶⁴

In these final phase investigations, Norris contends that the Commission should continue to find a single domestic like product consisting of high pressure steel cylinders stamped with an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT-E (followed by a specific exemption number), coextensive with Commerce's scope. Additionally, Norris contends that the Commission should continue to exclude ISO-9809-1 cylinders and aluminum cylinders from its like product definition and that the Commission should treat large and small HPSCs as part of a continuum of sizes of the same like product and should decline to divide the domestic like product into large and small HPSCs.⁶⁵

Respondent BTIC contends that DOT-approved and ISO-approved cylinders constitute one like product produced by one industry and that large and small HPSCs constitute distinct like products.⁶⁶ With regard to high pressure aluminum cylinders, respondent BTIC does not challenge the Commission's preliminary determination that aluminum cylinders are not part of the domestic industry.⁶⁷

Physical Characteristics and Uses

Petitioner maintains that HPSCs are made from a different grade of steel than is used for ISO-approved cylinders. For example, Norris uses standard grade AISI 4137 steel to manufacture cylinders to ISO-9809-1 specifications, which contains more molybdenum than the standard grade AISI 4130 steel that Norris uses to manufacture the domestic like product. As a result, ISO-9809-1 approved cylinders have a higher tensile strength, yielding a weight reduction of up to 22 percent compared to the subject merchandise of the same size.⁶⁸ Respondent BTIC contends that DOT-approved and ISO-approved cylinders share similar physical characteristics and end uses and that DOT-approved and ISO-approved cylinders are made of SAE 4130X steel.⁶⁹

⁶⁴ Tables C-2 and C-3 present trade and financial data on large and small HPSCs, respectively. Table C-4 includes summary data for HPSCs as well as UN-ISO-9809-1 cylinders. Table E-1 presents trade and financial data for UN-ISO-9801-1 cylinders as reported by ***; table E-2 presents import and shipment data for UN-ISO-9801-1 as reported by ***; and table E-3 presents import and shipment data for high pressure aluminum cylinders as reported by ***. App. G presents comments from Norris and U.S. importers regarding the comparability of HPSCs; UN-ISO-9809-1 cylinders; aluminum cylinders; and small and large cylinders.

⁶⁵ Petitioner's prehearing brief, p. 14. Petitioner contends that the only physical differences between large and small cylinders are their sizes and capacities. Petitioner adds that large and small HPSCs are sold in the same channels of distribution to the same customers, which understand that they are buying the same cylinder in different sizes and are paying different prices according to the model size. Petitioner's prehearing brief, p. 23.

⁶⁶ Respondent BTIC's prehearing brief, pp. 5, 10.

⁶⁷ Respondent BTIC's prehearing brief, p. 9.

⁶⁸ Petitioner adds that the different types of steel used in the ISO-approved cylinders dictate, in part, which gases may be used to fill them and that there are some gases that may not be used to fill ISO-approved cylinders because the ISO steel grade or alloy would not be able to tolerate those gases (hydrogen and methane were provided as examples of such gases). Petitioner's prehearing brief, pp. 14-15. Petitioner notes that standard grade 4130 steel can be used to produce ISO cylinders; however, a representative from Norris testified that most of the market to which Norris supplies ISO cylinders uses AISI 4137 steel. Hearing transcript, p. 95 (Van Auken).

⁶⁹ Respondent BTIC's prehearing brief, p. 6. According to a representative from Cyl-Tec, ISO-9809-1 specifications are essentially the same as DOT specifications. Hearing transcript, p. 158 (Bennett).

Manufacturing Facilities and Production Employees

Petitioner maintains that the first part of the manufacturing process for ISO-approved cylinders is similar to that of the subject merchandise, except that a different grade of steel or steel alloy is used, affecting the market acceptability of the ISO-approved cylinders. Petitioner adds that ISO-approved cylinders must undergo significant and expensive additional testing, including ultrasonic testing and hardness testing.⁷⁰ BTIC maintains that Norris produces both ISO and DOT-approved in the same production facilities with the same employees and that the production processes are the same except for the testing stage.⁷¹ A representative from BTIC testified at the hearing that DOT and ISO cylinders are produced by BTIC in the {same} facilities, on the same equipment, by the same workers, using the same materials.⁷²

In arguing that small-size and large-size HPSCs are two separate like products, respondent BTIC maintains that large and small cylinders are produced by different {processes}, on different machinery and by different workers.⁷³

Interchangeability

Petitioner maintains that the subject merchandise is not practically interchangeable with the ISO-approved cylinders because the latter are produced with a different steel grade or steel alloy, and as a result, may not be used for the storage or transport of certain gases at certain pressures.⁷⁴ Respondent BTIC notes that both DOT and ISO cylinders meet specifications required for shippers and that some of Norris' own HPSCs meet both specifications, including those in its "Worldwide Series."⁷⁵

Customer and Producer Perceptions

Petitioner maintains that U.S. cylinder customers generally recognize the difference between the subject merchandise and ISO-approved cylinders, and that no U.S. customer is willing to pay an unnecessary price premium for an ISO-approved cylinder.⁷⁶ According to a witness for the respondents, global customers increasingly prefer multiple-approval stamped cylinders that can be sold into various international markets rather than having to bear the record-keeping burden and expense of maintaining inventories of separately approved cylinders for each individual market.⁷⁷

⁷⁰ In order to comply with these additional regulations, petitioner maintains that producers of ISO-approved cylinders must purchase and operate additional testing equipment and train their employees to conduct the testing. Petitioners maintain that although the DOT requires particular tests be conducted, the procedures for ISO approval are significantly different. Petitioner's prehearing brief, p. 16.

⁷¹ Respondent BTIC's prehearing brief, p. 6.

⁷² Hearing transcript, p. 137 (Zheng).

⁷³ Hearing transcript, p. 137 (Zheng).

⁷⁴ Petitioner adds that ISO-approved cylinders are much more expensive to produce; therefore, even where an ISO-approved cylinder could be used for the same purpose as the subject merchandise, it would be at an unnecessary price premium. Petitioner's prehearing brief, p. 15.

⁷⁵ Respondent BTIC's prehearing brief, p. 6.

⁷⁶ Petitioner's prehearing brief, p. 18. At the hearing, a witness for Norris noted that U.S. customers are relatively unfamiliar with terminology associated with ISO-approved cylinders, including "bar," which is a metric unit of pressure used in most countries around the world; whereas the generally accepted unit of pressure in the United States is the English unit of "psi" or pounds per square inch. Hearing transcript, pp. 95-96 (Van Auken).

⁷⁷ Hearing transcript, pp. 204-206 (Rottmann)

Channels of Distribution⁷⁸

Petitioner contends that as a manufacturer of both the domestic like product as well ISO-approved cylinders, it has found that there is a limited U.S. market for ISO-9809-1 cylinders and that many high pressure steel cylinder customers have refused to accept ISO approved cylinders because of their price and limited usability. Petitioner maintains; therefore, that many of the U.S. channels of distribution for HPSCs do not exist for ISO-approved cylinders.⁷⁹ Respondent BTIC cites Norris' reported shipments of *** UN-ISO-9809-1 cylinders in the United States in 2010, and Cyl-Tec's reported shipments of UN-ISO-9809-1 and DOT-approved cylinders for sale to the same customers.⁸⁰ BTIC also notes that Norris exports of ISO and DOT cylinders ***,⁸¹

Price

Petitioner contends that manufacturers charge more for ISO-approved cylinders than for the subject merchandise because ISO-approved cylinders are built from higher strength, more expensive steel or steel alloy and must undergo significant additional testing, which make them much more expensive to produce.⁸² Norris estimates that the cost difference to manufacture ISO cylinders to be *** in total.⁸³ BTIC maintains that the average sales price of ISO and DOT cylinders produced by Norris ***,⁸⁴

⁷⁸ Additional details regarding the channel structure of domestically produced and imported HPSCs are presented in Part II of this report, *Conditions of Competition in the U.S. Market*.

⁷⁹ Norris estimates that approximately *** percent of its sales of UN-ISO-9809-1 cylinders were exported outside the United States in 2011. Petitioner's prehearing brief, p. 17.

⁸⁰ Respondent BTIC's prehearing brief, p. 6

⁸¹ BTIC also notes that Norris ***. Respondent BTIC's prehearing brief, p. 7.

⁸² Petitioner adds that the process for gaining the ISO certification to even begin manufacturing an ISO approved cylinder is a lengthy and expensive process, adding to the cost of production for these cylinders. Petitioner's prehearing brief, p. 19. Hearing transcript, pp. 95-95 (Van Auken).

⁸³ Petitioner's posthearing brief, Answers to Commission's questions, p. 16.

⁸⁴ BTIC's prehearing brief, p. 6.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

INTRODUCTION

HPSCs are designed to store and secure gases at high pressure during transport. They are fabricated of chrome alloy steel including, without limitation, chromium-molybdenum steel or chromium magnesium steel, and marked with the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration-approved HPSC manufacturer, as well as with an approved DOT type marking.¹

CHANNELS OF DISTRIBUTION

Breakouts of shipments between distributors and end users for the United States, China, and nonsubject sources are presented in table II-1. The majority of U.S. producer shipments were to distributors during 2009-11. For China, the majority of shipments were to end users during 2009 and to distributors during 2010 and 2011. End users include construction companies and compressed gas companies.

Table II-1

HPSCs: U.S. producers' and importers' shares of reported U.S. shipments, by source and channel of distribution, 2009-11

* * * * *

Buying Groups

U.S. producer Norris sells HPSCs through two main channels of distribution: (1) buying groups and (2) direct to major customers. Buying groups are consortiums of small end-use customers (generally companies involved in construction) that use the buying group to negotiate annual price terms with vendors of construction materials including HPSCs. There are four main buying groups in the United States: IWDC (Weldmark-Independent Welding Distributors), BIG Buying Group, AIWD (Association of Independent Welding Distributors), and ADA (AIRCO Distributor Association). In annual negotiations, a steel cylinder vendor provides a buying group with all sales terms, including pricing for specific HPSC specifications, payment terms and rebates (if any). Offers from Norris and competing importers are compared and a "preferred" vendor is selected for that buying group. In some cases, buying groups have one or more "approved" vendors rather than a preferred vendor in a given year. When purchasing HPSCs, individual companies belonging to the buying group receive the negotiated pricing and terms. Individual members need not purchase from the preferred vendor, but because the preferred vendor generally is chosen based on the best pricing and other terms being offered such as rebates to customers at the end of the year, purchases are most often made from the preferred vendor.²

¹ Petition, pp. 4 and 5.

² Petition, p. 6.

Norris reported that *** of its sales were to buying groups in 2011.³ Among importers, sales to buying groups in 2011 accounted for ***.⁴ Norris reported that it ***. A listing of negotiations by company and buying groups and selections of preferred suppliers is presented in table II-2.

**Table II-2
HPSCs: Buying groups negotiations and selections of and selections of preferred vendors in 2011**

* * * * *

Six of twenty purchasers reported that they are members of buying groups. Two are in the IWDC, two are in the Big Buying Group, one is in the ADA, and one is in an unspecified buying group. Five of six purchasers reported that they have purchased from suppliers approved by the buying group. However, four of the purchasers reported that they have also purchased from suppliers outside of the buying group. One purchaser *** that is a ***.

Direct Sales to End Users

HPSCs are also sold directly to large gas companies. The largest U.S. direct customers (“majors”) include ***. Some of these companies are international in scope, and ***.⁵

GEOGRAPHIC DISTRIBUTION

U.S.-produced and imported HPSCs are sold throughout the United States. Norris reported that it ***. Among the five importers of product from China, one sells throughout the entire United States, one sells throughout the continental United States, one sells in all areas of the continental United States except the Southeast, and the other two sell only in specific regions (the Northeast, the Midwest, and the Southeast). Nonsubject imports are also sold in all areas of the United States.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. producer Norris has the ability to respond to changes in demand with large changes in the quantity of shipments of HPSCs to the U.S. market. The main contributing factors to this degree of responsiveness of supply are ***.

Industry capacity

Norris’s annual capacity was ***. Its capacity utilization rate increased from *** percent in 2009, to *** percent in 2010 and to *** percent in 2011.

³ Posthearing brief, exhibit 1, p. 5. Norris’s total sales to buying groups amounted to over *** in 2011, with sales to ***.

⁴ While Big Buying Group and IWDC used to have preferred vendors, they have recently changed their approach to just having approved vendors. Hearing transcript, p. 30 and p. 81 (Van Auken).

⁵ Petition, p. 7.

Alternative markets

During 2009-2011, exports consistently accounted for between *** to *** percent of Norris's annual total shipments.

Inventory levels

During 2009-11, Norris's ratio of inventories to domestic shipments ranged from a low of *** percent in 2010.

Production alternatives

Norris reported that ***.

Supply constraints

Norris reported that it has *** high pressure steel cylinders since January 2009.

Subject Imports

Based on available information, Chinese producer, BTIC, which accounts for *** U.S. imports from China, has the ability to respond to changes in demand with *** changes in the quantity of shipments of HPSCs to the U.S. market. While BTIC has *** capacity utilization rates and *** inventory levels, these factors are offset to some extent by ***.

Industry capacity

BTIC's capacity increased from *** million units in 2009 to *** units in 2010 and to *** units in 2011. It is projected to reach *** in 2012 and *** in 2013. Its capacity utilization rate increased from *** percent in 2009 to *** percent in 2010 before falling to *** percent in 2011.

Alternative markets

The majority of BTIC's shipments are ***. Home market shipments accounted for *** percent of BTIC's total shipments in 2009, *** percent in 2010, and *** percent in 2011. They are projected to account for *** of total shipments in 2012 and *** percent in 2013. Exports to markets other than the United States accounted for *** percent of BTIC's total shipments in 2009, *** percent in 2010, and *** percent in 2011. They are projected to account for *** percent of total shipments in 2012 and *** percent in 2013.

Inventory levels

BTIC's ratio of end-of-period inventories to total shipments was *** percent in 2009, *** percent in 2010, and *** percent in 2011.⁶ The ratio is projected to be *** percent in both 2012 and 2013.

⁶ On a related topic, petitioners have argued that Chinese inventories held in the United States at the end of 2011 are understated. Between 2010 and 2011, America Fortune, the importer of product from BTIC, agreed to take on the responsibility of acting as the importer of record for certain U.S. customers who previously had purchased

(continued...)

Production alternatives

***.

U.S. Demand

Demand Characteristics

The demand for HPSCs is driven by demand in major end-use markets including construction, the medical supply market, the beverage market and the specialty gas/scuba market.⁷ The total value of construction spending in the United States fell sharply throughout 2009 and early 2010 and then largely stabilized at lower levels over the next two years (figure II-1).⁸ The aggregate U.S. economy, as measured by percentage changes in the gross domestic product and personal consumption expenditures, declined during the first two quarters of 2009 and then increased in all quarters from July-September 2009 through January-March 2012 (figure II-2).

Figure II-1

Total construction spending: Total value of U.S. construction spending, seasonally adjusted, monthly, January 2009-March 2012



Source: U.S. Census Bureau, Manufacturing, Mining and Construction Statistics, Construction Spending. <http://www.census.gov/const>.

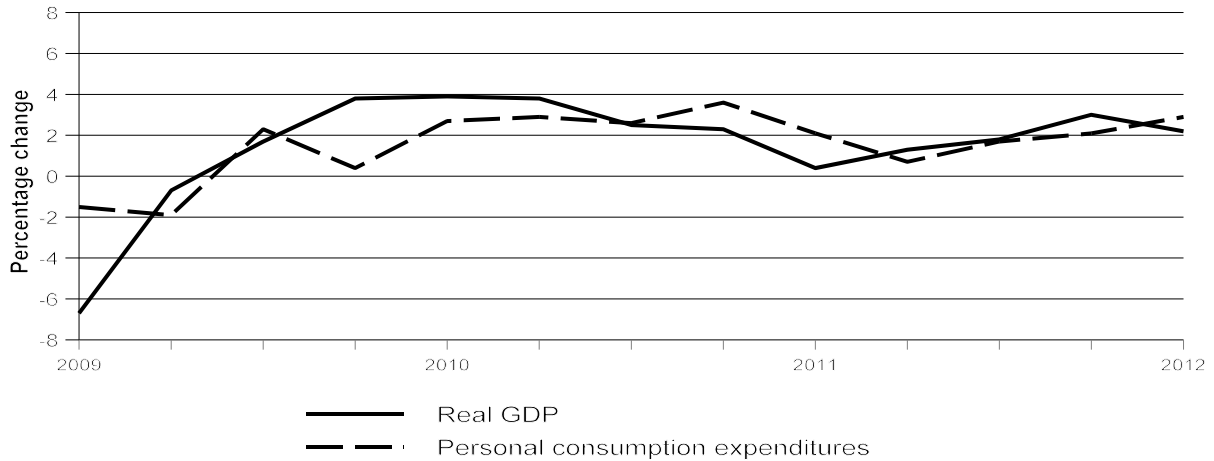
⁶ ...continue

HPSCs directly from BTIC in China. Hearing transcript, p. 139 (Zheng). Petitioners maintain that as a result of this shift, reported subject importers' inventories are understated. Hearing transcript, p. 49 (Klett). Petitioners estimate that inventories in the United States for the end-of-period 2011 are understated by about *** units based on a submission on April 3, 2012 by Arent Fox representing Cyl-Tec presented in exhibit 2 of the petitioner's prehearing brief. This topic is discussed further in Part VII.

⁷ Norris reported that *** (posthearing brief, exhibit 1, p. 5). Cyl-tec reported that *** (answers to Commission questions section of Cyl-tec's posthearing brief, p. 12).

⁸ At the hearing, the petitioners noted that the demand for HPSCs was particularly hard hit by the decline in construction and manufacturing in 2009. Hearing transcript, p. 54 (Roberts).

Figure II-2
Percent changes in real gross domestic product (GDP) growth and real personal consumption expenditures, by quarters, January 2009-March 2012



Source: Bureau of Economic Analysis, U.S. Department of Commerce.

Apparent Consumption

The quantity of apparent consumption of HPSCs increased from *** units in 2009 to *** units in 2010 and to *** units in 2011.

Demand Perceptions

When asked how U.S. demand for HPSCs had changed since January 2009, Norris reported that demand ***. Among eight responding importers, one reported that demand had increased, four reported that demand had fluctuated, and three reported that demand had decreased. Among 15 responding purchasers 8 reported that demand has increased, 1 reported that no change had occurred, 5 reported that it has fluctuated, and 1 reported that demand has decreased. Norris attributed ***. Responses by importers and purchasers were mixed, with some respondents reporting recent increases in demand due to an improved economy and others reporting fluctuations in demand also due to the economy since January 2009.

End-use purchasers were also asked to report how the demand for their firm’s final products that include HPSCs had changed since 2009. Of seven responding purchasers, three reported that demand had increased, three reported that it had fluctuated, and one reported no change in demand. All six of the firms that reported that demand for their final products had increased or fluctuated since 2009 stated that this has affected their demand for HPSCs.

Firms were asked whether the HPSCs market is subject to business cycles or conditions of competition (including seasonal business) distinctive to HPSCs, and also whether there have been any changes since January 1, 2009. Norris reported that the industry ***. Among nine responding importers, five reported that the industry is subject to business cycles or distinctive conditions of competition, and four reported that it is not; among 20 responding purchasers, 12 answered “yes” to the question and 8 answered “no.” One importer (***) reported that sales are higher in February through April, and September through November. Another importer (***) reported that demand is stronger in the spring and summer than in the fall and winter. It said that November and December are historically the slowest

months as major industrial gas producers tend to exhaust approved budgets by October and must wait until new budgets are approved for spending in January. Another importer, *** reported that sales begin to grow in March as the air conditioning and refrigeration and construction markets begin to get active. They hold steady through August and begin to decline in September, reaching a low point in November, December, and January. Another importer (***) reported that sales of HPSCs are subject to general business cycles with sales decreasing during 2008 to 2009 and then improving since 2010 as the overall economy improved. It also reported that there is a seasonal aspect to this market. One purchaser (***) also reported that HPSCs are more in demand during summer months.

Most importers and purchasers that reported that the industry is subject to business cycles or conditions of competition also reported that the situation in the industry has changed since 2009. One importer reported that aluminum and cryogenic⁹ cylinders have since become more common. Some purchasers reported that prices of the U.S.-produced products that they purchase have since increased in conjunction with the antidumping investigation. Two firms cited the exit of U.S. producer Taylor Wharton from the industry due to its bankruptcy.

Substitute Products

When asked whether other products can be substituted for high pressure steel cylinders, Norris answered ***, 3 of 9 responding importers answered “yes,” and 6 answered “no,” and 3¹⁰ of 20 responding purchasers answered “yes,” and 17 answered “no.” While Norris answered *** it stated that cryogenic cylinders could be substituted for HPSCs in a few applications at a significantly greater cost. *** reported that aluminum cylinders and UN-ISO cylinders could be substituted for HPSCs in all applications. *** reported that aluminum cylinders and cryogenic cylinders are currently displacing HPSCs in certain applications. Another importer, ***, reported that cryogenic cylinders can be substituted in high-volume gas consumption applications such as restaurants for beverage-grade carbon dioxide and aluminum cylinders can be substituted in medical oxygen and high-purity speciality gas applications.¹¹ All three of these importers reported that changes in the prices of these substitutes can affect the prices of HPSCs. In addition, one purchaser *** reported that aluminum cylinders and microbulk cryogenic cylinders can be substituted in some industries. *** reported that changes in the prices of these substitutes do not affect the prices of HPSCs. Another purchaser, ***, reported that ISO cylinders have the same uses as HPSCs though it reported that it is not currently favored by its customers as a substitute for HPSCs.

The majority of purchasers reported that UN-ISO cylinders and aluminum cylinders are higher in price than the subject HPSCs. When asked to compare the price of DOT high pressure steel cylinders and UN-ISO-809-1 high pressure steel cylinders of the same size, eight of twelve responding purchasers reported that the UN-ISO-809-1 cylinders prices are higher, two reported that they are lower, and two reported that there is no price difference.¹² When asked to compare the price of DOT high pressure steel cylinders and aluminum cylinders of the same size, eleven of fourteen responding purchasers reported that the aluminum cylinders prices are higher, two reported that they are lower, and one reported that there is no price difference.

⁹ Cryogenic cylinders are insulated steel containers designed to hold liquified gases such as nitrogen and liquid oxygen at very low temperatures.

¹⁰ One of the purchasers, ***, also provided a “yes” response in its importer questionnaire.

¹¹ Norris stated at the hearing that its major market focuses are the construction, gas, and welding industries. It participates very little in the beverage and medical markets. Hearing transcript, p. 53 (Van Auken).

¹² Norris reported that it costs ***. Norris’s posthearing brief, exhibit 1, p. 5.

Cost Share

The cost of HPSCs account for a small share of the total cost of the construction projects in which they are used. Norris reported that HPSCs ***. None of the importers provided cost-share estimates. Three purchasers involved in producing fire suppression systems reported that the cost of HPSCs ranged from 50 to 75 percent of the final cost of their products.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported HPSCs depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.).

Lead Times

Norris reported that *** percent of its sales were produced to order and *** percent were from inventory. Norris's average lead time for delivery was *** for items sold from inventory and *** for items produced to order. Among importers of product from China, three firms reported that all sales were from inventories and two reported that all sales were produced to order. For importers' sales from inventories, lead times ranged from *** days and for products produced to order, lead times ranged from ***.

Purchasers

Twenty purchasers of HPSCs submitted questionnaires.¹³ Of these purchasers, ten are distributors, four are end users, three use HPSCS in the production of fire suppression systems, one is a reseller that includes HPSCs as an accessory in its manufactured products, one includes HPSCs in welding and cutting kits sold to distributors, and one purchases HPSCs so that it can fill them with gases that it offers for sale. Four of the purchasers have bought HPSCs from the United States, China, and nonsubject sources since 2009, eight have purchased entirely from the United States and China during this period, three purchased entirely from China and nonsubject sources, two purchased only U.S.-produced HPSCs, one purchased only Chinese imports, and two purchased U.S.-produced HPSCs and imports from foreign sources of unknown origin. The reported nonsubject sources of imports included Austria, Brazil, Canada, and Italy. The total value of purchases by responding purchasers was \$71.7 million in 2011, about *** percent of the value of U.S. consumption in that year.

¹³ All four purchasers that participated in the hearing, (American Gas & Cylinder, Cyl-Tec, Roberts Oxygen, and Western International) submitted purchaser questionnaires.

Factors Affecting Purchasing Decisions

Table II-3 summarizes the questionnaire responses by 20 purchasers concerning the top three factors that they consider when purchasing HPSCs. As indicated in the table, quality, availability, price and delivery time tend to be the most important considerations.

Table II-3
HPSCs: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	3	5	5 ¹
Price or cost	4	7	6
Quality ²	11	3	1
Delivery time	0	0	5
Other ³	2	5	2

¹ One purchaser reported availability/lead time.
² One purchaser ranked quality and safety together
³ Other factors include consistency, country of origin, domestic supplier, inventory, meeting specifications and safety, meeting DOT criteria, product range, and reliability of supply.

Source: Compiled from data submitted in response to Commission questionnaires.

Purchasers were also asked how often their firm purchases HPSCs at the lowest possible price. Of the 20 responding purchasers, 1 answered “always,” 10 answered “usually,” 8 answered “sometimes,” and 1 answered “never.”

Purchasers were asked to indicate whether the 15 factors listed in table II-4 were “very important,” “somewhat important,” or “not important” in their purchasing decisions. The factors most frequently ranked “very important” were quality meeting industry standards (19 purchasers), product consistency and reliability of supply (18 purchasers each). Other important factors are delivery time (16 purchasers), availability (15 purchasers), and price and delivery terms (13 purchasers each).

Table II-4
HPSCs: Importance of purchasing factors, as reported by U.S. purchasers

Factor	Very important	Somewhat important	Not Important
	Number of firms responding		
Availability	15	5	0
Delivery terms	13	7	0
Delivery time	16	4	0
Discounts offered	9	7	4
Extension of credit	8	6	6
Minimum quantity requirement	5	13	2
Packaging	3	9	9
Price	13	7	0
Product consistency	18	1	0
Quality exceeds industry standards	10	6	4
Quality meets industry standards	19	1	0
Product range	6	11	3
Reliability of supply	18	2	0
Technical support/service	4	11	5
U.S. transportation costs	7	8	4

Source: Compiled from data submitted in response to Commission questionnaires.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Norris, importers, and purchasers were asked whether the U.S.-produced products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably with imports from China and nonsubject sources. Norris reported that the imports from China are *** interchangeable with U.S.-produced products, while 4 of 8 responding importers and 13 of 17 responding purchasers reported that they are “always” or “frequently” interchangeable (table II-5). One purchaser, *** specification for pressure rating, neck threads, and outside dimensions needed in the final product, they are interchangeable. Another purchaser *** does not consider imports from China and other foreign sources interchangeable with the U.S.-produced product because of quality issues.

Table II-5

HPSCs: Perceived degree of interchangeability of product produced in the United States and in other countries, by country pairs

Country pair	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	2	2	3	1	9	4	2	2
U.S. vs. nonsubject	***	***	***	***	1	1	5	0	5	2	2	2
China vs. nonsubject	***	***	***	***	1	1	5	0	4	2	2	1

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

Firms were also asked how often differences in factors other than price between the U.S.-produced products and imports from China and nonsubject sources were a factor in their sales of HPSCs (table II-6). Norris reported that these differences are *** a factor in their sales while the majority of importers and 8 of 17 responding purchasers reported that they are “always” or “frequently” a factor in their sales. One importer of Chinese product **, also reported that Norris has long delivery lead times.

Table II-6

HPSCs: Perceived importance of factors other than price between product produced in the United States and in other countries, by country pairs

Country pair	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	5	1	1	0	6	2	7	2
U.S. vs. nonsubject	***	***	***	***	3	1	1	1	6	0	3	2
China vs. nonsubject	***	***	***	***	2	1	1	1	3	0	4	1

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

Purchasers were also asked to compare U.S.-produced HPSCs from China with respect to the 15 characteristics listed in table II-7, noting whether the domestic product was superior, comparable, or inferior to the imported product. A majority of purchasers ranked the U.S. product inferior (higher) in price. In all other characteristics, neither country was ranked either superior or inferior by a majority of purchasers.

Table II-7

HPSCs: Comparisons of U.S.-produced HPSCs with imports from China

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
Availability	3	7	6
Delivery terms	2	11	3
Delivery time	5	6	5
Discounts offered	0	12	4
Extension of credit	1	14	0
Minimum quantity requirements	2	14	1
Packaging	0	15	1
Price ¹	0	2	14
Product consistency	1	13	2
Quality exceeds industry standards	2	12	1
Quality meets industry standards	1	15	0
Product range	3	10	3
Reliability of supply	0	14	2
Technical support/service	3	12	1
U.S. transportation costs ¹	1	15	0

¹ A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the Chinese price.

Source: Compiled from data submitted in response to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were encouraged to comment on these estimates in their briefs, but no comments were provided.

U.S. Supply Elasticity¹⁴

The domestic supply elasticity for HPSCs measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of HPSCs. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced HPSCs. Analysis of these factors, particularly the existence of *** indicates that the elasticity is likely to be in a high range of 5 to 10.

¹⁴ A supply function is not defined in the case of a non-competitive market.

U.S. Demand Elasticity

The U.S. demand elasticity for HPSCs measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of HPSCs. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the HPSCs in the production of any downstream products. While potential substitutes for HPSCs exist in certain applications, the aggregate demand for HPSCs is probably relatively inelastic; a range of -0.25 to -0.75 is likely.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.¹⁵ Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced HPSCs and imported HPSCs is likely to be in the range of 3 to 5.

¹⁵ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margins of dumping and subsidies was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire response of one firm that accounted for all of U.S. production of HPSCs over the period examined.

U.S. PRODUCERS

Norris was the sole domestic producer of HPSCs, accounting for 100 percent of U.S. production during 2011.¹ Norris operates production facilities in Longview, TX, where it is headquartered and in Huntsville, AL, which Norris acquired in 2010 from former domestic producer, Taylor Wharton International Incorporated (“TWI”).² After the 2010 acquisition, Norris consolidated its operations with its Longview, TX plant focusing on the production of HPSCs with gas capacity of 150 cubic feet and over, and the Huntsville, AL plant focusing on production of HPSCs with gas capacity of under 150 cubic feet.³ Prior to its acquisition of the Huntsville, AL plant, Norris relied on Canadian producer, Worthington, to supply it with HPSCs with gas capacities of up to 80 cubic feet, on an original equipment manufacturer basis.⁴ Norris ***.

¹ Norris is a subsidiary of TriMas, a global manufacturer of engineered and specialty products, headquartered in Bloomfield Hills, MI. TriMas has about 3,900 employees at more than 70 facilities in 11 countries and is listed on NASDAQ under symbol TRS. Trimas Corporation, Annual Report, 2010. Available at https://materials.proxyvote.com/Approved/896215/20110314/AR_84806/images/TriMas-AR2010.pdf, retrieved May 24, 2011.

² TWI entered bankruptcy reorganization in November 2009 and ceased production of HPSCs in June 2010. In addition to the Huntsville, AL plant, Norris also acquired a billet press that had been used in TWI’s Harrisburg, PA plant, which is currently idled. Norris did not acquire the assets (or records) of TWI’s plant at Harrisburg, PA. It reported limited data for shipments only for the Harrisburg, PA facility between 2008 and its closure in 2010, which it obtained during its due-diligence in the acquisition of certain TWI assets. Given the incompleteness of these data, U.S. shipments from the Harrisburg, PA plant have not been included in calculations contained in this staff report. Petition, pp. 3-4; Petitioner’s postconference brief, p. 4. Hearing transcript, p. 8 (Lebow); pp. 26-27 (Van Auken).

³ The Huntsville, AL facility has been producing small and intermediate sized HPSCs since 1991. Prior to Norris’ acquisition of the plant, it had relied entirely on a tube spinning manufacturing process, which required the purchase of high cost steel tube, to produce HPSCs. Norris reportedly has almost fully moved to utilizing a billet piercing process to manufacture the shell, which it supplies from its Longview forge, before undergoing finishing operations in Huntsville. Hearing transcript, pp. 22 (Camp), 28, and 84 (Van Auken). Petitioner’s posthearing brief, p. 7.

⁴ Prior to Norris’ acquisition of the Huntsville, AL plant, Norris sold larger-sized HPSCs produced at its Longview, TX plant to Worthington, while Worthington sold small and medium-sized HPSCs to Norris. Hearing transcript, p. 28 (Van Auken). Norris, reportedly could not control the cost of the products it purchased from Worthington and had to sell these products at a loss. This was one of the reasons that inspired Norris to pursue the purchase of TWI’s Huntsville, AL plant, which produces small and medium sized HPSCs. Conference transcript, pp. 21-22 (Van Auken); Petitioner’s posthearing brief, Affidavit of Jerry Van Auken, p. 1. While Norris and Worthington no longer buy and resell each other’s HPSCs, the two firms continue to maintain a commercial relationship with respect to the manufacture of acetylene cylinders, which are not subject to these investigations. Hearing transcript, p. 28 (Van Auken).

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on Norris' capacity, production, and capacity utilization are presented in table III-1.⁵ During the period for which data were collected, Norris' capacity *** and production *** resulting in ***. Norris reported ***.

Table III-1
HPSCs: U.S. capacity, production, and capacity utilization, 2009-11

* * * * *

Norris reported ***.⁶ When asked to describe the constraints that limit its production capacity and its ability to shift production capacity between products, Norris ***.

U.S. PRODUCER'S SHIPMENTS

Data on Norris' shipments of HPSCs are presented in table III-2. U.S. commercial shipments accounted for *** of Norris' total shipments, accounting for *** percent of total shipments in 2011.⁷ Principal export markets identified by Norris included: ***.

Table III-2
HPSCs: U.S. producer's shipments, by types, 2009-11

* * * * *

Data on Norris' shipments of HPSCs, by gas capacity are presented in table III-3. Between 2009 and 2011, HPSCs between 150 and 702 cubic feet accounted for ***.⁸

Table III-3
HPSCs: U.S. producer's commercial shipments, by gas capacity, 2009-11

* * * * *

⁵ The Commission requested that Norris provide trade and financial data for its Longview, TX and Huntsville, AL facilities separately. These data are presented in appendix D. The Commission also requested that Norris provide detailed trade and financial data for 2011, which are presented in appendix F of this report. Table F-1 presents Norris' trade and financial information for 2011, on a quarterly and six month basis

⁶ The Commission requested that Norris provide trade and financial data regarding its UN-ISO-9809-1 operations separately. These data are provided in appendix E. Norris' comments regarding the comparability of high pressure steel cylinders and steel cylinders made to UN-ISO-9809-1 specifications are included in appendix G. Table C-4 presents summary data for the U.S. market for all HPSCs as well as UN-ISO-9801-1 cylinders.

⁷ Norris ***.

⁸ As noted earlier, after Norris' acquisition of TWI's assets, Norris consolidated its operations with its Longview, TX plant focusing on the production of HPSCs with gas capacity of 150 cubic feet and over, and the Huntsville, AL plant focusing on production of HPSCs with gas capacity of under 150 cubic feet. Prior to its acquisition of the Huntsville, AL plant, Norris relied on Canadian producer, Worthington, to supply it with HPSCs with gas capacities of up to 80 cubic feet, on an original equipment manufacturer basis. Petition, pp. 3-4; Conference transcript, pp. 21-22 (Van Auken); Petitioner's posthearing brief, Affidavit of Jerry Van Auken, p. 1.

U.S. PRODUCER'S INVENTORIES

Table III-4 presents end-of-period inventories for HPSCs.

Table III-4
HPSCs: U.S. producer's end-of-period inventories, 2009-11

* * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES

Norris' purchases of HPSCs are presented in table III-5. As noted earlier, prior to Norris' acquisition of TWI's Huntsville, AL plant in June 2010, it had relied on Canadian producer, Worthington, to supply it with HPSCs with gas capacities of up to 80 cubic feet, on an original equipment manufacturer basis.⁹

Table III-5
HPSCs: U.S. producer's purchases, 2009-11

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producer's aggregate employment data for HPSCs are presented in table III-6.

Table III-6
HPSCs: U.S. producer's employment-related data, 2009-11

* * * * *

⁹ Petition, p. 4.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

Part IV of this report presents information on imports of subject merchandise and overall U.S. market composition. U.S. import data are based on the responses of U.S. importer questionnaires.¹ Importer questionnaires were sent to 44 firms believed to be importers of HPSCs, as well as the only U.S. producer of HPSCs, Norris.

U.S. IMPORTERS

Of the nine U.S. importers that provided usable data, four firms reported imports of HPSCs from China, *** of which *** accounted for *** percent of total reported U.S. imports from China in 2011.² Leading nonsubject sources of HPSCs include Canada and Korea.³ One firm, America Fortune, which is a wholly-owned subsidiary of Chinese HPSC producer, BTIC, reported being related to firms, either domestic or foreign, that are engaged in importing HPSCs from China into the United States or that are engaged in exporting HPSCs from China to the United States. *** reported being related to firms, either foreign or domestic, that are engaged in the production of HPSCs.⁴

U.S. IMPORTS

Table IV-1 presents data for U.S. imports of HPSCs from China and all other sources. U.S. imports of HPSCs from China accounted for between *** to *** percent of total imports over the period, by quantity. The largest nonsubject source of HPSCs over the period was Canada, which accounted for between *** to *** percent of total imports. As detailed in table IV-1, import market share for HPSCs from China increased throughout the period, while import market share for HPSCs from Canada decreased. Between 2009 and 2011, subject imports of HPSCs from China increased by *** percent, by quantity, while nonsubject imports of HPSCs increased by *** percent over the same period.

¹ The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection (“Customs”), may have imported greater than one percent of total imports under HTS statistical reporting numbers 7311.00.0030 and 7311.00.0090. At the preliminary conference, a representative from Cyl-Tec indicated that Cyl-Tec incorrectly included non-subject merchandise in the same customs category used for subject merchandise, resulting in official Commerce statistics that overstate actual imports of subject merchandise from China. Conference transcript, pp. 80-81 (Bennett) and pp. 47-48 (Klett). Additionally, staff identified apparent discrepancies in official Commerce statistics with regard to imports of subject merchandise from Korea. Email to Commission staff from ***, June 6, 2011. Given these apparent discrepancies, U.S. importer questionnaire data was deemed to be more reliable than official Commerce statistics.

² Other U.S. importers of HPSCs from China include: ***. The Commission received responses from 28 firms that certified that they have not imported HPSCs since 2009. These firms are: ***.

³ Canada holds a relatively large share of the small HPSC market, while imports from Korea tend to be more concentrated in the large HPSC market. Hearing transcript, pp. 73-74 (Klett). U.S. importers of subject merchandise from Canada include: ***. U.S. importers of subject merchandise from Korea include: ***, *** reported imports of HPSCs from Italy and Brazil.

⁴ ***.

Table IV-1
HPSCs: U.S. imports, by sources, 2009-11

* * * * *

NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.⁵ Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.⁶ In the most recent 12-month period for which official Commerce data are available (March 2011 through February 2012), U.S. imports from China accounted for 90.2 percent of total imports.⁷

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of HPSCs during the period are shown in table IV-2. Between 2009 and 2011, apparent U.S. consumption increased*** percent by quantity and increased *** percent by value.⁸

Table IV-2
HPSCs: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2009-11

* * * * *

⁵ Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

⁶ Section 771(24) of the Act (19 U.S.C. § 1677(24)).

⁷ As noted earlier, official Commerce statistics contain discrepancies due to instances of misreporting/misclassification. Conference transcript, pp. 80-81 (Bennett); pp. 47-48 (Klett); and June 6, 2011 Email to USITC investigator.

⁸ The Commission requested firms that testified at the hearing to provide detailed trade and financial data for 2011, which are presented in appendix F of this report. Table F-1 presents Norris' trade and financial information for 2011 on a quarterly and six month basis; table F-2 presents U.S. apparent consumption for 2011 on a six month basis; and table F-3 presents U.S. market share information for 2011 on six month basis

U.S. MARKET SHARES

U.S. market share data are presented in table IV-3. As detailed below, Norris' share of apparent U.S. consumption, by quantity, decreased from *** to *** percent between 2009 and 2011, while the market share for U.S. imports from China increased from *** to *** percent over the same period.

Table IV-3
HPSCs: U.S. consumption and market shares, 2009-11

* * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of HPSCs is presented in table IV-4. Subject imports exceeded U.S. production of HPSCs in every period, ranging from *** percent in 2009 to *** percent in 2011.

Table IV-4
HPSCs: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2009-11

* * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw materials account for a substantial share of the cost of HPSCs. These costs accounted for *** percent of the cost-of-goods sold in 2009, *** percent in 2010, and *** percent in 2011. The principal raw material used in fabricating HPSCs is chromium alloy steel.

U.S. Inland Transportation Costs

Norris estimated that transportation costs accounted for *** percent of its total delivered cost of HPSCs. Among importers of HPSCs from China, estimates ranged from 1.0 to 5.0 percent.

Norris reported that *** percent of its sales were shipped within 100 miles of its production facilities, *** percent were shipped within 101 to 1,000 miles, and *** percent were shipped over 1,000 miles. Among five responding importers of Chinese product, one reported that all of its inland shipments were for distances of 100 miles or less. Three of the other four importers reported that between 80 and 100 percent of shipments were for distances of 1,000 miles or less. One importer reported that the majority of its shipments were for distances of more than 1,000 miles.

PRICING PRACTICES

Pricing Methods

Norris determines its prices ***, while importers mostly use transaction-by-transaction negotiations.¹

Norris reported that ***. All five importers of product from China reported that they sell entirely on a spot basis. Norris's ***.

Sales Terms and Discounts

Norris quotes prices on ***. Among importers of product from China, one reported that it quotes prices on a delivered basis, and four reported that they quote prices on an f.o.b. basis.

Discount policies on sales of HPSCs are varied. Norris reported ***. Among the five responding importers of product from China, two reported that they provide discounts, and three do not offer discounts. One importer provides rebates averaging about two percent, and one has occasional package discounts such as a free first fill with the purchase of a cylinder. One importer of nonsubject product provides a *** percent discount for early payment.

¹ Among the ten responding importers, six use transaction-by-transaction negotiations; one uses a combination of transaction-by-transaction negotiations, set price lists and contracts; one uses transaction-by-transaction negotiations and set price lists; one uses transaction-by-transaction negotiations and contracts; and one uses transaction-by-transaction negotiations and proposals to buying groups.

PRICE DATA

The Commission asked the U.S. producer and importers of HPSCs to provide quarterly data for the total quantity and value of selected products that were shipped to unrelated customers in the U.S. market during 2009-11. Pricing data were requested for the following products:

- Product 1.**--High pressure cylinders, 40 cubic feet, DOT 3AA2015, painted.
- Product 2.**--High pressure cylinders, 80 cubic feet, DOT 3AA2015, painted.
- Product 3.**--High pressure cylinders, 150 cubic feet, DOT 3AA2015, painted.
- Product 4.**--High pressure cylinders, 300 cubic feet, DOT 3AA2400, painted.

Norris and three importers of product from China provided varied amounts of usable pricing data for sales of the requested products. *** provided data for all products for all quarters. Pricing data reported by Norris accounted for *** percent of the quantity of its U.S. producer's shipments of HPSCs during 2009-11, and pricing data by importers accounted for *** percent of the quantity of shipments of U.S. imports from China during 2009-11.

Price Trends

Quarterly prices and shipment quantities for the four products are presented in tables V-1 through V-4 and figure V-1.² Norris's prices for all four products *** between the first quarter of 2009 and the first quarter of 2010. Its prices for products 2, 3, and 4 *** in 2010 and *** in 2011 while its prices for product 1 remained ***. Prices of imports from China often moved in the same direction as Norris's prices, with prices of all four products *** between the first quarter of 2009 and the first quarter of 2010 and then *** than in 2010. A summary of price ranges and percentage changes in prices is presented in table V-5. Shipment quantities for U.S.-produced and imported products 1, 2, and 3 all *** during 2009-11, while shipments of product 4 *** for both countries during the period.

Table V-1
HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, 2009-11

* * * * * * *

Table V-2
HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, 2009-11

* * * * * * *

Table V-3
HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, 2009-11

* * * * * * *

Table V-4
HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, 2009-11

* * * * * * *

² Price data for nonsubject imports are presented in appendix H.

Figure V-1
HPSCs: Weighted-average prices and quantities of domestic and imported product, by quarters, 2009-11

* * * * *

Table-V-5
HPSCs: Summary of weighted-average f.o.b. prices for products 1-4 from the United States and China, January 2009-11

Item	Number of quarters	Low price (per unit) ¹	High price (per unit)	Change in price ¹ (percent)
Product 1				
United States	12	***	***	***
China	12	***	***	***
Product 2				
United States	12	***	***	***
China	12	***	***	***
Product 3				
United States	12	***	***	***
China	12	***	***	***
Product 4				
United States	12	***	***	***
China	12	***	***	***
¹ Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data. Thus, the percentage changes are not necessarily counted from the high and low prices shown in this table. Source: Compiled from data submitted in response to Commission questionnaires.				

Price Comparisons

Margins of underselling and overselling by product are presented in table V-6. Prices for HPSCs imported from China were below those for U.S.-produced product in all of the 48 quarterly comparisons for the four products, by margins ranging from 2.9 to 36.9 percent.

Table-V-6
HPSCs: Instances of underselling of imports from China and the range of margins, by products, 2009-11

Item	Underselling	
	Number of instances	Range (percent)
Product 1	12	21.5 - 36.9
Product 2	12	17.4 - 34.7
Product 3	12	12.0 - 27.9
Product 4	12	2.9 - 20.8
Total	48	2.9 - 36.9

Source: Compiled from data submitted in response to Commission questionnaires.

Price comparisons with America Fortune excluded

At the hearing, respondents argued that the largest supplier of imported HPSCs from China, America Fortune, competes at a different level of distribution than Norris.³ America Fortune sold *** percent of its imports to Western International and *** percent to Cyl-Tec in 2011. Western International and Cyl-Tec both compete directly with Norris for sales. America Fortune also sells to a variety of other customers including end users that don't compete with Norris. However, even with America Fortune excluded from the price data, ***. The results of recalculating import prices without America Fortune are presented in Appendix I⁴. The results show that ***.

LOST SALES AND LOST REVENUES

In its petition, Norris reported 14 instances of lost sales due to competition from Chinese imports and 9 instances of lost revenues where it had to reduce or roll back prices of HPSCs. The 14 lost sales allegations were valued by Norris at \$*** million and involved over *** units and the 9 lost revenues allegations were valued by Norris at about \$*** and involved over *** units of HPSCs. Norris did not submit any additional allegations during the final phase of the investigation. The staff contacted all 11 purchasers named in the allegations, and eight purchasers provided responses to the allegations. A summary of the allegations and responses is presented in tables V-7 and V-8.

Table V-7
HPSCs: U.S. producers' lost sales allegations

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***.
***.

³ Hearing transcript, p. 174 (Marshak, Iffland).

⁴ Appendix H compares the U.S. prices and Chinese prices with prices of nonsubject imports.

***.⁵
***.

Table V-8
HPSCs: U.S. producers' lost revenue allegations

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***.
***.

***. Another importer reported that it also considers availability an important factor in purchasing decisions in addition to price. It stated that it has purchased HPSCs at a higher price because of availability.

Firms that were cited in allegations were also asked if the U.S. producer had reduced its prices of HPSCs since January 2008 in order to compete with prices of import from China. Of the four responding firms, one answered "yes," and three answered "no." One firm that answered "no" commented that lower prices could have been due to other factors such as the weak demand due to the economy, lower material costs, or manufacturing efficiencies. Another firm that answered "no" stated that any reduction in price provided by U.S. producers was the result of arms length negotiation including volume purchasing, establishment of global agreements, and consolidation of purchases orders from different company entities.

⁵ ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. FIRMS

BACKGROUND

Norris provided usable financial data on its operations producing HPSCs. These include the HPSCs facility at Longview, TX, and the Huntsville, AL, facility acquired from TWI out of the bankruptcy estate.¹ These reported data are believed to represent all of the production of HPSCs in the United States in 2011.²

OPERATIONS ON HPSCs

Income-and-loss data for Norris' total HPSC operations are presented in table VI-1, and are briefly summarized here.

- The quantity and value of total sales rose irregularly between 2009 and 2011. The average unit value of sales also increased irregularly between 2009 and 2011.
- The absolute value of cost of goods sold ("COGS") followed sales—it declined between 2009 and 2010 and then increased from 2010 to 2011. The average unit value of COGS declined from 2009 to 2010 and then increased *** from 2010 to 2011. Lower "other factory costs" offset the increase in raw material costs between 2009 and 2011.
- The reported operating loss fell *** from 2009 to 2010 and Norris reported an operating profit in 2011. The average unit value of operating income and the ratio of operating income to sales followed the changes in the value of operating income.
- Except for 2011, net income before taxes was ***. Cash flow, calculated as net income plus depreciation charges, was positive in 2010 and 2011.

Table VI-1
HPSCs: Results of total operations of Norris, fiscal years 2009-11

* * * * *

TriMas Corporation is Norris' parent corporation; Norris is one of two companies in Engineered Components, which, in turn is one of six reportable segments of the TriMas Corporation. Besides

¹ Norris has a fiscal year that ends ***, ***. TWI entered bankruptcy reorganization in November 2009 and ceased production of HPSCs in June 2010. Norris acquired certain of TWI's assets, including the production facility at Huntsville, AL, and several pieces of equipment only from the facility at Harrisburg, PA in June 2010. Petition, pp. 4 and 14-15. Officials at Norris provided consolidated data for their operations on HPSCs for the plants at Longview, TX and Huntsville, AL into a single questionnaire response. Data on a plant-by-plant basis, which generally match the breakout of large and small HPSCs (depicted in appendix tables C-2 and C-3), are shown in appendix tables D-1 and D-2. Commission staff ***. EDIS document 477914, April 17, 2012.

² TWI entered voluntary bankruptcy proceedings on November 18, 2009, which included the production facilities at Harrisburg, PA and Huntsville, AL. Norris's acquisition of the Huntsville, AL plant and forge from the Harrisburg, PA plant was completed June 8, 2010. Norris' reported data include production, trade, and financial data for the Huntsville, AL plant, as noted earlier. Norris did not acquire the entire assets (or records) of TWI's plant at Harrisburg, PA and data concerning the operations of this plant were not included in the data reported in the financial section of Norris' questionnaire response or in this staff report. However, based on information from TWI gained during due diligence, Norris was able to state that shipments from the Harrisburg, PA, facility ***.

industrial cylinders, the other company in the segment makes slow-speed and compressor engines.³ These two companies are stand-alone profit centers, each with its own product line(s), income statement, and balance sheet. Each is then consolidated within the Engineered Components' segment which, in turn, is consolidated within the overall entity, TriMas Corporation. At the request of Commission staff, Norris reconciled its questionnaire response for HPSCs to the income statement for Norris Cylinder Consolidated (which includes non-subject products); Norris also traced the consolidated income statement for Norris to that of the segment for Engineered Components (Norris Consolidated and Arrow Engine); and then traced Engineered Components' income statement to the TriMas Corporation's consolidated statement, which was audited, in the corporation's annual report for 2011.

Norris acquired the TWI plant at Huntsville, AL and certain assets of TWI's Harrisburg, PA plant, in June 2010.⁴ Although respondents alleged that Norris' purchased production facility at

³ Following divestiture of precision tool cutting and specialty fittings lines of businesses in December 2011, there are two companies within the reportable Engineered Components segment of TriMas Corporation: Norris Cylinder (industrial cylinders) and Arrow Engine (specialty engines). TriMas reported total net sales of \$1.084 billion and operating profit of \$131.3 million in 2011, up considerably from sales and profits reported in either 2010 or 2009. Total net sales and operating profit of the Engineered Components segment were \$175.4 million (16.2 percent of TriMas' total) and \$27.6 million (15.8 percent) in 2011. See TriMas 2011 Annual Report on Form 10-K, p. 27 for a three-year comparison of sales and operating profits by-segment.

The TriMas 2011 annual report attributed the continued upturn in economic conditions in 2011 to increased sales in each of its six business segments compared to 2010. It stated that sales in the industrial cylinder business increased by approximately \$38.0 million (compared with an increase of \$62.4 million overall or 55.2 percent in 2011 compared to 2010). Of the increase, approximately \$13.4 million was due to increased export sales, of which \$6.4 million was to new customers, approximately \$11.2 million was due to market share gains, primarily related to sales of large high pressure cylinders to existing customers and approximately \$8.2 million was due to the Taylor-Wharton asset acquisition during the second quarter of 2010. The remainder of the increase was due to the continued upturn in economic conditions and new product introductions. 2011 Form 10-K, p. 31. Commenting on the improvement in gross margin, TriMas stated "the most significant drivers of this profitability increase "were the productivity initiatives to reduce material costs and improved overhead absorption, as no significant additional fixed costs were required to generate the incremental sales levels." 2011 Form 10-K, p. 31.

⁴ TWI, which had purchased certain assets from Harsco (including the plants at Harrisburg, PA, and Huntsville, AL), filed voluntary petitions for Chapter 11 bankruptcy on November 18, 2009. This included the several businesses that TWI had purchased from Harsco, which it named, TW Cylinders LLC, which had operations in Harrisburg, PA and Huntsville, AL, and manufactured high and low pressure compressed gas and acetylene cylinders. As TWI stated in its filing, "in response to a variety of financial challenges summarized, the Debtors determined that the commencement of these Chapter 11 cases would provide the best alternative to eliminate underproductive operations and to restructure their businesses and financial affairs." Information on TWI's bankruptcy filing may be retrieved from Internet site, <http://www.twreorg.com/petitions.php3>. Pursuant to the reorganization plan, TWI sold its Huntsville Cylinder operation and certain of its Harrisburg, PA assets (chiefly, a billet press) to Norris Cylinder Corp. allowing TWI to focus on its American Welding and Tank, Sherwood Valve, and Taylor Wharton Cryogenics businesses. TWI press release dated June 16, 2010. EDIS document 452531.

TriMas' acquisition strategy reportedly is to seek "bolt-on" acquisitions, in which it acquires another industry participant or product line within its industries (i.e., to supplement existing product lines, gain access to additional distribution channels, expand its geographic footprint, and achieve scale and cost efficiencies). TriMas 2010 Annual Report on Form 10-K, p. 16. TriMas's annual report stated, that Norris Cylinder completed the acquisition of certain assets and liabilities from Taylor-Wharton International related to TWI's high and low-pressure cylinder business on June 8, 2010 for \$11.1 million, including a net working capital adjustment of \$0.1 million, which was finalized during the fourth quarter of 2010. The assets purchased generated approximately \$17 million in revenue during 2009. TriMas 2010 Annual Report on form 10-K, p. 75. EDIS document 452530.

Huntsville, AL, was outdated and inefficient,⁵ Norris stated that, to the contrary, the Huntsville factory is a state-of-the-art manufacturing facility, incorporating cutting edge technology into its manufacturing process, utilizing connected manufacturing, improved welding lines, robotic material handling, and the like. Norris stated that it has not put into operation the billet press purchased from TWI's Harrisburg plant.⁶ Norris also reported that it is dedicated to efficient production, and continues to focus on additional automation, energy savings projects, and process consolidation at Huntsville.⁷

Norris provided financial data separately for its plants at Longview, TX, and Huntsville, AL.⁸ These data indicate that Longview ***. Huntsville produces smaller size cylinders. Although operations at Huntsville may have been affected by TWI's bankruptcy filing in November 2009 and consequent uncertainty until ownership was reestablished in June 2010 as ***,⁹ From 2009 to 2011 ***. The greatest change was the ***,¹⁰ These data are shown in appendix tables D-1 and D-2.

Norris also provided data on its operations producing cylinders to standard UNISO 9809-1.¹¹ These cylinders are made ***. These data are included in appendix table E-1.

⁵ Respondents alleged that the TWI facilities were antiquated and inefficient; they further alleged that TWI had not reinvested in and upgraded its U.S. production facilities for years. Hearing transcript, pp. 150 and 156 (Rottmann and Bennet). These statements appear to refer to the TWI plant that was closed, Harrisburg, PA, rather than the one at Huntsville, AL, that Norris purchased. Hearing transcript, pp. 170-171 (Rottmann and Iffland). (Sales of HPSCs from the Harrisburg, PA plant fell, as noted earlier, but are not included in the data in the Staff report.) Respondents repeated their allegation that the Huntsville, AL plant was "antiquated." BTIC posthearing brief, p. 2. To the contrary, Norris certified that its plant at Huntsville, AL is a state-of-the-art facility with ***. Norris's posthearing brief, pp. 7-8, Answers to Commission questions, p. 3, and exh. 1 ***.

⁶ A witness for Norris stated that the forge (a billet pierce press) was put into storage and would require 12 to 18 months to install and become operational when market conditions allow the additional production capacity. Hearing transcript, pp. 27 and 117-118 (Van Auken). Norris further stated that it does not have the sales volume or the capital required to bring the forge on-line; Norris estimated that it would need to ***. Norris's posthearing brief, p. 14, and Answers to Commission questions, p. 5.

⁷ Norris' postconference brief, pp. 4-5. Also, see TriMas' Annual Report on Form 10-K for 2010 and 2011, which notes the effect of cost improvement programs.

⁸ Norris provided data for sales value, gross profit, and operating profit separately for Huntsville, AL and Longview, TX for 2006, 2007, and 2008. See Norris's posthearing brief, Answers to Commission questions, p. 7.

⁹ Norris stated that the Huntsville facility reported ***. Norris's posthearing brief, answers to questions, p. 3 and exh. 2, ***.

¹⁰ A witness for Norris stated that cost efficiencies, including reducing steel input costs, were gained by developing synergies between the plants at Longview, TX, and Huntsville, AL. Norris converted the Huntsville, AL plant over from a tube manufacturing process to one where the plant finishes cylinders of 85, 125, and 150 cubic feet produced at Longview, TX from billet. This reduces raw material costs of buying tube and improves utilization of the forge at Longview, TX, particularly in several small sizes of cylinders. The witness also stated that Norris has invested in equipment upgrades at Huntsville, AL. Hearing transcript, pp. 28, 84 and 115-117 (Van Auken). Norris analyzed and provided a comparison of the operations at Huntsville, AL and Longview, TX in its posthearing brief, Answers to Commission questions, p. 4 and exh. 3.

¹¹ "Norris Cylinder developed a process for manufacturing ISO cylinders capable of holding higher pressure gases, and has been awarded a United Nations certification for its ISO cylinders, making Norris the first manufacturer approved to distribute ISO cylinders internationally. Norris Cylinder also is creating new designs for use in Hydrogen Fuel Cell applications related to Clean Energy programs." TriMas' 2010 Annual Report on Form 10-K, p. 12. EDIS document 452530.

Overall, Norris' raw material costs and other factory costs fell in dollar terms between 2009 and 2010 and then were higher in 2011 compared with 2010. Reportedly the cost of steel used in making HPSCs ***,¹² The ***.

A variance analysis for Norris is presented in summary form in table VI-2 for total operations and separately for the reported data for the Longview and Huntsville plants. The information for these variance analyses is derived from table VI-1 and appendix tables D-1 and D-2. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. The variance analysis is summarized for operations on HPSCs overall and for each of the two plants, and shows that the increase in operating income from 2009 to 2011 of *** is attributable to a combination of the favorable price variance (higher unit prices) and net cost/expense variance (lower unit costs).¹³ This was generally the case between each of the full years except 2009-10 when the price variance was unfavorable. Variances for the Longview and Huntsville plants also are depicted in table VI-2.

Table VI-2
HPSCs: Variance analysis on results of operations of Norris, fiscal years 2009-11

* * * * *

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Norris' data on capital expenditures and research and development ("R&D") expenses related to the production of HPSCs are shown in table VI-3. Capital expenditures allocated to HPSCs included ***.

Table VI-3
HPSCs: Norris' capital expenditures and R&D expenses, fiscal years 2009-11

* * * * *

ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of HPSCs to compute return on investment ("ROI") for 2008 to 2010. The data for total net sales and operating income are from table VI-1. Operating income was divided by total assets, resulting in ROI, shown in table VI-4. Changes in the values of current assets shown in table VI-4 between 2009 and 2010 are due to market changes—the *** in sales and ***; the converse is true for changes between 2010 and 2011. Changes in property, plant, and equipment also reflect the ***.

¹² Petition, p. 20.

¹³ A variance analysis is calculated in three parts, sales variance, cost of sales variance, and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense (cost/expense) variance (in the case of the cost of sales and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the volume variance is the sum of the volume components of the net sales, COGS, and SG&A expense variances. The overall volume component of the variance analysis is generally small.

Table VI-4

HPSCs: Value of Norris' assets used in the production, warehousing, and sale, and return on investment, fiscal years 2009-11

* * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. firms to describe any actual or potential negative effects of imports of HPSCs from China on the firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Norris' response is shown below.

Actual Negative Effects

Norris: ***.

Anticipated Negative Effects

Norris: ***.

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider *** . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).²

Information on the nature of the subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producer's existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries and the global market.

THE INDUSTRY IN CHINA

The Commission received questionnaire responses from one producer of HPSCs in China, BTIC.³ Based on estimates provided in its questionnaire response, BTIC accounted for an estimated *** percent of total production of HPSCs in China and accounted for an estimated *** percent of total exports of HPSCs from China in 2011.⁴ BTIC reported that it shipped to *** U.S. importers of HPSCs in 2011 ***.

According to testimony presented at the hearing, BTIC is the main player in China's HPSC industry.⁵ Table VII-1 presents BTIC's reported capacity, production, and shipments of HPSCs during the period for which data were collected.⁶ BTIC's average production capacity *** over the period as a

² Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

³ BTIC is affiliated with America Fortune, a U.S. importer of HPSCs.

⁴ Sales by BTIC of HPSCs accounted for *** percent by value of BTIC's sales of all steel cylinders in 2011.

⁵ A witness from Western testified that his firm had imported HPSCs from Zhejiang Jindun Cylinder Company. The witness noted that while the firm "made a fine product," it did not provide a wide enough range of sizes of HPSCs. Hearing transcript, p. 167 (Iffland). Several witnesses testified that while there were many producers of HPSCs in China, very few firms currently produce HPSCs that have the quality standards required for the U.S. domestic market. Hearing transcript p. 167 (Iffland); p. 168 (Bennett); p. 169 (Rottmann). A representative from America Fortune noted that BTIC competes with other manufacturers in China; however, this competition is mainly for the domestic Chinese or broader Asian market. Hearing transcript, p. 183 (Li).

⁶ BTIC's foreign producer questionnaire data include operations of BTIC as well as its two affiliates, Langfang Tianhai High Pressure Container Co., Ltd. ("Langfang") and Tianjin Tianhai High Pressure Container Co., Ltd. ("Tianjin"). The Commission requested that firms provide detailed trade and financial data for 2011, which are presented in appendix F of this report. Table F-4 presents BTIC's trade data for 2011 on a six month basis.

result of ***.⁷ As a share of its total shipments, BTIC's reported home market shipments accounted for *** while reported export shipments to markets outside the United States *** over the period for which data were collected.⁸ BTIC's main export markets include ***.⁹

According to the PHMSA, ten Chinese producers of HPSC are DOT-approved manufacturers of the cylinders subject to these investigations (table VII-4).¹⁰ U.S. importers identified the following producers/exporters as other Chinese sources for their imports of HPSCs: ***.¹¹ No importers reported entering or withdrawing HPSCs from foreign trade zones or bonded warehouses. In addition, no importers reported imports of HPSCs under the temporary importation under bond program.

Table VII-1
HPSCs: Data for production capacity, production, shipments, and inventories of producers in China, 2009-11, and projected 2012-13

* * * * *

BTIC ***.¹² The Commission requested that firms indicate whether they are able to switch production between HPSCs and other products in response to a relative change in the price of the subject merchandise vis-a-vis the price of other products, using the same equipment and labor. BTIC indicated ***.¹³

The Commission requested foreign producers/exporters to estimate the share of their firm's production of HPSCs from 2009 to 2011, by size, for each calendar year. These data are presented in table VII-2.

Table VII-2
HPSCs: Chinese production of HPSCs, share of total production, by size, 2009-11

* * * * *

The Commission also requested foreign producers/exporters to estimate the share of their firm's U.S. exports of HPSCs from 2009 to 2011, by size for each calendar year. As detailed in table VII-3, ***.

⁷ BTIC's capacity is based upon *** operating on a *** work month. Capacity utilization was *** percent in 2009; *** percent in 2010; and *** percent in 2011. In some months over the period, BTIC ***. Respondents BTIC and America Fortune's postconference brief, p. 26.

⁸ Counsel for BTIC indicates that ***. Email to Commission staff from ***, June 3, 2011.

⁹ According to ***. BTIC Foreign Producer Questionnaire, II-6.

¹⁰ The ten Chinese firms that are DOT-approved manufacturers of subject HPSCs are Anshan High Pressure Cylinder Co. Ltd., BTIC (two locations), Chengdu High Pressure Vessel Factory, Chongqing Yifeng High Pressure, Shanghai High Pressure Container Co. Ltd., Shanghai High Pressure Specialty Gas Cylinder Co. Ltd., Shanghai Qingpu Fire Fighting Equipment Co. Ltd., Shijiazhuang Enric Gas Equipment Co. Ltd., Tianjin Tianhai High Pressure Container Co. Ltd., and Zhejiang Jindun Pressure Vessel Co. Ltd.

¹¹ Importer ***. Email to Commission staff from ***, June 1, 2011.

¹² ***. Email to Commission staff from ***, June 16, 2011.

¹³ BTIC Foreign Producer Questionnaire, II-6. ***. Email to Commission staff from ***, June 16, 2011.

Table VII-3
HPSCs: Chinese exports of HPSCs to U.S., by size, 2009-11

* * * * *

Table VII-4 provides the U.S. Pipeline and Hazardous Materials Safety Administration's (PHMSA's) list of the Chinese firms, their DOT manufacturer (M) numbers, and the relevant DOT specifications for which their HPSCs have been granted DOT approval, as of September 2010, to be sold into the U.S. market.¹⁴

Table VII-4
HPSCs: U.S. Department of Transportation (DOT)-approved Chinese manufacturers of DOT cylinders

Manufacturer	Location	DOT M number	DOT specifications	
			Listed in Commerce's product scope	Not listed in Commerce's product scope
Anshan High Pressure Cylinder Co. Ltd.	Anshan, Liaoning Province	M9203	3AA	
Beijing China Tank Industry Co. Ltd. (CTC)	Beijing	M0815		DOT-CFFC
Beijing Tianhai Industry Co. (BTIC)	Beijing	M8803	3AA	4L
Beijing Tianhai Industry Co. (BTIC)	Beijing	M0409		8AL
Beijing Tianhai Industry Co. Ltd. (BTIC) ((Langfang Tianhai High Pressure Container Co. Ltd.)	Langfang City, Hebei Province	M0810	3AA	ISO 9809-1
Beijing Tianhai Industry Co. Ltd. (BTIC) (Shanghai Tianhai Dekun Composite Cylinders Co. Ltd.)	Beijing	M0807		SP 14621
Changzhou Aircraft Manufacturing Ltd.	Changzhou City, Jiangsu Province	M0404		4BW, DOT 39
Chart Cryogenics Equipment Co. Ltd.	Changzhou, Jiangsu Province	M0702		4L

Table continued on following page.

¹⁴ According to testimony provided at the hearing, in addition to obtaining DOT approval, a manufacturer of HPSCs must demonstrate a certain level of quality to gain acceptance in the U.S. market. Examples cited included: physical appearance, the quality of stamping, and other cosmetic features they may be important to a particular U.S. customer. Hearing transcript, p. 167 (Iffland), p. 168 (Bennett). In addition, witnesses testified that over the next five years, they did not believe any additional Chinese firms would be capable of meeting the quality standards necessary for the North American market. Hearing transcript, p. 168 (Bennett), p. 169 (Rottmann).

Table VII-4--Continued

HSPCs: U.S. Department of Transportation (DOT)-approved Chinese manufacturers of DOT cylinders

Manufacturer	Location	DOT M number	DOT specifications	
			Listed in Commerce's product scope	Not listed in Commerce's product scope
Chengdu High Pressure Vessel Factory	Chengdu, Sichuan Province	M9202	3AA	
Chongqing Yifeng High Pressure	Chongqing	M0604	3AA	
Guangdong Taishan City Machinery Factory	Taishan City, Guang Dong	M0301		4BA
Luxfer Gas Cylinders (Shanghai) Co. Ltd.	Shanghai	M0713		SP 10915
Nantong CIMC Equipment Co. Ltd.	Nantong City, Jiangsu Province	M0813		SP 14437
Shandong Huanri Group	Laizhou City, Shandong Province	M0405		4BA
Shanghai High Pressure Container Co. Ltd.	Shanghai	M9501	3AA	
Shanghai High Pressure Specialty Gas Cylinder Co. Ltd.	Shanghai	M0305	3AA	3AL
Shanghai Qingpu Fire Fighting Equipment Co. Ltd.	Shanghai	M0306	3AA	
Shijiazhuang Enric Gas Equipment Co. Ltd.	Shijiazhuang, Hebei Province	M0504	3AA, 3AAX, 3T	
Tianjin Tianhai High Pressure Container Co. Ltd.	Beijing	M0706	3AA	
TPA Metals & Machinery Co. Ltd.	Shenzhen City, Guangdong Province	M0804		4BA, 4BW
WuYi Xilinde Machinery Manufacture Co. Ltd.	Wuyi County, Zhejiang Province	M0708		DOT 39
Yongkang Hua Er Cylinder Manufacturing Co. (Flying Eagle)	Yongkang, Zhejiang Province	M0302		DOT 39
Yongkang Yingpeng Chemical Machinery Co. Ltd.	Yongkang City, Zhejiang Province	M0801		DOT 39
Yuxin Machinery Co. Ltd.	Xin Xiang City, Henan Province	M0401		4BA

Table continued on following page.

Table VII-4--Continued

HSPCs: U.S. Department of Transportation (DOT)-approved Chinese manufacturers of DOT cylinders

Manufacturer	Location	DOT M number	DOT specifications	
			Listed in Commerce's product scope	Not listed in Commerce's product scope
Zhangjiagang CIMC Sanctum Co. Ltd.	Zhangjiagang City, Jiangsu Province	M0803		4L
Zhejiang Ansheng Mechanical Manufacture Co. Ltd.	Wuyi County, Zhejiang Province	M0806		DOT 39
Zhejiang Dongyang Chemical Machine Co. Ltd.	Dongyang City, Zhejiang Province	M0705		DOT 39
Zhejiang Jindun Pressure Vessel Co. Ltd.	Shangyu City, Zhejiang Province	M0704	3AA	
Zhejiang Jucheng Cylinder Co.	Quzhou, Zhejiang Province	M0605		DOT 39
Zhejiang Well Industry & Trading Co. Ltd.	Yongkang City, Zhejiang Province	M0808		DOT 39
Zhejiang Winner Fire Fighting Equipment Co. Ltd.	Jiaxing City, Zhejiang Province	M0814		3AL
Zhongshan GSBF Tank Inc. (GSC)	Zhongshan City, Guangdong Province	M0805		4BA, 4BW
Note.--Updated September 2010.				
Source: Compiled by Commission staff from list of approved foreign manufacturers of DOT cylinders.				

U.S. INVENTORIES OF IMPORTED MERCHANDISE

Inventories of U.S. imports of HPSCs are presented in table VII-5.¹⁵

Table VII-5

HSPCs: U.S. importers' end-of-period inventories of imports, 2009-11

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the

¹⁵ Between 2010 and 2011, America Fortune agreed to take on the responsibility of acting as the importer of record for certain U.S. customers who previously had purchased HPSCs directly from BTIC in China. Therefore, certain U.S. customers became purchasers of HPSCs produced by BTIC in China, in which America Fortune served as the importer of record. Hearing transcript, p. 139 (Zheng). Petitioners maintain as a result of this shift, reported subject importers' end-of-period inventories are understated. Hearing transcript, p. 49 (Klett).

importation of HPSCs from China after December 31, 2011. *** firms indicated that they had imported or arranged for the importation of HPSCs from China.¹⁶

ANTIDUMPING AND COUNTERVAILING INVESTIGATIONS IN THIRD-COUNTRY MARKETS

No producer, importer, or foreign producer reported any countervailing or antidumping duty orders on HPSCs from China in third-country markets.

INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury “by reason of subject imports,” the legislative history states “that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) ‘to ensure that it is not attributing injury from other sources to the subject imports.’”¹⁷

Global Market

In addition to HPSCs from nonsubject sources Canada and Korea, witnesses at the hearing identified HPSC production in Korea, Italy, the Czech Republic, and Brazil¹⁸ Producers in non-subject countries are listed in table VII-6. Among the Canadian producers, two (Gas Cylinder Technologies Inc. and Worthington) are DOT-approved manufacturers of the DOT cylinders listed in Commerce’s scope and among Korean producers four (ENK Co. Ltd., Finetec Corp., Korea High Pressure Cylinder Co. Ltd. (KHPC), and NK Co. Ltd.) have DOT approval. Among other non-subject producers with DOT approval are one firm in Austria (Worthington Cylinders GmbH), three in Brazil (Cilbras, MAT S.A., and Mat-Incendio S.A.), one in the Czech Republic (Vitkovice Cylinders A.S.), and two in Italy (Faber Industrie SpA and Tenaris Dalmie SpA). The Indian producers only have DOT approval for cylinders that are not listed in Commerce’s scope.

¹⁶ ***.

¹⁷ Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

¹⁸ Hearing transcript, p. 162 (Bennett).

Table VII-6

HSPCs: U.S. Department of Transportation (DOT)-approved non-subject manufacturers of DOT cylinders

Country and manufacturer	Location	DOT M number	DOT specifications	
			Listed in Commerce's product scope	Not listed in Commerce's product scope
Austria:				
ISI GmbH	Vienna	M9405		39, SP-12222
Worthington Cylinders GmbH	Kienberg Gaming	M8304	3AA	
Brazil:				
Cilbras (Inactive)	Rio de Janeiro	M8302	3A, 3AA, 3E	
Mangels Industria e Comercio	Tres Coracoes, Mato	M0303		4BA, 4BW
MAT S.A.	Sao Paulo	M0811	3AA	
Mat-Incendio S.A.	Rio De Janeiro	M8904	3A, 3AA	
Canada:				
Bruin Engineered Parts Inc.	Midland, Ontario	M8802		39
DDI Seamless Cylinder	Sault Ste. Marie,	M9302		4B
Dynetek Industries Ltd.	Calgary, Alberta	M0501		SP-13173
Gas Cylinder Technologies Inc.	Tecumseh, Ontario	M9001	3A, 3AA, 3E, 3HT	39, SP-11770
Wolfedale Engineering Ltd.	Mississauga, Ontario	M8903		4BA
Worthington Cylinders of Canada	Tilbury, Ontario	M8004 / SCI	3A, 3AA, 3E	3BN, SP-11692, SP-14157
Czech Republic:				
Vitkovice Cylinders A.S.	Ostrava-Vitkovice	M0002	3AA	
India:				
Bhiwadi Cylinder Pvt. Ltd.	Bhiwadi	M0809		39
Indian Sugar & General	Yamunanagar	M0201		SP-12277
Inox India Ltd.	Gujarat	M0402		39
Mauria Udyog Ltd.	Faridabad	M0712		4BA
Italy:				
Antonio Merloni SpA	Matelica	M9403		4BA
Faber Industrie SpA	Cividale del Friuli	M8303	3AA, 3HT,	
Tenaris Dalmine SpA	Dalmine	M0204	3AA, 3AAX, 3T	

Table continued on following page.

Table VII-6--Continued

HSPCs: U.S. Department of Transportation (DOT)-approved non-subject manufacturers of DOT cylinders

Country and manufacturer	Location	DOT M number	DOT specifications	
			Listed in Commerce's product scope	Not listed in Commerce's product scope
Korea:				
AlloForge Co. Ltd.	Jeonbook-Do	M0304		3AL
DACC Co. Ltd.	Kyungnam	M0701		SP-14238
ENK Co. Ltd.	Busan	M0711	3AA	
Finetec Corp.	Kyungki-Do	M0406	3AA	
Inocom Inc.	Daegu	M0503		SP-14003
KCR Co. Ltd.	Jeollabuk-Do	M0710		3AL
Korea High Pressure Cylinder	Kyunggi-Do	M9601	3AA	
Masteco Industry Co. Ltd.	Incheon	M0410		4BW
NK Co. Ltd.	Busan	M8902	3AA, 3AAX, 3T	
Note.--Updated September 2010.				
Source: Compiled by Commission staff from list of approved foreign manufacturers of DOT cylinders.				

There are additional HPSC producers having DOT approvals located among 15 other U.S. trade partners that parties did not mention either as producing or as U.S. import sources (table VII-7). Both Argentinian producers (Argentoil S.A. and Inflex S.A.) are DOT-approved manufacturers of the DOT cylinders listed in Commerce's scope; as does a French producer (ROTH S.A.); a German producer (MCS Cylinder Systems GmbH); all five Japanese producers (Asahi Seisakusho Co. Ltd., Kanto Koatsu Yoki Mfg. Co. Ltd., Koatsu Showa Cylinder. Co. Ltd., Sumikin Kiko Co., and Totsuka Cylinder Corp.); a Mexican producer (Implementos Agricolas LALA S.A.); and two British producers (Chesterfield Cylinders Ltd. and SodaStream Ltd.). By contrast, producers in Israel, Malaysia, Norway, Portugal, South Africa, Sweden, Taiwan, Thailand, and Venezuela have DOT approval only for cylinders that are not listed in Commerce's scope.

Table VII-7

HSPCs: Additional U.S. Department of Transportation (DOT)-approved non-subject manufacturers of DOT cylinders

Trade partner and manufacturer	Location	DOT M number	DOT specifications	
			Listed in Commerce's product scope	Not listed in Commerce's product scope
Argentina:				
Argentoil S.A.	San Luis	M9401	3A, 3AA	
Inflex S.A.	Buenos Aires	M8402	3A	
France:				
Citergaz	Civray	M0411		SP-11722
ROTH S.A.	Mions	M9803	3AA	
Schneider Industrie	Bischwiller	M8501		4BA, 4BW
SMG Gerzat	Gerzat	M0101		3AL
Germany:				
Dockweiler AG	Neustadt-Glewe	M0602		4B
LBM Techno Gas GmbH	Langenfeld	M9802		39
MCS Cylinder Systems GmbH	Dinslaken	M7803	3AA, 3AAX, 3T	
Israel:				
Soda-Club Ltd.	Petach Tikva	M9903		3AL
Soda-Club Ltd.	Jerusalem	M9903		3AL
Japan:				
Asahi Seisakusho Co. Ltd.	Saitama	M7901	3A, 3AA, 3E	SP-12079
Kanto Koatsu Yoki Mfg. Co. Ltd.	Maebashi City	M8701	3A	
Koatsu Showa Cylinder Co. Ltd.	Tsuchiura City	M0403	3A, 3AA	
Sumikin Kiko Co.	Amagasaki	M7703 / SKK	3A, 3AA, 3AX, 3AAX	
Totsuka Cylinder Corp.	Tokyo	M7801 / TCC	3A, 3AA	
Malaysia:				
Taylor-Wharton Gas Equipment SDN. BHD. (Malaysia)	Selangor Durul Ehsan	M9801		4L
Mexico:				
Implementos Agricolas LALA S.A.	Gomez Palacio	M8801	E-9926	
Industrias Gutierrez S.A. (INGUSA)	Guadalajara	M9605		4BA, 4BW
Tanques Ind. Lajat S.A. de C.V. (Inactive)	Torreon	M9603		4BA, 4BW, 39
Trinity Ind. de Mexico de S de RL de CV	Mexico City	M9301		4BA, 4BW, 110A, SP-11808

Table continued on following page.

Table VII-7--Continued

HSPCs: Additional U.S. Department of Transportation (DOT)-approved non-subject manufacturers of DOT cylinders

Trade partner and manufacturer	Location	DOT M number	DOT specifications	
			Listed in Commerce's product scope	Not listed in Commerce's product scope
Norway:				
Ragasco AS	Raufoss	M0407		SP-12706
Portugal:				
AMTROL-ALFA Metalomechanica	Guimaraes Codex	M9701		4BA, 4BW, 39
Worthington Cylinders-Portugal/ Embalagens Industriais de Gas	Vale de Cambra	M0001		39
South Africa:				
Hulett Cylinders	Pietermaritzburg	M0601		3AL
Sweden:				
Composite Scandinavia AB	Öjebyn	M0408		SP-13105
Interspiro AB	Lidingo	M0703		SP-14209, UN/ISO 11119
Primus Sievert AB	Sundyberg	M8403		4BA
Taiwan:				
Advanced Material Systems Corp. (AMS)	Gueishan Township	M0812		3AL, ISO 7866, 11118, 11119- 2
Dean Chang Enterprise Co. Ltd.	Tainan	M0502		3AL
Thailand:				
Linh Gas Cylinder Co. Ltd.	Samutprakarn	M0802		4BA, 4BW
Sahamitr Pressure Container Public Co. Ltd. (SMPC)	Bangkok	M0102		4BA, 4BW, 39
United Kingdom:				
Chesterfield Cylinders Ltd.	Derbyshire	M7704	3A, 3AA, 3AAX, 3T	SP-9001, SP- 10603
Chesterfield Cylinders Ltd.	Sheffield	M0603	3AA, 3T	
Epichem Ltd.	Merseyside	M0103		4B
Luxfer Gas Cylinders (UK)	Nottingham	M9905		3AL, SP- 12440, ISO 7866
Oilphase	Aberdeen	M9901		SP-11670
Proserv (NS) Ltd.	Aberdeen	M0202		SP-12116
SodaStream Ltd.	Peterborough	M9402	3E	
Venezuela:				
Industrias Ventane, S.A.	Caracas	M8703		4BW
Tanques Para Gas, S.A.	Guarenas	M9602		4BW
Note.--Updated September 2010. Source: Compiled by Commission staff from list of approved foreign manufacturers of DOT cylinders.				

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 701-TA-480 (Final) and 731-TA-1188 (Final)]

High Pressure Steel Cylinders From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701-TA-480 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731-TA-1188 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of high pressure steel cylinders, provided for in subheading 7311.00.00 of the Harmonized Tariff Schedule of the United States.¹

¹ For purposes of these investigations, the Department of Commerce has defined the subject merchandise as Seamless steel cylinders designed for storage or transport of compressed or liquefied gas ("high pressure steel cylinders"). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration ("DOT") approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT-E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by the investigation have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings. Excluded from the scope of the investigation are high pressure steel cylinders manufactured to UN-ISO-9809-1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* December 15, 2011.

FOR FURTHER INFORMATION CONTACT: Edward Petronzio (202) 205-3176, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of high pressure steel cylinders, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). These investigations were requested in a petition filed on May 11, 2011, by Norris Cylinder Company, Longview, Texas.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the

without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on April 17, 2012, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on May 1, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 25, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 27, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the

Commission's rules; the deadline for filing is April 24, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 8, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before May 8, 2012. On May 23, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 25, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at <http://edis.usitc.gov>.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 17, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012-1162 Filed 1-20-12; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-978]

High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of high pressure steel cylinders (steel cylinders) from the People's Republic of China (the PRC). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section, below.

DATES: *Effective Date:* May 7, 2012.

FOR FURTHER INFORMATION CONTACT: Christopher Siepmann or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-7958 or (202) 482-3813, respectively.

Background

The U.S. producer that filed the petition for this investigation is Norris Cylinder Co. (Petitioner). The mandatory respondent to this investigation is Beijing Tianhai Industry Co., Ltd. (BTIC).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2010, through December 31, 2010.

Case History

The following events have occurred since the *Preliminary Determination*.¹ On October 14, 2011, the Government of China (GOC) filed a partial response to the Department's second supplemental questionnaire and requested an extension to complete its supplemental questionnaire response. The Department granted the GOC's request, and on October 18, 2011, the GOC submitted its response to the outstanding questions in the second supplemental questionnaire. On October

¹ See *High Pressure Steel Cylinders From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 76 FR 64301 (October 18, 2011) ("*Preliminary Determination*").

28, 2011, the Department issued its third supplemental questionnaire to BTIC and the GOC, and on November 14, 2011, it received responses from both.

On November 18, 2011, interested party Zhejiang Jindun Pressure Vessel Co., Ltd. (Jindun) filed a request for a hearing. On November 22, 2011, the Department denied Jindun's request because it was untimely filed, pursuant to section 351.310(c) of the Department's regulations.

The Department conducted verification of BTIC's and the GOC's questionnaire responses from December 7 to December 14, 2011, and issued verification reports for BTIC and the GOC on January 3, and January 17, 2012, respectively.

The Department issued a post-preliminary analysis memorandum regarding three programs on March 14, 2012.

BTIC, the GOC, and Jindun submitted case briefs on March 23, 2012, and Petitioners submitted a rebuttal brief on March 28, 2012.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 76 FR at 33239. We did not receive any comments.

Scope of the Investigation

The merchandise covered by the scope of the investigation is seamless steel cylinders designed for storage or transport of compressed or liquefied gas ("high pressure steel cylinders"). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration ("DOT")-approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT-E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High

pressure steel cylinders covered by these investigations have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of the investigation are high pressure steel cylinders manufactured to UN-ISO-9809-1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Merchandise covered by the investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under subheading 7311.00.00.30. Subject merchandise may also enter under HTSUS subheadings 7311.00.00.60 or 7311.00.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, entitled "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China" (April 30, 2012) (hereafter, "Decision Memorandum"), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file electronically via IA ACCESS. In addition, a complete version of the Decision Memorandum is also accessible on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 703(c)(1)(B)(i)(I) of the Tariff Act of 1930 (the "Act"), we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated. Because only one company

was investigated, that company's rate also serves as the All Others rate.

We determine the total net countervailable subsidy rates to be:

Exporter/Manufacturer	Net subsidy rate
Beijing Tianhai Industry Co., Ltd.; Tianjin Tianhai High Pressure Container Co., Ltd.; Langfang Tianhai High Pressure Container Co., Ltd	15.81
All Others	15.81

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from the PRC which were entered or withdrawn from warehouse, for consumption on or after October 18, 2011, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered or withdrawn from warehouse, on or after February 15, 2012, but to continue the suspension of liquidation of all entries from October 18, 2011, through February 14, 2012.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated deposits or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: April 30, 2012.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

- Comment 1 Application of the CVD Law to the People's Republic of China
- Comment 2 Double Counting/Overlapping Remedies
- Comment 3 Whether the Department Should Have Selected Jindun as a Mandatory or Voluntary Respondent
- Comment 4 Whether a Certain Producer of Seamless Tube Steel Partially-Owned by SOEs is a Government Authority
- Comment 5 Whether a Certain Producer of Seamless Tube Steel Owned by Individuals is a Government Authority
- Comment 6 Countervailability of Seamless Tube Steel Produced by One of BTIC's Affiliates
- Comment 7 Countervailability of Inputs Purchased from Domestic Trading Companies
- Comment 8 Whether to Limit the Benchmark for Seamless Tube Steel to Certain Countries or Diameters
- Comment 9 Whether to Incorporate VAT and Import Duties into Input Benchmarks
- Comment 10 Application of Adverse Facts Available to the Electricity Benchmark
- Comment 11 Alleged Errors in the Department's Calculations for the Provision of Electricity for LTAR

[FR Doc. 2012-10954 Filed 5-4-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-977]

High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* May 7, 2012.

SUMMARY: On December 15, 2011, the Department of Commerce ("Department") published the *Preliminary Determination* of sales at less than fair value ("LTFV") in the antidumping investigation of high pressure steel cylinders from the People's Republic of China ("PRC").¹ The period of investigation ("POI") is October 1, 2010, through March 31, 2011. Based on its analysis of the comments received, the Department has made changes to its *Preliminary Determination*. The Department continues to find that high pressure steel cylinders from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended ("Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

FOR FURTHER INFORMATION CONTACT: Alan Ray or Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-5403 or 482-0219, respectively.

SUPPLEMENTARY INFORMATION:

Background

Since the *Preliminary Determination*, the Department conducted sales and factors of production ("FOP") verifications for Beijing Tianhai Industry Co., Ltd. ("BTIC"), the mandatory respondent, from January 9 through January 17, 2012, and a sales verification for American Fortune Company ("AFC"), BTIC's U.S. affiliate, on February 9 and 10, 2012.² See the

¹ See *High Pressure Steel Cylinders From the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 76 FR 77964 (December 15, 2011) ("*Preliminary Determination*").

² We conducted verifications of BTIC and one of its affiliated producers, Langfang Tianhai High Pressure Contain Co., Ltd. ("Langfang Tianhai"), which produced the merchandise under

“Verification” section below for additional information. On January 31, 2012, and February 10, 2012, we received surrogate value (“SV”) comments from both BTIC and Petitioner and rebuttal SV comments from BTIC. On March 2, 2011, we issued a post-preliminary supplemental questionnaire.

Upon the February 23, 2012, release of the verification reports, we invited interested parties to comment on the *Preliminary Determination*. On March 6, 2012, we received case briefs from Petitioner,³ BTIC, and Zhejiang Jindun Pressure Vessel Co., Ltd. (“Jindun”). On March 26, 2012, we received rebuttal briefs from Petitioner and BTIC. On March 16, 2012, we released a new labor calculation and requested that interested parties submit comments.⁴ On March 26, 2012, BTIC submitted comments regarding the revised labor calculation. The Department held a public hearing on April 4, 2012, pursuant to 19 CFR 351.310(d).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the “Antidumping Duty Investigation of High Pressure Steel Cylinders from the People’s Republic of China: Issues and Decision Memorandum for the Final Determination” (“Decision Memorandum”), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties raised, and to which we respond to in the Decision Memorandum, is attached to this notice as Appendix I. The Decision

investigation that BTIC sold to the United States, and BTIC’s U.S. affiliate which sold merchandise under investigation in the United States. See Memo to the File, through Matthew Renkey, Acting Program Manager, Office 9, from Alan Ray and Emeka Chukwudebe, International Trade Analysts, “Verification of the Sales and Factors of Production Response of Beijing Tianhai Industry Co., Ltd. (“BTIC”) in the Investigation of High Pressure Steel Cylinders from the People’s Republic of China,” dated February 23, 2012 (“BTIC Verification Report”); Memo to the File, through Matthew Renkey, Acting Program Manager, Office 9, from Alan Ray and Ricardo Martinez Rivera, International Trade Analysts, “Verification of the Constructed Export Price Sales of American Fortune Company (“AFC”) in the Investigation of High Pressure Steel Cylinders from the People’s Republic of China,” dated February 23, 2012 (“AFC Verification Report”).

³ Norris Cylinder Company.

⁴ See “Memorandum to Christian Marsh, Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, through Matthew Renkey, Acting Program Manager, Office 9, from Emeka Chukwudebe, Case Analyst, Office 9: Antidumping Duty Investigation of High Pressure Steel Cylinders from the People’s Republic of China: Post-Preliminary Analysis Regarding Surrogate Labor Value,” dated March 16, 2012 (“Surrogate Labor Value Memo”).

Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit (“CRU”), room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of information on the record of this investigation, we have made changes regarding BTIC and the separate rate companies⁵ for the final determination.

- Subsequent to the *Preliminary Determination*, at the Department’s request, BTIC provided a revised FOP and sales database.
- We have changed the source used for valuing truck freight.
- We have changed the surrogate financial statements upon which we are relying to calculate financial ratios from Everest Kanto Cylinder Ltd. to Thai Metal Drum Manufacturing Public Company Limited.
- We have excluded water and all of the other energy FOPs from the build-up for normal value as the Thai Metal Drum Manufacturing Public Company Limited financial statement does not provide sufficient detail for the Department to allocate those factors appropriately.
- We are changing the date of sale for constructed export price (“CEP”) sales to reflect the correct date of sale in the “Targeted Dumping” section of the margin calculation program.
- We are using the revised labor valuation methodology discussed in our March 16, 2012, memorandum.⁶
- In the *Preliminary Determination*, we assigned the PRC-wide rate of 26.23 percent, the highest transaction-specific rate preliminarily calculated for BTIC. For this final determination, we continue to use BTIC’s highest transaction-specific rate, which now is 31.42 percent.

Scope of Investigation

The merchandise covered by the scope of the investigation is seamless

⁵ Jindun, Shanghai J.S.X. International Trading Corporation (“Shanghai J.S.X.”), and Shijiazhuang Enric Gas Equipment Co., Ltd. (“Enric”) (“Separate Rate Respondents”).

⁶ See Surrogate Labor Value Memo.

steel cylinders designed for storage or transport of compressed or liquefied gas (“high pressure steel cylinders”). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (“DOT”) approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT-E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by the investigation have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of the investigation are high pressure steel cylinders manufactured to UN-ISO-9809-1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Merchandise covered by the investigation is classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheading 7311.00.00.30. Subject merchandise may also enter under HTSUS subheadings 7311.00.00.60 or 7311.00.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

Verification

As provided in section 782(i) of the Act, we conducted verification of the information submitted by BTIC for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by BTIC.⁷

⁷ See BTIC Verification Report; AFC Verification Report.

Surrogate Country

In the *Preliminary Determination*, we selected Ukraine as the primary surrogate country in this investigation because: (1) In accordance with section 773(c)(4) of the Act, we determined that it is a significant producer of comparable merchandise and it is at a level of economic development comparable to the PRC; and (2) Ukraine data satisfy several factors that the Department considers in selecting a primary surrogate country, including whether the SV data are publicly available, contemporaneous with the POI, represent a broad-market average, from an approved surrogate country, are tax- and duty-exclusive, and specific to the input.⁸ Interested parties submitted comments regarding our preliminary determinations concerning the selection of surrogate country, which are summarized in the accompanying Decision Memo at Comment I. For this final determination we continue to select Ukraine as the primary surrogate country.

Separate Rates

In proceedings involving non-market-economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁹ In the *Preliminary Determination*, we found that BTIC, Enric, Jindun, and Shanghai J.S.X., (collectively, “Separate Rate Companies”) demonstrated their eligibility for, and were hence assigned, separate rate status.¹⁰

No parties commented on the above companies’ eligibility for separate rate status. Consequently, for the final determination, we continue to find that these companies demonstrated both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation,

and are eligible for separate rate status for the final determination.

Calculation of the Margin for the Separate Rate Companies

As in the *Preliminary Determination*, we are basing the antidumping duty margin for those companies receiving a separate rate, but who were not individually examined,¹¹ on the margin calculated for BTIC.¹²

The Department received comments from Jindun regarding the Department’s *Preliminary Determination* and its decision not to examine Jindun as a voluntary respondent, as requested. The Department has addressed these arguments in Comment VI of the Decision Memorandum. For the final determination, we continue not to individually examine Jindun. Accordingly, Jindun will continue to be treated as and receive the rate assigned to the non-selected, Separate Rate Companies.¹³

The PRC-Wide Entity Rate

Because we begin with the presumption that all companies within a NME country are subject to government control, and because only the companies listed under the “Final Determination Margins” section, below, have overcome that presumption, we are assigning a single weighted-average dumping margin (*i.e.*, the PRC-wide rate) to all other exporters of the merchandise under consideration. These other companies did not demonstrate entitlement to a separate rate.¹⁴ The PRC-wide rate applies to all entries of the merchandise under consideration except for entries from the Separate Rate Companies.

In the *Preliminary Determination*, the Department determined that there were exporters/producers of the merchandise subject to this investigation during the POI from the PRC that did not respond to the Department’s request for information.¹⁵ Further, we treated these PRC exporters/producers as part of the PRC-wide entity because they did not qualify for a separate rate. Therefore, we find that the use of facts available (“FA”) is necessary and appropriate to determine the PRC-wide rate pursuant to section 776(a)(2)(A) of the Act.¹⁶

In the *Preliminary Determination*, the Department also determined that, in

selecting from among the FA, an adverse inference is appropriate because the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with requests for information.¹⁷ As adverse facts available (“AFA”), we preliminarily assigned to the PRC-wide entity a rate of 26.23 percent, the highest transaction-specific rate preliminarily calculated for BTIC.¹⁸

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.¹⁹ We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse “so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”²⁰ It is also the Department’s practice to select a rate that ensures “that the party does not obtain a more favorable result by failing

¹⁷ See *id.*

¹⁸ See *id.*, at 77971.

¹⁹ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. 1, at 870 (1994) (“SAA”).

²⁰ See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁸ See *Preliminary Determination*, 76 FR at 77967–77968.

⁹ See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“Sparklers”), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People’s Republic of China*, 59 FR 22585 (May 2, 1994) (“Silicon Carbide”), and 19 CFR 351.107(d).

¹⁰ See *Preliminary Determination*, 76 FR at 77965 n.16 and 77969.

¹¹ Enric, Jindun, and Shanghai J.S.X.

¹² See *Preliminary Determination*, 76 FR at 77970.

¹³ See Decision Memorandum at Comment 7.

¹⁴ See, e.g., *Synthetic Indigo From the People’s Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706, 25707 (May 3, 2000).

¹⁵ See *Preliminary Determination*, 76 FR at 77970.

¹⁶ See *id.*

to cooperate than if it had cooperated fully.”²¹
 In the *Preliminary Determination*, the Department selected as AFA, a rate of 26.23 percent, the highest transaction-specific rate for BTIC.²² For the final determination, the Department continues to use the same methodology to determine the AFA rate used in the

Preliminary Determination.²³ Specifically, the Department continues to use the highest transaction-specific rate calculated for BTIC, which, because of changes to the calculations since the *Preliminary Determination* now is 31.42 percent. No parties commented on the selection of AFA.

Final Determination Weighted-Average Dumping Margins

We determine that the following weighted-average dumping margins exist for the following entities for the POI:

Exporter	Producer	Weighted-Average dumping margin (percent)
Beijing Tianhai Industry Co., Ltd.	Beijing Tianhai Industry Co., Ltd.	6.62
Beijing Tianhai Industry Co., Ltd.	Tianjin Tianhai High Pressure Container Co., Ltd.	6.62
Beijing Tianhai Industry Co., Ltd.	Langfang Tianhai High Pressure Container Co., Ltd.	6.62
Shanghai J.S.X. International Trading Corporation	Shanghai High Pressure Special Gas Cylinder Co., Ltd.	6.62
Zhejiang Jindun Pressure Vessel Co., Ltd.	Zhejiang Jindun Pressure Vessel Co., Ltd.	6.62
Shijiazhuang Enric Gas Equipment Co., Ltd.	Shijiazhuang Enric Gas Equipment Co., Ltd.	6.62
PRC-Wide Rate ²⁴	31.21

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all imports of merchandise subject to the investigation entered or withdrawn from warehouse, for consumption for the PRC-wide entity and the Separate Rate Companies on or after December 15, 2011. The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this final determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will, within 45 days, determine whether the domestic industry in the United States is materially injured or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to collect cash deposits for antidumping duties due on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial

protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 30, 2012.

Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

Appendix I

General Issues

- Comment I: Selection of Surrogate Country
- Comment II: Surrogate Values
 - A. Selection of Surrogate Financial Ratios
 - B. Truck Freight
 - C. Labor
- Comment III: Double Remedy
- Comment IV: Targeted Dumping
 - Methodology
 - A. General Department Targeted Dumping Methodology
 - B. Average to Transaction Methodology
 - C. Zeroing

Company-Specific Issues

- Comment V: BTIC
 - A. Targeted Dumping—Clerical Error Allegation
 - B. Cash Deposit Instructions
- Comment VI: Jindun’s Voluntary Respondent Status

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²¹ See SAA at 870.

²² See *Preliminary Determination*, 76 FR at 77971.

²³ See *id.*

²⁴ The PRC-Wide entity includes: Shanghai High Pressure Container Co., Ltd.; Heibeil Baigong Industrial Co., Ltd.; Nanjing Ocean High-Pressure Vessel Co., Ltd.; Qingdao Baigong Industrial and Trading Co., Ltd.; Shandong Huachen High Pressure

Vessel Co., Ltd.; Shandong Province Building High Pressure Vessel Limited Company; Sichuan Mingchuan Chengyu Co., Ltd.; and Zhuolu High Pressure Vessel Co., Ltd.

APPENDIX B
LIST OF HEARING WITNESSES

CALENDAR OF PUBLIC AND *IN CAMERA* HEARINGS

Those listed below appeared as witnesses at the United States International Trade Commission’s hearing:

Subject: High Pressure Steel Cylinders from China
Inv. Nos.: 701-TA-480 and 731-TA-1188 (Final)
Date and Time: May 1, 2012 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioner (**Edward M. Lebow**, Haynes and Boone, LLP)
Respondents (**Max F. Schutzman**, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP; *and* **Mark P. Lunn**, Arent Fox LLP)

**In Support of the Imposition of
Antidumping and Countervailing Duty Orders:**

Haynes and Boone, LLP
Washington, D.C.
on behalf of

Norris Cylinder Company

Jerry Van Auken, President, Norris Cylinder Company
Mike Camp, General Manager, Huntsville Factory, Norris Cylinder Company
Wayne L. Powers, Director of Industrial Products, Worthington Cylinders
William P. Roberts, III, President, Roberts Oxygen Company
John McGuire, President, American Gas & Cylinder, Inc.
Daniel W. Klett, Principal, Capital Trade Inc.

Edward M. Lebow)
) – OF COUNSEL
Nora Whitehead)

**In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders:**

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP, Washington, D.C.
on behalf of

Beijing Tianhai Industry Co. Ltd.
America Fortune Company

Bill Zheng, President and CEO, America Fortune Company
Oliver Li, Chairman, America Fortune Company
Richard Rottmann, Manager, Technical Products, ThyssenKrupp Steel Services
Steve Iffland, Executive Vice President, Sales & Marketing, Western International Gas
& Cylinder, Inc.
James Dougan, Economist, Economic Consulting Services, Inc.

Ned H. Marshak)
) – OF COUNSEL
Max F. Schutzman)

Arent Fox LLP
Washington, D.C.
on behalf of

Cyl-Tec, Inc.

James M. Bennett, President, Cyl-Tec, Inc.

John M. Gurley)
) – OF COUNSEL
Mark P. Lunn)

SESSION 3: RESPONDENTS' IN CAMERA PRESENTATION (Closed to Public)

SESSION 4: PETITIONER'S IN CAMERA PRESENTATION (Closed to Public)

REBUTTAL/CLOSING REMARKS:

Petitioners (**Edward M. Lebow**, Haynes and Boone, LLP)
Respondents (**Max F. Schutzman**, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

APPENDIX C
SUMMARY DATA

Table C-1
HPSCs: Summary data concerning the U.S. market, 2009-2011

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Table C-2
HPSCs (above 150 cubic feet): Summary data concerning the U.S. market, 2009-11

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Table C-3
HPSCs (below 150 cubic feet): Summary data concerning the U.S. market, 2009-11

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Table C-4
HPSCs and ISO-9809-1 HP steel cylinders: Summary data concerning the U.S. market, 2009-11

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APPENDIX D

**NORRIS' TRADE AND FINANCIAL DATA FOR ITS FACILITIES IN LONGVIEW, TX AND
HUNTSVILLE, AL**

Table D-1
HPSCs: Norris' Longview, TX operations, 2009-11

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Table D-2
HPSCs: Norris' Huntsville, AL operations, 2009-11

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APPENDIX E

**U.S. PRODUCTION AND IMPORT DATA REGARDING UN-ISO-9809-1 CYLINDERS AND
HIGH PRESSURE ALUMINUM CYLINDERS**

Table E-1
UN-ISO-9809-1: * summary data, 2009-11**

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Table E-2
UN-ISO 9809-1: * U.S. imports, U.S. shipments of imports, inventories, and channels of distribution for UN-ISO-9809-1 from China, 2009-11**

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Table E-3
Aluminum Cylinders: * U.S. imports, U.S. shipments of imports, inventories, and channels of distribution for aluminum cylinders from China, 2009-11**

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APPENDIX F
TRADE AND FINANCIAL DATA FOR 2011

Table F-1
HPSCs: Norris' results of operations in 2011, January-June, July-December, July-September, October-December

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Table F-2
HPSCs: Apparent U.S. consumption, 2011

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Table F-3
HPSCs: U.S. market shares, 2011

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APPENDIX G

**U.S. PRODUCER AND U.S. IMPORTERS' COMMENTS REGARDING THE
COMPARABILITY OF HPSCS; UN-ISO-9809-1 CYLINDERS; ALUMINUM CYLINDERS; AND
SMALL AND LARGE CYLINDERS**

NORRIS' COMMENTS THE COMPARABILITY OF DOT HIGH PRESSURE STEEL CYLINDERS AND UN-ISO-9809-1 HIGH PRESSURE STEEL CYLINDERS

The Commission asked Norris whether DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders have the same physical characteristics and end uses and to describe these similarities and/or differences.

* * * * *

The Commission asked Norris whether DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders are interchangeable and to describe what makes the products interchangeable or not interchangeable.

* * * * *

The Commission asked Norris whether the manufacturing process to produce DOT high pressure steel cylinders and UN-ISO-9809-1 high pressure steel cylinders are similar and to describe these similarities and/or differences.

* * * * *

The Commission asked Norris whether DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders share channels of distribution.

* * * * *

The Commission asked Norris whether customers perceive DOT high pressure steel cylinders and UN-ISO-9809-1 high pressure steel cylinders to be similar products.

* * * * *

The Commission asked Norris whether there are generally differences in price between DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders. They were asked which type was generally higher in price.

* * * * *

NORRIS' COMMENTS THE COMPARABILITY OF DOT HIGH PRESSURE STEEL CYLINDERS AND DOT HIGH PRESSURE ALUMINUM CYLINDERS

The Commission asked Norris whether DOT high pressure steel cylinders and DOT high pressure aluminum cylinders have the same physical characteristics and end uses and to describe these similarities and/or differences.

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The Commission asked Norris whether DOT high pressure steel cylinders and DOT high pressure aluminum cylinders are interchangeable and to describe what makes the products interchangeable or not interchangeable.

* * * * *

The Commission asked Norris whether the manufacturing process to produce DOT high pressure steel cylinders and DOT high pressure aluminum cylinders are similar and to describe these similarities and/or differences.

* * * * *

The Commission asked Norris whether DOT high pressure steel cylinders and DOT high pressure aluminum cylinders share channels of distribution.

* * * * *

The Commission asked Norris whether customers perceive DOT high pressure steel cylinders and DOT high pressure aluminum cylinders to be similar products.

* * * * *

The Commission asked Norris whether there are generally differences in price between DOT high pressure steel cylinders and DOT high pressure aluminum cylinders. They were asked which type was generally higher in price.

* * * * *

NORRIS' COMMENTS THE COMPARABILITY OF DOT HIGH PRESSURE STEEL CYLINDERS ABOVE 150 CUBIC FEET ("LARGE CYLINDERS") AND DOT HIGH PRESSURE STEEL CYLINDERS 150 CUBIC FEET AND BELOW ("SMALL CYLINDERS")

The Commission asked Norris whether large cylinders and small cylinders have the same physical characteristics and end uses and to describe these similarities and/or differences. Their responses are as follows:

* * * * *

The Commission asked Norris whether large cylinders and small cylinders are interchangeable and to describe what makes the products interchangeable or not interchangeable. Their responses are as follows:

* * * * *

The Commission asked Norris whether the manufacturing process to produce large cylinders and small cylinders are similar and to describe these similarities and/or differences.

* * * * *

The Commission asked Norris whether large cylinders and small cylinders share channels of distribution.

* * * * *

The Commission asked Norris whether customers perceive large cylinders and small cylinders to be similar products.

* * * * *

The Commission asked Norris whether there are generally differences in price between large cylinders and small cylinders. They were asked which type was generally higher in price. Their responses are as follows:

* * * * *

U.S. IMPORTERS' COMMENTS THE COMPARABILITY OF DOT HIGH PRESSURE STEEL CYLINDERS ABOVE 150 CUBIC FEET ("LARGE CYLINDERS") AND DOT HIGH PRESSURE STEEL CYLINDERS 150 CUBIC FEET AND BELOW ("SMALL CYLINDERS")

The Commission asked U.S. importers whether large and small cylinders have the same physical characteristics and end uses and to describe these similarities and/or differences. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether large and small cylinders are interchangeable and to describe what makes the products interchangeable or not interchangeable.

* * * * *

The Commission asked U.S. importers whether the manufacturing process to produce large and small cylinders are similar and to describe these similarities and/or differences.

* * * * *

The Commission asked U.S. importers whether large and small cylinders share channels of distribution. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether customers perceive large and small cylinders to be similar products. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether there are generally differences in price between large and small cylinders. They were asked which type was generally higher in price. Their responses are as follows:

* * * * *

U.S. IMPORTERS' COMMENTS THE COMPARABILITY OF DOT HIGH PRESSURE STEEL CYLINDERS AND UN-ISO-9809-1 HIGH PRESSURE STEEL CYLINDERS

The Commission asked U.S. importers whether DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders have the same physical characteristics and end uses and to describe these similarities and/or differences. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders are interchangeable and to describe what makes the products interchangeable or not interchangeable. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether the manufacturing process to produce DOT high pressure steel cylinders and UN-ISO-9809-1 high pressure steel cylinders are similar and to describe these similarities and/or differences. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders share channels of distribution. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether customers perceive DOT high pressure steel cylinders and UN-ISO-9809-1 high pressure steel cylinders to be similar products. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether there are generally differences in price between DOT high pressure steel cylinders and UN-ISO-9809-1_high pressure steel cylinders. They were asked which type was generally higher in price. Their responses are as follows:

* * * * *

U.S. IMPORTERS' COMMENTS THE COMPARABILITY OF DOT HIGH PRESSURE STEEL CYLINDERS AND DOT HIGH PRESSURE ALUMINUM CYLINDERS

The Commission asked U.S. importers whether DOT high pressure steel cylinders and DOT high pressure aluminum cylinders have the same physical characteristics and end uses and to describe these similarities and/or differences. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether DOT high pressure steel cylinders and DOT high pressure aluminum cylinders are interchangeable and to describe what makes the products interchangeable or not interchangeable. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether the manufacturing process to produce DOT high pressure steel cylinders and DOT high pressure aluminum cylinders are similar and to describe these similarities and/or differences. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether DOT high pressure steel cylinders and DOT high pressure aluminum cylinders share channels of distribution. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether customers perceive DOT high pressure steel cylinders and DOT high pressure aluminum cylinders to be similar products. Their responses are as follows:

* * * * *

The Commission asked U.S. importers whether there are generally differences in price between DOT high pressure steel cylinders and DOT high pressure aluminum cylinders. They were asked which type was generally higher in price. Their responses are as follows:

* * * * *

APPENDIX H
NONSUBJECT COUNTRY PRICE DATA

Nonsubject Price Comparisons

Table H-1 compares quarterly prices of nonsubject imports from Canada and Korea with U.S. producer prices and Chinese prices for products 1-4 during 2009-11.

Table H-1

HPSCs: Number of quarterly price comparisons of imported nonsubject and U.S. products 1- 4, and imported nonsubject and Chinese products 1-4

* * * * *

Figure H-1 presents prices and shipment quantities for each of the four products.

Figure H-1

HPSCs: Weighted-average prices and quantities of domestic and imported product, by quarters, 2009-11

* * * * *

APPENDIX I
PRICE DATA WITH AMERICA FORTUNE EXCLUDED

Table I-1

HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, 2009-11

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Table I-2

HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, 2009-11

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Table I-3

HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, 2009-11

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Table I-4

HPSCs: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, 2009-11

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