

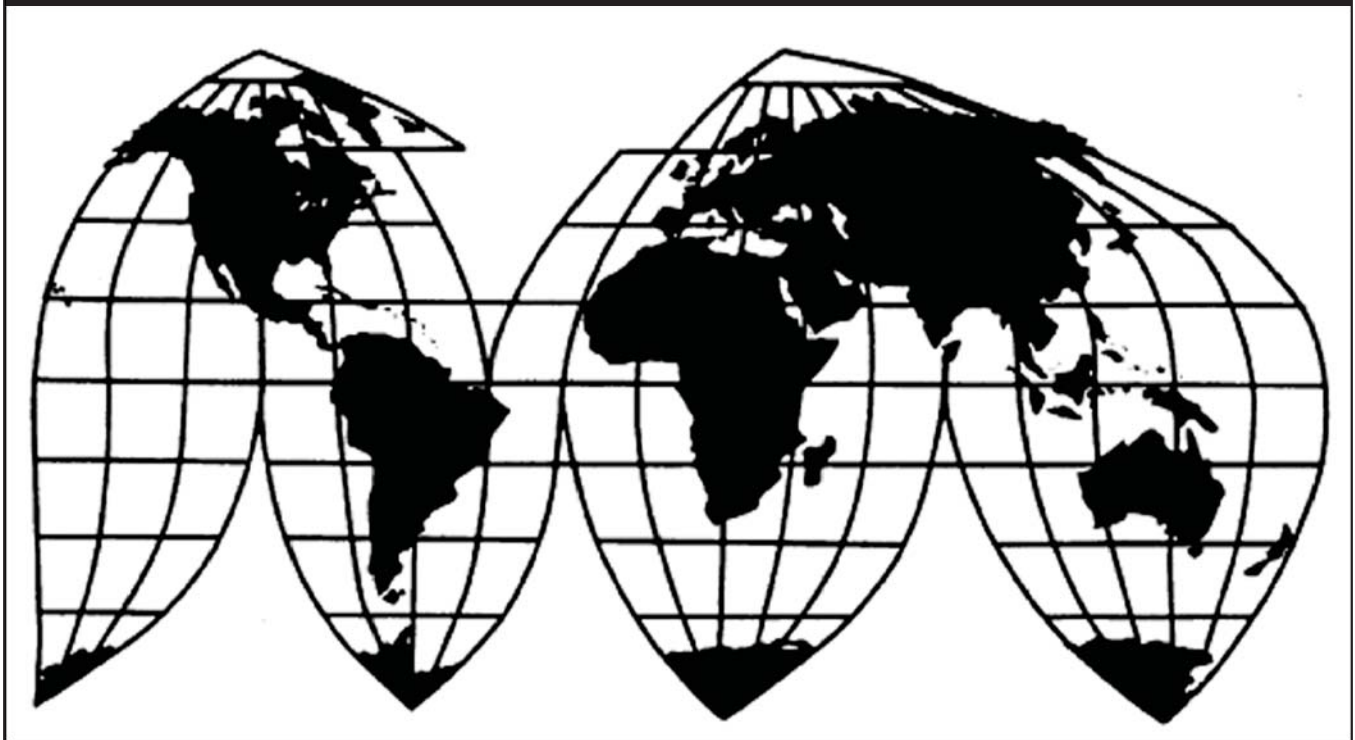
High Pressure Steel Cylinders from China

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

Publication 4241

July 2011

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

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 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of high pressure steel cylinders, provided for in subheading 7311.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On May 11, 2011, a petition was filed with the Commission and Commerce by Norris Cylinder Company, Longview, Texas, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of high pressure steel cylinders from China. Accordingly, effective May 11, 2011, the Commission instituted countervailing duty investigation No. 701-TA-480 and antidumping duty investigation No. 731-TA-1188 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference 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* of May 18, 2011 (76 FR 28807). The conference was held in Washington, DC, on June 1, 2011, 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)).

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of high pressure steel cylinders from China that are allegedly subsidized and sold in the United States at less than fair value.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.¹ In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”²

II. BACKGROUND

The Norris Cylinder Company (“Norris”) filed the petitions in these investigations. It appeared at the staff conference and submitted a postconference brief. A Chinese producer and exporter of the subject merchandise, Beijing Tianhai Industry Co. Ltd., and an affiliated U.S. importer, American Fortune Company (collectively, “BTIC”), entered appearances, participated in the staff conference, and submitted a joint postconference brief. U.S. importer Cyl-Tec, Inc. (“Cyl-Tec”) also entered an appearance, participated in the staff conference, and submitted a postconference brief.³

U.S. industry data are based on the questionnaire response of Norris, which accounted for all U.S. production of high pressure steel cylinders during 2010.⁴ Data for U.S. imports from China, Canada, and Korea are based on responses to importer questionnaires.⁵

The Commission received a questionnaire response from one Chinese producer of the subject product (BTIC). Its reported exports to the United States in 2010 accounted for the vast majority of the

¹ 19 U.S.C. § 1673b(a) (2000); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

² American Lamb Co., 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

³ Also entering appearances were BTIC’s affiliated Chinese producers, Tianjin Tianhai High Pressure Container Co, Ltd., and Langfang Tianhai High Pressure Container Co.

⁴ Confidential Staff Report, Memorandum INV-JJ-073 (June 20, 2011) as revised by Memorandum INV-JJ-074 (June 21, 2011) (“CR”) at III-1; Public Report, High Pressure Steel Cylinders from China, Inv. Nos. 701-TA-480 and 731-TA-1188 (Preliminary), USITC Pub 4241 (July 2011) (“PR”) at III-1. Another domestic producer, Taylor Wharton International (“TWI”), entered bankruptcy and ceased operations during the period examined. CR at III-1 n.1. Norris acquired certain assets and records from TWI following its bankruptcy and provided the Commission with complete data for the high pressure steel cylinder operations of the former TWI plant in Huntsville, Alabama, and data for shipment quantities and values for the former TWI plant in Harrisburg, Pennsylvania. CR at VI-1 nn.1-2, PR at VI-1 nn.1-2.

⁵ CR at IV-1, PR at IV-1.

subject imports. BTIC also accounted for *** percent of Chinese production and exports of high pressure steel cylinders in 2010.⁶

III. 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 the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁷ 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.”⁸ In turn, the Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”⁹

The decision regarding the appropriate domestic like product(s) 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.¹⁰ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹¹ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹² Although the Commission must accept the determination of the U.S. Department of Commerce (“Commerce”) as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹³ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁴ The Commission must base its domestic like product determination on the record in these

⁶ CR at VII-3, PR at VII-3.

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(4)(A).

⁹ 19 U.S.C. § 1677(10).

¹⁰ 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).

¹¹ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹² 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.”).

¹³ 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).

¹⁴ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a
continue...

investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent domestic like product issues.¹⁵

B. Product Description

In its notices of initiation, Commerce defined the imported merchandise within the scope of these investigations as follows:

{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 without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.¹⁶

The high pressure steel cylinders within the scope of the investigations are designed specifically for transporting, storing, and dispensing a wide variety of compressed gases for industrial, medical, laboratory, welding, fire suppression, and other applications.¹⁷ Given that the compressed gases are often corrosive and/or flammable, the U.S. Department of Transportation’s Pipeline and Hazardous Materials

¹⁴ ...continue

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 where Commerce found five classes or kinds).

¹⁵ See, e.g., Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

¹⁶ High Pressure Steel Cylinders from the People’s Republic of China: Initiation of Antidumping Duty Investigations, 76 FR 33213, 33217 (June 8, 2011); High Pressure Steel Cylinders from the People’s Republic of China: Initiation of Countervailing Duty Investigation, 76 FR 33239, 33241 (June 8, 2011). Commerce’s notices explain that the products subject to these investigations are 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. Commerce notes that although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive. Id.

¹⁷ CR at I-7, PR at I-6.

Safety Administration (DOT) has set manufacturing process standards and product performance standards for high pressure steel cylinders sold in the U.S. market.¹⁸ The DOT's specifications provide requirements for each type of seamless steel cylinders with respect to sizes; service pressures; steel grades; product-quality standards; heat treatment; hydrostatic pressure and leakage testing; yield, tensile, and elongation testing; and marking.¹⁹

Respondents have raised three separate issues with respect to the domestic like product. First, Cyl-Tec and BTIC contend that high pressure steel cylinders manufactured to the UN-ISO-9809-1 specification, which Commerce has explicitly excluded from its scope definition, should be included in the definition of the domestic like product.²⁰ Second, they argue that high pressure aluminum cylinders, in addition to high pressure steel cylinders, should be included in the definition.²¹ Finally, BTIC argues that the Commission should find at least two domestic like products, one consisting of high pressure cylinders (steel and aluminum) of 150 cubic feet or less ("small cylinders") and a second consisting of high pressure cylinders (steel and aluminum) greater than 150 cubic feet ("large cylinders").²²

Petitioner Norris maintains that the Commission should define a single domestic like product consisting of high pressure steel cylinders within the scope definition and that the Commission should not include UN-ISO-9809-1 cylinders or aluminum cylinders in its domestic like product definition.²³ We discuss each of these issues in turn.

C. Analysis

1. Whether to Include UN-ISO-9809-1 Cylinders in the Definition of the Domestic Like Product

Physical Characteristics and End Uses. The record indicates that the DOT-approved high pressure steel cylinders and the high pressure steel cylinders approved by the International Organization for Standardization ("ISO") share similar physical characteristics and end uses; cylinders made to both specifications are steel cylinders designed for transportation and storage of compressed gases.²⁴ The ISO standards are international standards for high pressure steel cylinders, while the DOT specifications are U.S. standards.²⁵ According to the DOT, the differences relate to filling requirements, markings, and requalification frequency.²⁶ The parties disagree regarding the extent to which UN-ISO-9809-1 and DOT high pressure steel cylinders are made from the same type of steel. Although Norris contends that they are made from different grades of steel, Cyl-Tec points out that Norris's own website indicates that Grade SAE 4130x steel can be used to produce both DOT and UN-ISO-9809-1 high pressure steel cylinders, suggesting that at least some UN-ISO-9809-1 and DOT high pressure steel cylinders are in fact made from the same steel alloy.²⁷

¹⁸ CR at I-8, PR at I-6.

¹⁹ See CR at I-8 n.11, PR at I-6 n.11.

²⁰ Cyl-Tec's Postconference Brief at 2-6; BTIC's Postconference Brief at 14-15.

²¹ Cyl-Tec's Postconference Brief at 6-9; BTIC's Postconference Brief at 16-17.

²² BTIC's Postconference Brief at 9-11.

²³ Norris's Postconference Brief at 10.

²⁴ See Tr. at 33-34 (Van Auken).

²⁵ See Tr. at 33-34 (Van Auken). See CR at I-13 n.40 (describing ISO standards).

²⁶ Cyl-Tec's Postconference Brief at Exhibit 1.

²⁷ Cyl-Tec's Postconference Brief at 4 and Exhibit 3.

Interchangeability. In September 2006, the Pipeline and Hazardous Materials Safety Administration adopted a final rule permitting shippers to use either DOT high pressure steel cylinders or UN standard pressure receptacles, which are cylinders made to the ISO standard, “as appropriate for individual gases and circumstances.”²⁸ The record also indicates that some of Norris’s own high pressure steel cylinders meet both UN-ISO-9809-1 and DOT specifications. Cyl-Tec has identified cylinders in Norris’s “Worldwide Series” that are qualified under both DOT and ISO specifications.²⁹

Norris claims that there is only limited interchangeability because UN-ISO-9809-1 cylinders cannot be used for certain gases at certain pressures.³⁰ As this argument suggests, however, at least some interchangeability between UN-ISO-9809-1 and DOT high pressure steel cylinders is possible in some sizes and specifications.³¹

Channels of Distribution. Norris argues that there is virtually no U.S. market for UN-ISO-9809-1 cylinders, so that many channels of distribution do not exist in the United States for UN-ISO-9809-1 cylinders.³² Norris, however, reports shipping *** UN-ISO-9809-1 cylinders in the U.S. market in 2010,³³ and Cyl-Tec reports importing UN-ISO-9809-1 and DOT cylinders for sale to the same types of customers.³⁴ Thus, the evidence, although limited, suggests that UN-ISO-9809-1 cylinders and DOT cylinders share similar channels of distribution.

Manufacturing Facilities, Production Processes, and Employees. A multi-stage process is used to produce high pressure steel cylinders.³⁵ The steps consist of (1) pressing and forming; (2) heat treating, quenching, and tempering; (3) machining, cleaning, and coating; (4) testing and marking; and (5) finishing.³⁶ Norris uses the “billet piercing process” for high pressure steel cylinders sized from 150 cubic feet to 702 cubic feet and the “spun-from-tube process” for high pressure steel cylinders up to 150 cubic feet.³⁷

Norris produces UN-ISO-9809-1 cylinders and DOT cylinders in the same production facilities with the same employees.³⁸ The production processes are the same except for the testing stage. Norris indicates that UN-ISO-9809-1 cylinders must undergo additional expensive ultrasonic and hardness testing procedures that are not required for DOT high pressure steel cylinders.³⁹

Producer and Customer Perceptions. Norris and Cyl-Tec agree that producers and customers view UN-ISO-9809-1 and DOT cylinders as different products.⁴⁰ The differences in perceptions result

²⁸ Cyl-Tec’s Postconference Brief at Exhibit 1.

²⁹ See Cyl-Tec’s Postconference Brief at Exhibits 3 and 4. Testimony from Cyl-Tec’s witness at the staff conference indicated that high pressure steel cylinders are not dual stamped. Tr. at 105 (Bennett).

³⁰ Norris’s Postconference Brief at 10-11.

³¹ See Tr. at 86 (“ISO specification 9809-1 is essentially the same as DOT specifications 3A or 3AAA.”) (Bennett). See also Cyl-Tec’s Postconference Brief at Exhibit 7 (affidavit indicating specifications are very similar).

³² Norris’s Postconference Brief at 13.

³³ CR/PR at Table E-1.

³⁴ Cyl-Tec’s Postconference Brief at 5.

³⁵ CR at I-10, PR at I-8.

³⁶ CR at I-10, PR at I-8.

³⁷ CR at I-11, PR at I-8 to I-9.

³⁸ Norris’s Postconference Brief at 12.

³⁹ Norris’s Postconference Brief at 12.

⁴⁰ Cyl-Tec’s Postconference Brief at 5; Norris’s Postconference Brief at 14.

from the higher prices of UN-ISO-9809-1 cylinders and the fact that UN-ISO-9809-1 cylinders have been introduced only recently to the U.S. market.⁴¹

Price. UN-ISO-9809-1 cylinders command higher prices in the United States, and Norris claims the price differential is considerable due to the higher cost of production of UN-ISO-9809-1 cylinders.⁴² BTIC, on the other hand, contends that there is little difference in price between the two, and Cyl-Tec states its belief that the cost differential will come down as ISO cylinders become more common in the marketplace.⁴³

Conclusion. DOT high pressure steel cylinders and UN-ISO-9809-1 high pressure steel cylinders share many of the same physical characteristics and end uses. They are interchangeable in some sizes and specifications, sold in the same channels of distribution, and are manufactured using a similar production process in the same facilities with the same employees. On the other hand, the reportedly higher prices for UN-ISO-9809-1 high pressure steel cylinders, their newness in the U.S. market, and the fact that the ISO specifications are distinct from the DOT specifications suggest that the two types of cylinders may be viewed as distinct products in the marketplace. Based on the record in these preliminary investigations, we do not include UN-ISO-9809-1 high pressure steel cylinders in the definition of the domestic like product.⁴⁴

2. Whether to Include High Pressure Aluminum Cylinders in the Definition of the Domestic Like Product

Physical Characteristics and End Uses. High pressure steel cylinders and aluminum cylinders are made from different metals with different properties. Aluminum is lighter than steel and has a more attractive or “cleaner” appearance.⁴⁵ Aluminum cylinders, like steel cylinders, are DOT approved.⁴⁶ However, the use of aluminum cylinders is reportedly restricted to gases at lower pressures in the medical supply, beverage, and specialty gas/scuba markets.⁴⁷

Interchangeability. Aluminum cylinders can be substituted for DOT steel cylinders in the smaller size ranges for the medical, beverage, specialty gas/scuba markets.⁴⁸ The record indicates that aluminum cylinders are interchangeable with DOT steel cylinders in the smaller sizes, 5-20 cubic feet, and are increasingly being used in the same applications as steel cylinders in these sizes. Norris maintains that cylinders in small sizes comprise only *** percent of its sales.⁴⁹

⁴¹ Cyl-Tec’s Postconference Brief at 5; Norris’s Postconference Brief at 14.

⁴² Cyl-Tec’s Postconference Brief at 5; Norris’s Postconference Brief at 15. Testimony at the staff conference indicated they are priced “much higher.” Tr. at 45 (Van Auken).

⁴³ Cyl-Tec’s Postconference Brief at 6; BTIC’s Postconference Brief at 15.

⁴⁴ We will revisit this issue in any final phase investigations and, in particular, will seek additional information concerning interchangeability, customer and producer perceptions, differing physical characteristics, and other domestic like product factors with respect to DOT high pressure steel cylinders and UN-ISO-9809-1 high pressure steel cylinders.

⁴⁵ Tr. at 85 (Bennett); BTIC’s Postconference Brief at 8.

⁴⁶ Tr. at 97 (Bennett).

⁴⁷ Tr. at 85 (Bennett).

⁴⁸ Tr. at 85 (Bennett); Cyl-Tec’s Postconference Brief at 7.

⁴⁹ Norris’s Postconference Brief at 31.

Channels of Distribution. The record suggests that aluminum cylinders are sold in certain end use markets, (e.g., beverage and medical) but not in other important end use markets, such as the construction industry.⁵⁰ Thus, common channels of distribution are limited.

Manufacturing Facilities, Production Processes and Employees. The production processes, facilities and employees used to produce steel cylinders and aluminum cylinders are distinct.⁵¹ Norris reported that it does not produce aluminum cylinders at either of its steel cylinder plants and is not aware of any facility anywhere that does so.⁵²

Producer and Customer Perceptions. Producers and customers generally perceive steel and aluminum cylinders as different products. While some competition exists in the beverage, medical, and specialty gas markets due to aluminum's weight advantage, in higher volume markets, such as the construction market, aluminum and steel cylinders are viewed as different products.⁵³

Price. Finally, aluminum cylinders are more expensive than steel high pressure cylinders in most sizes.⁵⁴ Norris reports that aluminum and steel cylinders are competitive on price only in limited markets. In other markets, aluminum cylinders are sold at a significant premium, largely because of the high cost associated with the amount of aluminum needed for larger-sized cylinders.⁵⁵

Conclusion. The record indicates that there are clear distinctions between aluminum and steel cylinders in their physical characteristics and end uses; manufacturing processes, facilities, and employees; customer/producer perceptions; and prices. Interchangeability between aluminum and steel cylinders, however, may be limited to smaller size cylinders, for which there may also be similar channels of distribution. In light of these factors, we find a clear dividing line between steel cylinders and aluminum cylinders and do not include aluminum cylinders in the definition of the domestic like product.

3. Whether to Define High Pressure Steel Cylinders 150 Cubic Feet and Below and High Pressure Steel Cylinders Above 150 Cubic Feet as Separate Domestic Like Products

BTIC argues that the Commission should find high pressure steel cylinders 150 cubic feet and below ("small cylinders") and high pressure steel cylinders above 150 cubic feet ("large cylinders") to be separate domestic like products.⁵⁶

Physical Characteristics and End Uses. Small and large high pressure steel cylinders have similar physical characteristics and appear to differ only in size. It is unclear to what extent they differ in their end uses. Both are used for transportation and storage of compressed gases, but BTIC maintains that they serve different market segments and have different end uses.⁵⁷

Interchangeability. High pressure steel cylinders of different sizes typically cannot be substituted in their particular end uses, but this is generally true of products in industries where the Commission has

⁵⁰ Cyl-Tec's Postconference Brief at 8; Norris's Postconference Brief at 13.

⁵¹ Cyl-Tec's Postconference Brief at 8; Norris's Postconference Brief at 12-13.

⁵² See Norris's Postconference Brief at 13.

⁵³ Tr. at 85-86 (Bennett). Norris's Postconference Brief at 14; BTIC's Postconference Brief at 16.

⁵⁴ Cyl-Tec's Postconference Brief at 8-9; Norris's Postconference Brief at 15; Tr. at 99, 106-07 (Bennett).

⁵⁵ See Norris's Postconference Brief at 15.

⁵⁶ BTIC's Postconference Brief at 9-11.

⁵⁷ BTIC's Postconference Brief at 10. However, BTIC fails to identify a specific cylinder capacity that distinguishes end uses.

defined a single domestic like product based on a continuum of products of different sizes and therefore is not dispositive.⁵⁸

Channels of Distribution. There is no clear distinction between the channels of distribution for large and small cylinders. Norris argues that large and small cylinders are sold in the same distribution channels to the same customers and that many of Norris's customers buy its entire portfolio of high pressure steel cylinders.⁵⁹ However, BTIC contends that large cylinders are predominantly sold to major customers who are end users but concedes that there could be an overlap between large and small cylinders at the level of buying groups.⁶⁰

Manufacturing Facilities, Production Processes, and Employees. Norris uses the "billet piercing process" for high pressure steel cylinders sized from 150 cubic feet to 702 cubic feet and the "spun-from-tube process" for high pressure steel cylinders up to 150 cubic feet.⁶¹ Thus, the billet piercing process is used to manufacture large high pressure steel cylinders, while the "spun tube" process is used for small high pressure steel cylinders.⁶² Norris also produces large high pressure steel cylinders in its facility in Longview, Texas, and small high pressure steel cylinders in its facility in Huntsville, Alabama.⁶³ Therefore, the record indicates that different production processes, facilities, and employees are used in producing large and small high pressure steel cylinders.

Producer and Customer Perceptions. BTIC argues that customers distinguish between large and small high pressure steel cylinders on the basis that large cylinders are typically leased, while small cylinders are purchased by end users, but it is unclear whether this means they are perceived to be distinct products.⁶⁴

Price. BTIC notes that large cylinders are more expensive than small cylinders, but the record does not indicate whether this is due to the fact that large cylinders contain more raw material or whether other factors play a role.⁶⁵

Conclusion. Large and small high pressure steel cylinders share physical characteristics and end uses, although the production processes, facilities, and employees used to manufacture the products differ. The record in the preliminary phase of these investigations, however, is not as clear with respect to price, channels of distribution, and producer and customer perceptions.

The products subject to investigation constitute a continuum of sizes of high pressure steel cylinders. We generally do not divide a continuum of sizes of products into two or more like products absent a clear dividing line.⁶⁶ We find no such dividing line here that would warrant defining separate domestic like products according to size, and therefore decline to divide the domestic like product into large and small high pressure steel cylinders.⁶⁷

⁵⁸ See, e.g., Carbon and Certain Alloy Steel Wire Rod from China, Germany, and Turkey, Inv. Nos. 731-TA-1099-1101 (Preliminary), USITC Pub. 3832 (January 2006) at 10.

⁵⁹ See Norris's Postconference Brief at 18.

⁶⁰ See CR at II-2, PR at II-1; Norris's Postconference Brief at 10.

⁶¹ CR at I-11, PR at I-8 to I-9.

⁶² See CR at I-11, PR at I-8 to I-9.

⁶³ CR at III-5 n.6, PR at III-2 n.6. Norris, however, reports that it is moving toward billet piercing for all of its operations, including sizes 80 through 150 cu. ft. cylinders. CR at I-11 n.22, PR at I-8 n.22; Tr. at 44 (Van Auken).

⁶⁴ See BTIC's Postconference Brief at 11.

⁶⁵ See BTIC's Postconference Brief at 11.

⁶⁶ See, e.g., Certain Steel Nails from China and the United Arab Emirates, Inv. Nos. 731-TA-1114-1115 (Preliminary), USITC Pub. 3939 at 8 (Aug. 2007); Carbon and Certain Alloy Steel Wire Rod from China, Germany, and Turkey, Inv. Nos. 731-TA-1099-1101 (Preliminary), USITC Pub. 3832 at 11 (Jan. 2006).

⁶⁷ In any final phase investigations, if parties wish to pursue this argument they should do so in their written
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Because we also do not include UN-ISO-9809-1 high pressure steel cylinders or high pressure aluminum cylinders in the definition of the domestic like product, we define a single domestic like product for purposes of the preliminary phase of the investigations that is coextensive with the scope of these investigations.

IV. 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.”⁶⁸ 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. Thus, we define the domestic industry to include all U.S. producers of high pressure steel cylinders.⁶⁹

V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS⁷⁰

A. Legal Standard

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.⁷¹ 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.⁷² The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁷³ In assessing whether there is a reasonable indication that 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.⁷⁴ No single factor is

⁶⁷ ...continue
comments on the draft questionnaires.

⁶⁸ 19 U.S.C. § 1677(4)(A).

⁶⁹ Norris is the sole remaining domestic producer of high pressure steel cylinders. Another domestic producer, TWI, entered bankruptcy, ceased production, and sold certain assets to Norris during the period examined. See CR at III-1, PR at III-1. 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.

⁷⁰ Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. During the 12-month period prior to the filing of the petition, subject imports from China accounted for 87.6 percent of total imports of high pressure steel cylinders. CR at IV-6, PR at IV-2.

⁷¹ 19 U.S.C. §§ 1671b(a), 1673b(a).

⁷² 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 ... {a}nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

⁷³ 19 U.S.C. § 1677(7)(A).

⁷⁴ 19 U.S.C. § 1677(7)(C)(iii).

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.”⁷⁵

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports,⁷⁶ 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.⁷⁷ 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.⁷⁸

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.⁷⁹ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.⁸⁰ Nor does the

⁷⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁶ 19 U.S.C. §§ 1671b(a), 1673b(a).

⁷⁷ 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’g 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

⁷⁸ 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).

⁷⁹ Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (“URAA”), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“{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.

⁸⁰ 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
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“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.⁸¹ It is clear that the existence of injury caused by other factors does not compel a negative determination.⁸²

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.”^{83 84} Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁸⁵

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

⁸⁰ ...continue

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, Inv. 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,’ 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.”).

⁸¹ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

⁸² 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.”).

⁸³ 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.

⁸⁴ 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, 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 on presumptions or rigid formulas. Mittal 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.

⁸⁵ 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.⁸⁶ 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.⁸⁷ 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.^{88 89}

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. Congress has delegated this factual finding to the Commission because of the agency’s institutional expertise in resolving injury issues.⁹⁰

B. Conditions of Competition and the Business Cycle

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

1. Demand Conditions

High pressure steel cylinders are used for the transportation and storage of compressed or liquified gases.⁹¹ Demand is related to their use in several markets, which include construction, the medical supply market, the beverage market, and the specialty gas/scuba market. The relative sizes of

⁸⁶ Mittal Steel, 542 F.3d at 875-79.

⁸⁷ 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).

⁸⁸ Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Inv. Nos. 731-TA-1131-1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

⁸⁹ 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.

⁹⁰ 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.”).

⁹¹ CR at I-3, PR at I-2.

these market segments is unclear, but overall economic activity and construction activity in particular drive demand for high pressure steel cylinders.⁹² Construction spending fell by 31 percent from January 2008 to April 2011, and real GDP declined during 2008 and the first two quarters of 2009, before increasing from July-September 2009 through January-March 2011.⁹³

Reflecting these declines in economic factors, apparent U.S. consumption of high pressure steel cylinders declined during the period examined. Apparent U.S. consumption fell sharply from *** units in 2008 to *** units in 2009, and then rebounded to *** units in 2010.⁹⁴ Apparent U.S. consumption was also *** in the first quarter of 2011, at *** units, than in the first quarter of 2010, at *** units.⁹⁵

High pressure steel cylinders are principally sold through two main channels of distribution: (1) buying groups and (2) direct to major customers.⁹⁶ The vast majority of Norris's sales are to end users, whether through buying groups or to major customers.⁹⁷ A smaller volume of high pressure steel cylinders is sold to distributors.⁹⁸ Buying groups are made up of small end users of construction materials and welding equipment that join together to enhance their buying power.⁹⁹ In 2010, buying groups accounted for *** of Norris's sales volume and *** percent of Cyl-Tec's sales volume.¹⁰⁰ Nonsubject imports are likewise sold primarily to end users, but subject imports are sold to end users and distributors in relatively equal proportions.¹⁰¹

2. Supply Conditions

Norris, the only remaining domestic producer, has production facilities in Longview, Texas, where it is headquartered, and in Huntsville, Alabama. Norris acquired the Huntsville facility from former domestic producer TWI in June 2010.¹⁰² Since the acquisition, Norris has focused on the production of high pressure steel cylinders with gas capacity of 150 cubic feet and over at its Longview, Texas plant, and production of high pressure steel cylinders with gas capacity of under 150 cubic feet at its Huntsville, Alabama plant.¹⁰³ Until its acquisition of the Huntsville, Alabama plant, Norris relied upon

⁹² Tr. at 52-53 (Van Auken).

⁹³ CR at II-5 to II-6, PR at II-3.

⁹⁴ CR/PR at Table IV-6.

⁹⁵ CR/PR at Table IV-6.

⁹⁶ CR at II-1, PR at II-1.

⁹⁷ CR/PR at Table II-1

⁹⁸ CR at II-1, PR at II-1.

⁹⁹ There are four main buying groups in the United States: IWDC (Weldmark-Independent Welding Distributors), BIG Buying Group, IDC/AIWD (Independent Distributor Cooperative/Association of Independent Welding Distributors), and ADA (AIRCO Distributor Association). CR at II-2, PR at II-1.

¹⁰⁰ CR at II-2, PR at II-1.

¹⁰¹ CR/PR at Table II-1

¹⁰² CR at VI-1, PR at VI-1. TWI maintained two production facilities in Harrisburg, Pennsylvania and Huntsville, Alabama. Norris acquired the Huntsville plant and a billet press from the Harrisburg, Pennsylvania plant. CR at VI-1 n.1, PR at VI-1 n.1.

¹⁰³ CR at VI-1, PR at VI-1. Respondents have alleged that the Huntsville facility is antiquated, but Norris rejects that characterization and describes the facility as state-of-the-art. CR at VI-5 to VI-6, PR at VI-3. Operations at the Longview plant were, however, *** during the period than at the Huntsville facility. In any final phase investigations, we will examine the reasons for these discrepancies in profitability and the extent to which production inefficiencies at the Huntsville plant may have affected Norris's financial condition. See CR/PR at Table VI-2.

Canadian producer Worthington Industries (“Worthington”) to supply it with high pressure steel cylinders with gas capacities of up to 80 cubic feet.¹⁰⁴

In 2010, China was the largest supplier of high pressure steel cylinders to the U.S. market.¹⁰⁵ Chinese producers’ share of the quantity of apparent U.S. consumption increased from *** percent in 2008 to *** percent in 2010.¹⁰⁶ Nonsubject imports represented the second largest source of high pressure steel cylinders. Nonsubject imports’ share of apparent U.S. consumption increased from *** percent in 2008 to *** percent in 2009, and then declined to *** percent in 2010.¹⁰⁷ The overwhelming majority of nonsubject imports throughout the period examined were from Canada.¹⁰⁸

Subject imports and nonsubject imports from Canada are concentrated in the under 80 cubic feet sizes.¹⁰⁹ The domestic industry’s shipments are concentrated in larger sizes, in particular 150 cubic feet to 702 cubic feet, although Norris also produces high pressure steel cylinders in sizes under 80 cubic feet, and there are overlaps between domestically produced cylinders and subject imports in all size categories.¹¹⁰

3. Other Conditions

Raw materials represent a substantial share of the cost of high pressure steel cylinders. They accounted for *** percent of the cost of goods sold (“COGS”) in 2008, decreasing to *** percent in 2010. Chrome alloy steel is the principal raw material used in fabricating high pressure steel cylinders.¹¹¹

DOT requires all manufacturers of high pressure steel cylinders to obtain production site and product-type approvals for all high pressure steel cylinders sold and/or used in the United States.¹¹² This approval process encompasses overseas producers as well, and the testing is the same for all high pressure steel cylinders sold in the United States regardless of source.¹¹³

Because all high pressure steel cylinders must be certified by DOT, the domestic producer and importers agree that high pressure steel cylinders are interchangeable, regardless of source.¹¹⁴ *** importers indicated that the domestic product and subject imports from China are always or frequently interchangeable.¹¹⁵ Likewise, *** importers indicated that the domestic product and nonsubject imports

¹⁰⁴ See CR/PR at Table III-5 (reflecting ***).

¹⁰⁵ See CR/PR at Table IV-6.

¹⁰⁶ CR/PR at Table IV-3.

¹⁰⁷ See CR/PR at Table IV-6.

¹⁰⁸ See CR/PR at Table IV-6.

¹⁰⁹ CR/PR at Tables IV-2 and IV-3 (indicating that *** percent of subject imports and *** percent of imports from Canada during 2010 were cylinders with capacities less than 80 cubic feet).

¹¹⁰ CR/PR at Table III-3 (indicating that *** percent of Norris’s shipments during 2010 were cylinders with capacities between 150 and 702 cubic feet).

¹¹¹ CR at V-1, PR at V-1.

¹¹² Norris’s Postconference Brief at 5.

¹¹³ Tr. at 48-50 (Van Auken); Cyl-Tec’s Postconference Brief at 18 (subject product is DOT-approved); Norris’s Postconference Brief at 25 (“{B}ecause of the strict requirements imposed by DOT regulations, high pressure steel cylinders from all sources are highly interchangeable.”).

¹¹⁴ Tr. at 20 (Camp).

¹¹⁵ CR/PR Table II-2.

are always or frequently interchangeable.¹¹⁶ We thus find that there is at least moderate substitutability between domestic and imported high pressure steel cylinders.¹¹⁷

As noted in our discussion of the domestic like product, high pressure aluminum cylinders and ISO steel cylinders can be substituted for the subject product to some extent, but such substitution is limited to smaller-sized cylinders due to the higher prices of aluminum and ISO cylinders.¹¹⁸ Nonetheless, ISO high pressure steel cylinders are increasingly in demand, as certain multinational companies have requested that distributors stock ISO cylinders that can be shipped both domestically and internationally.¹¹⁹ Norris maintains that aluminum cylinders compete only in limited markets, such as those for cylinders of 5 cubic feet and 20 cubic feet and with relatively low maximum pressure capacities, and it reports that such markets comprise only *** percent of its sales.¹²⁰ The extent to which high pressure aluminum cylinders may be substituted for larger steel cylinders is unclear. Although the record suggests they may be making some inroads into the markets held by steel cylinders, Norris counters that equivalent pressure aluminum cylinders would require a large amount of aluminum, making the final product considerably more expensive than steel cylinders.¹²¹

The compressed-gas industry treats high pressure steel cylinders as either “asset” or “non-asset” cylinders, depending on their size and ownership.¹²² Smaller high pressure steel cylinders, those between 20 and 150 cubic feet, are generally considered “non-asset” cylinders, because they are not tracked and recorded as a company asset and are generally purchased by the end user.¹²³ Larger high pressure steel cylinders over 220 cubic feet are treated as assets by distributors and are more likely to be leased to customers.¹²⁴

¹¹⁶ CR/PR Table II-2.

¹¹⁷ Cyl-Tec asserts that factors other than price, such as retesting services, product range, quality, and availability, are important to purchasing decisions and that non-price differences between the domestic like product and the subject imports are important to purchasers. CR at II-10, PR at II-6 to II-7; Tr. at 81-82 (Bennett). We will seek additional information regarding such factors in any final phase investigations.

¹¹⁸ CR at II-8, PR at II-5. Cyl-Tec estimates that 65 percent of the overall cylinder market is served by aluminum cylinders. Cyl-Tec’s Postconference Brief at 7.

¹¹⁹ Tr. at 104-105 (Bennett).

¹²⁰ See Norris’s Postconference Brief at 36.

¹²¹ Tr. at 98-99 (Bennett); Norris’s Postconference Brief at 12.

¹²² CR at I-10, PR at I-8.

¹²³ CR at I-10, PR at I-8.

¹²⁴ CR at I-10, PR at I-8.

C. Volume of Subject Imports

Section 771(7)(C)(i) of the 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.”¹²⁵

Subject imports were already present in substantial volumes and market share at the beginning of the period and maintained a significant presence in the U.S. market throughout the period. The quantity of subject imports in the U.S. market was *** units in 2008; subject imports then decreased by *** percent to *** units in 2009, increased by *** percent to *** units in 2010, and were sharply higher in the first quarter of 2011 (interim 2011) at *** units than in the first quarter of 2010 (interim 2010) at *** units.¹²⁶

Although the 2010 increase in the volume of subject imports occurred as apparent U.S. consumption recovered following the economic downturn, the surge in subject imports from 2009 to 2010 far exceeded the increase in consumption.¹²⁷ Hence, despite the overall modest decline in the volume of subject imports from 2008 to 2010, subject imports’ share of apparent U.S. consumption, measured by quantity, increased markedly from 2008 to 2010, rising from *** percent in 2008 to *** percent in 2010; it was higher in interim 2011 at *** percent than in interim 2010 at *** percent.¹²⁸ As a result, the domestic industry saw its market share decline from *** percent in 2008 to *** percent in 2010; its share was also lower in interim 2011 (*** percent) than in interim 2010 (*** percent).¹²⁹ Subject imports also increased relative to U.S. production. The ratio of subject imports to domestic production increased from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.¹³⁰

From 2008 to 2010, subject imports’ market penetration increased by *** percentage points, and that of the domestic industry declined by an even greater amount, *** percentage points, as nonsubject imports also slightly increased their share of the U.S. market from *** percent to *** percent.¹³¹ Thus, although the domestic industry lost some market share to nonsubject imports from 2008 to 2009, subject imports increased sharply from 2009 to 2010 and between the interim periods, taking significant market share from the domestic industry.¹³²

For purposes of the preliminary phase of these investigations, we find that the volume and increase in volume of the subject imports were significant during the period examined both in absolute terms and relative to consumption and production in the United States.

D. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, 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

¹²⁵ 19 U.S.C. § 1677(7)(C)(i).

¹²⁶ CR/PR at Tables IV-1 and C-1.

¹²⁷ CR/PR at Table C-1.

¹²⁸ CR/PR at Table IV-6.

¹²⁹ See CR at Table IV-6.

¹³⁰ CR/PR at Table IV-7.

¹³¹ CR/PR at Table IV-6.

¹³² See CR/PR at Table IV-6.

prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹³³

As we have discussed, the record in these preliminary phase investigations indicates that subject imports from China and domestically produced high pressure steel cylinders are at least moderately substitutable.

The Commission collected quarterly f.o.b. pricing data for high pressure steel cylinders made to DOT specification 3AA2015 in four sizes: (1) 40 cubic feet, (2) 80 cubic feet, (3) 150 cubic feet, and (4) 300 cubic feet.¹³⁴ Norris and four importers of high pressure steel cylinders from China reported pricing data accounting for *** percent of Norris's U.S. shipments of high pressure steel cylinders and *** percent of U.S. shipments of subject imports from China.¹³⁵ Subject imports undersold the domestic like product in all *** quarterly pricing comparisons from January 2008 to March 2011.¹³⁶ Given the consistent underselling by the subject imports, we find that underselling was significant during the period examined.

Prices for both the domestically produced products and the subject imports fluctuated over the period.¹³⁷ Prices in the first quarter of 2011 were slightly higher than the initial price observation in the first quarter of 2008 for three of the four pricing products.¹³⁸ In light of this information, we do not find significant price depression by reason of subject imports.

We do find some evidence, however, that subject import competition may have suppressed domestic prices during the period examined.¹³⁹ Although domestic producers were able to increase prices to some extent over the period examined, they were not able to increase them sufficiently to cover the increased cost of goods sold.¹⁴⁰ Domestic producers' unit net sales value increased by \$***, or *** percent, from 2008 to 2010 and was \$***, or *** percent, higher in interim 2011 than in interim 2010.¹⁴¹ The domestic industry's average unit COGS increased by \$***, or *** percent, from 2008 to 2010.¹⁴² The average unit COGS was \$***, or *** percent, higher in interim 2011 than in interim 2010.¹⁴³

The domestic industry's COGS to net sales ratio increased from *** percent in 2008 to *** percent in 2009, but then decreased to *** percent in 2010.¹⁴⁴ Although the COGS to net sales ratio declined from 2009 to 2010, when the subject imports increased the most, the level in 2010 was still

¹³³ 19 U.S.C. § 1677(7)(C)(ii).

¹³⁴ CR at V-2, PR at V-2.

¹³⁵ CR at V-3 PR at V-2.

¹³⁶ CR/PR at Table V-6.

¹³⁷ CR/PR at Fig. V-1.

¹³⁸ See CR/PR at Tables V-1 to V-4.

¹³⁹ Commissioner Aranoff finds that lower-priced subject imports took significant sales volume and market share from the domestic industry during the period of investigation and does not reach the issue of price suppression.

¹⁴⁰ Commissioner Pinkert finds that the evidence of price suppression centers on 2008-2009, when unit COGS were increasing along with the COGS to net sales ratio. Commissioner Pinkert recognizes that subject imports, and subject import market share, declined during that time frame.

¹⁴¹ CR/PR at Tables VI-1, C-1.

¹⁴² CR/PR at Tables VI-1, C-1.

¹⁴³ CR/PR at Table VI-1. The domestic industry's unit COGS was \$*** in 2008, \$*** in 2009, \$*** in 2010, \$*** in interim 2010, and \$*** in interim 2011. *Id.* Unit net sales values were \$*** in 2008, \$*** in 2009, \$*** in 2010, \$*** in interim 2010, and \$*** in interim 2011. CR/PR at Table VI-1.

¹⁴⁴ CR/PR at Table VI-1.

higher than in 2008.¹⁴⁵ We note that the significant fluctuations in demand during the period of investigation likely had a major impact on the COGS to net sales ratio. The COGS to net sales ratio was lower in interim 2011, at *** percent, than in interim 2010, at *** percent.¹⁴⁶

We have also examined the lost sales and lost revenue allegations made by Norris.¹⁴⁷ Commission staff confirmed *** of the lost sales allegations.¹⁴⁸ In addition, Norris provided e-mail correspondence to support its allegation that it lowered its prices to retain customers due to lower-priced subject imports.¹⁴⁹ Thus, there is evidence that increased volumes of subject imports have put pressure on the domestic industry to lower prices.

We find, for purposes of the preliminary phase of these investigations, that the consistent underselling, the evidence of price suppression, and the lost sales indicate that subject imports had an adverse effect on prices for the domestic like product.

E. Impact of the Subject Imports¹⁵⁰

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”¹⁵¹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, 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.”¹⁵²

Nearly all domestic industry performance indicators declined sharply between 2008 and 2009 and continued to decline or improved only modestly for the remainder of the period examined. Production fell from *** units in 2008 to *** units in 2009, before rising to *** units in 2010, for an overall decline of *** percent.¹⁵³ Production was *** units in interim 2010 and *** units in interim 2011.¹⁵⁴ The industry’s capacity was unchanged during the period at *** units, but with the decline in production,

¹⁴⁵ See CR/PR at Table C-1.

¹⁴⁶ CR/PR at Table VI-1.

¹⁴⁷ The 14 lost sales allegations were valued at \$*** million and involved sales of over *** high pressure steel cylinders, and the nine lost revenue allegations were valued at about \$*** and involved sales of over *** high pressure steel cylinders. CR at V-13, PR at V-4.

¹⁴⁸ CR/PR at Table V-7.

¹⁴⁹ CR/PR at Tables V-7 and V-8. See Norris’s Postconference Brief at 24-25, 29-30 and Attachment 5.

¹⁵⁰ In its notice initiating the antidumping investigation on high pressure steel cylinders from China, Commerce reported estimated dumping margins ranging from 17.04 percent to 176.25 percent. 76 Fed. Reg. at 33216.

¹⁵¹ 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.”)

¹⁵² 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 Pub. 3155 at 25 n.148 (Feb. 1999).

¹⁵³ CR/PR at Tables III-1, C-1.

¹⁵⁴ CR/PR at Tables III-1, C-1.

capacity utilization fell from *** percent in 2008 to just *** percent in 2010.¹⁵⁵ Capacity utilization was *** percent in interim 2010 and *** percent in interim 2011.¹⁵⁶

Faced with the surge in subject imports, the domestic industry was unable to retain its share of the U.S. market. Although apparent U.S. consumption recovered in 2010, increasing by *** percent relative to 2009, the domestic industry's U.S. shipments actually fell by *** percent.¹⁵⁷ The domestic industry's U.S. shipments declined each year during the period examined and by *** percent overall from 2008 to 2010.¹⁵⁸

The industry's declines in production and shipments from 2008 to 2010 were approximately double the *** percent decline in apparent U.S. consumption during this period, leading to a significant loss of market share due to increased subject imports.¹⁵⁹ The domestic industry's share of apparent U.S. consumption decreased from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.¹⁶⁰ The domestic industry ceded even more market share in interim 2011, as subject imports continued to surge. Subject imports increased by *** percent in interim 2010, while the domestic industry's U.S. shipments increased by only *** percent. As a result, the domestic industry's market share was *** percent in interim 2011 compared with *** percent in interim 2010.¹⁶¹

The industry's employment indicators suffered as well; the number of production and related workers, hours worked, and wages paid declined from 2008 to 2010 by *** percent, *** percent, and *** percent, respectively.¹⁶² Hourly wages fell from 2008 to 2010, and worker productivity declined as well.¹⁶³

The negative impact of subject imports also manifested itself in the declining financial performance of the domestic industry. The domestic industry's net sales revenues declined from \$*** in 2008 to \$*** in 2009 and \$*** in 2010, an overall decline of *** percent from 2008 to 2010.¹⁶⁴ This decline is a result of the domestic industry's reduced shipments, as net sales values generally increased.¹⁶⁵

¹⁵⁵ CR/PR at Table III-1.

¹⁵⁶ CR/PR at Table III-1.

¹⁵⁷ See CR/PR at Table C-1.

¹⁵⁸ CR/PR at Tables III-2 and C-1. The domestic industry's U.S. shipments fell from *** units in 2008 to *** units in 2009 and *** units in 2010. CR/PR at Table III-2. U.S. shipments were *** units in interim 2010 and *** units in interim 2011. CR/PR at Table III-2. End-of-period inventories decreased overall, falling from *** units in 2008 to *** units in 2009 and *** units in 2010. CR/PR at Table III-4. End-of-period inventories were *** units in interim 2010 and *** units in interim 2011. CR/PR at Table III-4. Inventories as a ratio to total shipments increased from *** percent in 2008 to *** percent in 2010. CR/PR at Table III-4. They were *** percent in interim 2010 and *** percent in interim 2011. CR/PR at Table III-4.

¹⁵⁹ CR/PR at Table C-1.

¹⁶⁰ CR/PR at Table IV-6.

¹⁶¹ CR/PR at Table IV-6.

¹⁶² CR/PR at Table C-1. The number of production workers was *** in 2008, *** in 2009, and *** in 2010. Production workers numbered *** in interim 2010 and *** in interim 2011. CR/PR at Table III-6. Hours worked fell from *** in 2008 to *** in 2009 and *** in 2010. They were *** in interim 2010 and *** in interim 2011. CR/PR at Table III-6. Wages paid were \$*** million in 2008, \$*** million in 2009, and \$*** million in 2010. They were \$*** million in interim 2010 and \$*** million in interim 2011. CR/PR at Table III-6.

¹⁶³ CR/PR at Table III-6.

¹⁶⁴ CR/PR at Tables VI-1 and C-1. The domestic industry reported net sales of \$*** in interim 2010 and \$*** in interim 2011. CR/PR at Table VI-1

¹⁶⁵ See CR at Table VI-1. Unit net sales values were \$*** in 2008, \$*** in 2009, \$*** in 2010, \$*** in interim 2010, and \$*** in interim 2011. CR/PR at Table VI-1.

The domestic industry's operating income fell from \$*** in 2008 to negative \$*** in 2009 and negative \$*** in 2010.¹⁶⁶ Operating income was \$*** in interim 2010 and \$*** in interim 2011.¹⁶⁷ The domestic industry's operating margins declined from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.¹⁶⁸ Operating margins were *** in interim 2010 and *** percent in interim 2011.¹⁶⁹

As described above, we have found significant underselling by subject imports, confirmed lost sales, instances in which domestic producers reduced prices to compete with lower priced subject imports, and evidence that subject imports suppressed domestic prices of high pressure steel cylinders. This indicates a nexus between subject imports and the poor financial performance experienced by the domestic industry over the period examined.

We have considered the role of other factors, such as declining demand, the presence in the market of nonsubject imports, nonrecurring expenses,¹⁷⁰ and competition from substitute products,¹⁷¹ so as not to attribute injury from other factors to subject imports. We recognize that the significant decline in apparent U.S. consumption during 2009 contributed to the domestic industry's deteriorating performance, and we intend to explore further the effects of declining demand in any final phase investigations. The fact that subject imports surged in 2010 while the domestic industry's operating margin remained below the break-even point despite the recovery in demand, however, suggests a link between subject imports and the industry's weak financial results. Also notable is the fact that subject imports increased their market share in the recovering market of 2010 by a significant amount, while the domestic industry continued to lose market share and experienced decreased shipments.¹⁷²

We have also examined the role of nonsubject imports.¹⁷³ The quantity of nonsubject imports fell from *** units in 2008 to *** units in 2009, before increasing to *** units in 2010.¹⁷⁴ Nonsubject imports' share, by quantity, of apparent U.S. consumption increased from *** percent in 2008 to *** percent in 2009, before declining to *** percent in 2010; nonsubject imports' market share was *** percent in interim 2010 and *** percent in interim 2011.¹⁷⁵ Despite their presence in the market, nonsubject imports do not appear to have played a substantial role in the industry's worsening condition.

¹⁶⁶ CR/PR at Table VI-1.

¹⁶⁷ CR/PR at Table VI-1.

¹⁶⁸ See CR/PR at Table VI-1. Capital expenditures decreased from \$*** in 2008 to \$*** in 2009 and \$*** in 2010. They totaled \$*** in interim 2010 and \$*** in interim 2011. CR/PR at Table VI-4. Norris *** during the period. See CR/PR at Table VI-4.

¹⁶⁹ CR/PR at Table VI-1.

¹⁷⁰ ***. See CR/PR at Table VI-1 n.1. In any final phase investigations, the Commission will examine more closely the extent to which these costs and the acquisition of the Huntsville, Alabama plant have affected Norris's operations.

¹⁷¹ Although Cyl-Tec estimates that the majority of the entire cylinder market is served by aluminum cylinders, Norris argues that aluminum cylinders compete with high pressure steel cylinders in only the very small sizes. This is an issue we will explore further in any final phase investigations.

¹⁷² See CR/PR at Table C-1.

¹⁷³ Based on the record evidence in the preliminary phase of this investigation, 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. He further finds, however, that, regardless of whether high pressure steel cylinders are a commodity product, nonsubject imports would not have replaced the subject imports without benefit to the domestic industry had the subject imports exited the market during the period. The record shows that antidumping and countervailing duty relief would have benefitted the domestic industry through higher prices. The principal source of non-subject imports during the period was Canada. CR/PR at IV-2. Imports from Canada were *** than imports from China during the period examined. CR/PR at Table F-1.

¹⁷⁴ CR/PR at Table C-1.

¹⁷⁵ See CR/PR at Table C-1.

While subject imports increased rapidly, particularly in 2010 and interim 2011, the overall increase in nonsubject imports was modest.¹⁷⁶ Furthermore, the prices of nonsubject imports from Canada were consistently significantly higher than the prices of subject imports and similar to or higher than prices for the domestic product over the period examined.¹⁷⁷ Imports from the second largest nonsubject source, Korea, only entered in relatively small quantities during the period examined.¹⁷⁸

Consequently, we conclude for purposes of these preliminary phase investigations that there is a causal nexus between the subject imports and the declines in the domestic industry's performance. We conclude that, for purposes of the preliminary phase of these investigations, the subject imports are having a significant adverse impact on the domestic industry.

CONCLUSION

For the foregoing reasons, and based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly dumped and subsidized high pressure steel cylinders from China.

¹⁷⁶ See CR/PR at Table C-1.

¹⁷⁷ CR/PR at Table F-1. In any final phase investigations, we intend to explore further the role of nonsubject imports in the U.S. market, including the decline in Norris's ***. See CR/PR at Table III-5.

¹⁷⁸ 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 the investigations is provided below.²

Effective date	Action
May 11, 2011	Petition filed with Commerce and the Commission; institution of Commission investigation (76 FR 28807, May 18, 2011)
June 1, 2011	Commission’s conference ¹
June 8, 2011	Commerce’s notices of initiation (76 FR 33239 (CVD); 76 FR 33213 (AD))
June 24, 2011	Commission’s vote
June 27, 2011	Commission determinations transmitted to Commerce
July 5, 2011	Commission views transmitted to Commerce
¹ A list of witnesses that appeared at the conference 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 . . . 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--

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.

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, alleged 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")

³ Petition, p. 4.

of China. The leading U.S. importers of HPSCs from China are America Fortune Company (“America Fortune”) 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 2010. Norris’ U.S. commercial shipments of HPSCs totaled *** in 2010, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from China totaled *** in 2010 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from nonsubject sources totaled *** in 2010 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, table C-1. 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 2010 (see Part III of this report). U.S. import data for China, Canada, and Korea are based on questionnaire responses from U.S. importers.⁴ U.S. import data for all other sources are based on official Commerce statistics (see Part IV of this report). 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.

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 ALLEGED SUBSIDIES AND SALES AT LTFV

Alleged Subsidies

On June 8, 2011, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on HPSCs from China.⁵ Commerce identified the following government programs in China:

A. State-Owned Enterprise (“SOE”)

1. Preferential Loans for SOEs.
2. Loan and Interest Forgiveness for SOEs.
3. Provision of Land and/or Land Use Rights to SOEs at Less than Adequate Remuneration.

⁴ Due to instances of misclassification/misreporting, official Commerce statistics regarding U.S. imports of subject merchandise 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. U.S. importer questionnaire data for these countries have been used to correct for these discrepancies.

⁵ *High Pressure Steel Cylinders From the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 76 FR 33239, June 8, 2011.

B. Grant Programs

1. The State Key Technology Renovation Project Fund.
2. Circular on Issuance of Management Methods for Foreign Trade Development Support Fund.
3. Rebates for Export and Credit Insurance Fees.
4. GOC and Sub-Central Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands.

C. Loans and Directed Credit

1. Preferential Lending to Steel Product Producers under the Ninth Five-Year Plan.
2. Treasury Bond Loans.
3. Preferential Lending to Steel Cylinders Producers and Exporters Classified as “Honorable Enterprises.”

D. Income Tax Programs

1. “Two Free, Three Half” Program for FIEs.
2. Income Tax Reductions for Export- oriented FIEs.
3. Preferential Tax Programs for FIEs that are Engaged in Research and Development.
4. Income Tax Reduction for FIEs that Re-Invest Profits in Export-oriented Enterprises.
5. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs.
6. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment.

E. Other Tax Programs

1. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries.
2. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment.
3. VAT Exemptions for Central Region.

F. Government Provision of Goods or Services for Less Than Adequate Remuneration (“LTAR”)

1. Hot-Rolled Steel.
2. Seamless Tube Steel.
3. Welded Tube Steel.
4. Standard Commodity Steel Billets and Blooms.
5. High-Quality Chromium Molybdenum Alloy Steel Billets and Blooms.
6. Electricity.

G. Subsidies to Steel Cylinders Producers Located in Economic Development Zones

1. Subsidies Provided in the Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area.

Alleged Sales at LTFV

On June 8, 2011, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigations on HPSCs from China.⁶ Commerce has initiated antidumping duty investigations based on estimated dumping margins of 17.04 to 176.25 percent for HPSCs from China.

THE SUBJECT MERCHANDISE

Commerce's Scope⁷

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 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 these investigations 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 these investigations 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 these investigations is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under heading 7311.00.00, and data for such merchandise should be reported under statistical reporting number 7311.00.00.30. Subject merchandise may also be reported under HTSUS statistical reporting numbers 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 these investigations is dispositive.⁸ Appendix D presents information on the applicable tariff rates for HPSCs.

⁶ *High Pressure Steel Cylinders From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 76 FR 33213, June 8, 2011.

⁷ *High Pressure Steel Cylinders From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 76 FR 33239, June 8, 2011.

⁸ *High Pressure Steel Cylinders From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 76 FR 33239, June 8, 2011.

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 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 gasses. HPSCs are designed specifically for transporting, storing, and dispensing a wide variety of compressed gasses for industrial, medical, laboratory, welding, fire suppression, and other applications. According to petitioner's witness, "high pressure" refers to ranges from 1800 to 6000 pounds per square inch ("psi").⁹ Although the scope language specifies cylinder sizes with gas capacities ranging from 8 to 720 cubic feet ("cu. ft."), sizes between 20 up 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.¹⁰

To minimize the risk of leakage or even explosion of compressed gasses—and given the fact that some gasses can be hazardous, corrosive, flammable, or explosive—in transporting filled HPSCs, manufacturer certifications, manufacturing process standards, and product performance standards for HPSCs sold into the U.S. market¹¹ (regardless, whether of domestic or foreign origin¹²)^{13 14} are set by the U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA). 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 hydrostatic pressure testing, 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.¹⁵ HPSCs are painted to customer specifications, but the colors should not be considered as uniform indicators of the cylinder's contents.¹⁶

⁹ Conference transcript, p. 16 (Van Auken).

¹⁰ Conference transcript, pp. 54-55 (Van Auken).

¹¹ 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.

¹² Conference transcript, pp. 48-49 (Klett).

¹³ A petitioner's witness estimated that more than one-half of foreign manufacturers capable of producing HPSCs as being certified by the DOT. Conference transcript, p. 49 (Van Auken).

¹⁴ 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.

¹⁵ Conference transcript, p. 63 (Van Auken).

¹⁶ 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.

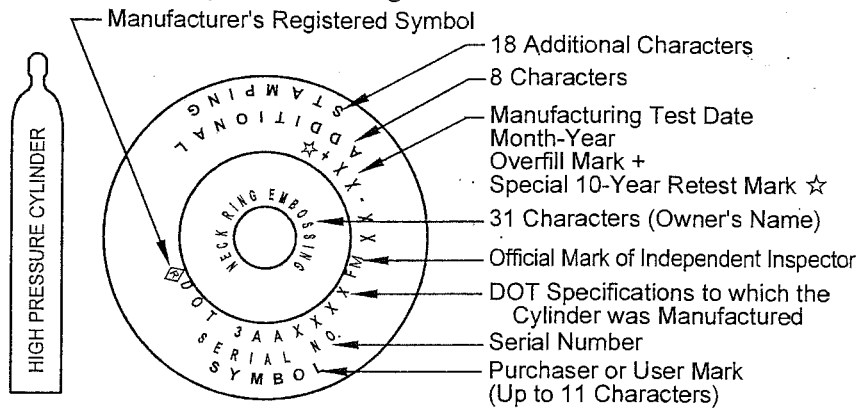


Figure 1. High-pressure cylinder markings.

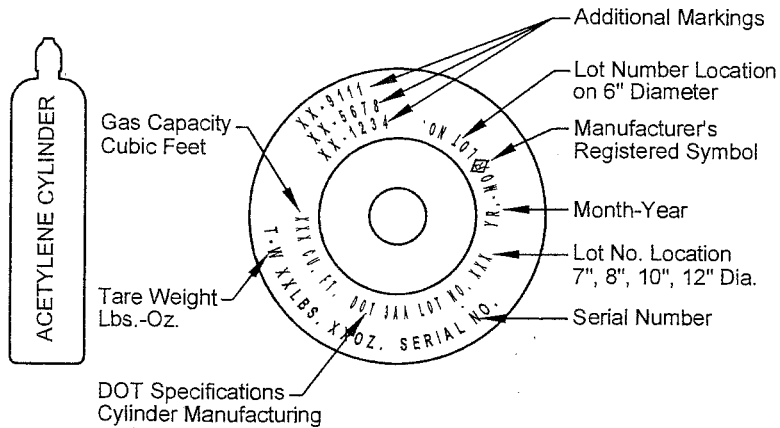


Figure 2. Acetylene cylinder markings.

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 two groups of customers—(1) the “majors” who are compressed-gas distributors that purchase directly from vendors and (2) the “buying groups” or “buying consortiums” of 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.¹⁷

The compressed-gas industry considers HPSCs as either “asset” or “non-asset” cylinders, depending on their size and ownership. Smaller ones, generally ranging between 20 and 150 cu. ft. (depending on the firm), are considered “non-asset” cylinders, because they are not tracked and recorded as a company asset, even though they may be refilled.¹⁸ The larger ones, generally of size 220 cu. ft. on up, are more likely to be rented out or leased by compressed-gas distributors who track them as an asset in their inventory records, track where and how long they are out, and charge compressed-gas customers for their use.¹⁹ There are also several hundred firms (predominantly retesters as well as some compressed-gas distributors) that inspect and recertify HPSCs for hydrostatic pressure.²⁰ The date stamp is checked on returned cylinders before refilling them, and those that are due (typically in 10-year intervals) will be retested. Recertified cylinders are stamped with a new future date for hydrostatic pressure testing. Those that fail are taken out of service, typically by punching a hole through the wall to prevent refilling.²¹

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,²² as their processes and products must adhere to DOT requirements for their cylinders to be sold into the U.S. market.²³

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 piercing process”—typically for HPSCs with gas capacities over 150 and up to 702 cu. ft.²⁴—starts with a semi-finished steel billet. The billet is cut into sections (“mults”), which are subsequently heated either in

¹⁷ Petition, p. 6; and conference transcript, pp. 23-25 (Van Auken).

¹⁸ Conference transcript, pp. 37 and 70 (Van Auken).

¹⁹ Conference transcript, pp. 37 and 70 (Van Auken).

²⁰ Conference transcript, pp. 64-65 (Van Auken).

²¹ Conference transcript, p. 64 (Van Auken).

²² Among HPSCs producers worldwide, some rely on billet-piercing or the tube-spinning process, whereas some 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).

²³ Differences in product quality were not noted by either petitioner or respondents. Conference transcript, p. 74 (Van Auken); and p. 97 (Bennett).

²⁴ Petition, p. 5.

an induction furnace or by a natural-gas-fired heating process²⁵ to working temperature (over 2,000° F). The heated mults are pierced with a mandrel in a piercing press. The pierced mults are then extruded through a series of roller dies to produce a shell of the desired diameter, length, and uniform wall thickness.²⁶ Alternatively, the “spun-from-tube process”—typically for HPSCs with gas capacities up to 150 cu. ft.²⁷—starts with a steel seamless 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, and the tube is spun in a lathe, as pressure is applied to close the heated end.²⁸ 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.²⁹ 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 and applying pressure as the shell is spun on a lathe.³⁰

Heat treatment, quenching, and tempering

After the pressing and forming stage, cylinders pass through heat treating, quenching, and tempering procedures to set the properties of the steel. Uniformity of the steel is critical for product safety of a cylinder containing compressed gasses under high pressures.³¹

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 cap.³² 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.³³ As needed, the interior surface can be plated or coated, particularly for cylinders that will contain corrosive gasses.³⁴

Testing and marking

Cylinders are subject to hydrostatic pressure testing, in accordance with DOT specifications, in which the cylinder is subject to pressure double that of the rated service pressure. Testing is either overseen or actually performed by third-party testing firms.³⁵ For HPSCs produced from steel tube, there are additional proof-pressure and other testing requirements to certify that the bottom was sealed properly

²⁵ 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.

²⁶ Norris website, “High Pressure, Billet Pierce;” and conference transcript, p. 17 (Camp).

²⁷ Petition, p. 5.

²⁸ Petitioner’s conference exhibit, p. 3; and conference transcript, p. 17 (Camp).

²⁹ Conference transcript, p. 17.

³⁰ Conference transcript, pp. 17-18 (Camp).

³¹ Conference transcript, p. 18 (Camp).

³² 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.

³³ Conference transcript, 55-56 (Van Auken).

³⁴ Conference transcript, 57 (Van Auken).

³⁵ Conference transcript, p. 18 (Camp).

during the spinning process.³⁶ 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.³⁷ Some Chinese-origin cylinders are imported by large distributors who paint, add neck rings, cap, and valves prior to sale to the end user.³⁸

DOMESTIC LIKE PRODUCT ISSUES

The petitioner contends that the Commission should find a single domestic like product consisting of HPSCs stamped with an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, or DOT-E (followed by a specific exemption number), coextensive with the scope.³⁹

Respondent Cyl-Tec argues that the Commission should find the like product to include (in addition to HPSCs manufactured to the DOT specifications listed in the scope), steel cylinders made to International Organization for Standardization (ISO) 9809-1 specifications as well as DOT-approved aluminum cylinders.⁴⁰ Respondents BTIC and America Fortune Company also contend that the Commission should include steel cylinders made to ISO 9809-1 specifications and DOT-approved aluminum cylinders in the Commission's like product definition.⁴¹ Additionally, Respondent BTIC and its America Fortune Company contend that small size (less than 150 cubic feet capacity) and large size (greater than 150 cubic feet capacity) HPSCs are two separate like products.⁴²

The Commission's decision regarding the appropriate domestic product(s) that are "like" the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and

³⁶ Conference transcript, p. 36 (Camp).

³⁷ Conference transcript, p. 19-20 (Camp).

³⁸ Petitioner's response to Commerce letter, May 20, 2011, exhibit III, p. 3.

³⁹ Petitioner's postconference brief, p. 10.

⁴⁰ Respondent Cyl-Tec's postconference brief, p. 2. The International Organization for Standardization (ISO), the world's largest standards developing and publishing organization, has developed four standards for seamless steel gas cylinders that contain compressed, liquefied, and dissolved gases. These standards specify the minimum requirements for the materials, design, construction, workmanship, manufacturing processes, examination, and testing of quenched and tempered seamless steel gas cylinders, that are refillable, having water capacities ranging from 0.5 liter to 150 liters. There are separate ISO standards for seamless steel gas cylinders, based on tensile-strength ratings (i.e., stretching stress before breakage). ISO 9809-1 applies to cylinders with tensile strength that is less than 1,100 megapascals (Mpa) of force per unit area. ISO 9809-2 applies to cylinders tensile cylinders with tensile strength that is greater than or equal to 1,100 Mpa., along with more specific tensile-strength characteristics for cylinders of certain diameter ranges and wall thicknesses. Cylinders of water capacity less than 0,5 l and between 150 l and 500 l can be manufactured and certified to be in compliance with these ISO 9809 standards. For information regarding ISO standards, see <http://www.iso.org/iso/about.htm>, retrieved June 15, 2011.

⁴¹ Respondents BTIC and America Fortune's postconference brief, pp. 14-17. Rather than addressing the Commission's traditional six-factors for the like product analysis, respondents BTIC and America Fortune cite testimony from the preliminary conference and maintain that aluminum cylinders compete with the subject merchandise in certain segments of the market and should, therefore, be considered the same like product. Respondents BTIC and America Fortune's postconference brief, pp. 16-17.

⁴² Respondents BTIC and America Fortune's postconference brief, pp. 9-11.

producer perceptions; (5) channels of distribution; and (6) price. Information regarding these factors is discussed below.

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 subject merchandise. 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.⁴³ Respondent Cyl-Tec contends that both the subject merchandise and ISO-approved cylinders are made of steel (typically Grade SAE 4130X); have the same physical appearance; are designed to store and secure gases at high pressure during transport; and are used in the same applications.⁴⁴ Respondents BTIC and America Fortune contend that the specifications and end uses of ISO-approved cylinders and the subject merchandise are essentially the same.⁴⁵

Petitioner maintains that the key physical differences between the subject merchandise and aluminum cylinders is that each consist of entirely different metal alloys.⁴⁶ Respondent Cyl-Tec maintains that while the subject merchandise and aluminum cylinders consist of different metal alloys, other parts of the cylinder remain the same including the valve (brass) and attachments (steel neck rings and cap), adding that both have essentially the same physical characteristics of being light-weight and strong.⁴⁷

In arguing that small-size and large-size HPSCs are two separate like products, respondents BTIC and America Fortune contend that the physical dimensions and pressure levels of large size cylinders are significantly higher compared to the smaller size. Moreover, they contend that smaller-sized and larger-sized cylinders are used in different applications, with smaller cylinders being used where frequent portability is a factor and larger cylinders used where storing a large volume of gas is necessary.⁴⁸

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

⁴³ 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 postconference brief, pp. 10-11. Conference transcript, p. 34 (Van Auken).

⁴⁴ Respondent Cyl-Tec's postconference brief, p. 3.

⁴⁵ Respondents BTIC and America Fortune's postconference brief, p. 14.

⁴⁶ Petitioner adds that the subject merchandise is produced from steel billets or steel tubes and generally painted according to customer specifications whereas aluminum cylinders are forged from aluminum and either painted in accordance with FDA regulations (for use in the medical supply market) or not painted at all (for use in the beverage market). Petitioner's postconference brief, p. 11.

⁴⁷ Respondent Cyl-Tec's postconference brief, p. 6.

⁴⁸ Respondents BTIC and America Fortune's postconference brief, p. 10.

hardness testing.⁴⁹ Respondent Cyl-Tec notes that both the subject merchandise and ISO-approved cylinders are produced ***.⁵⁰ Respondents BTIC and America Fortune add that ***.⁵¹

Petitioner maintains that the production of aluminum cylinders is totally different from that used for the subject merchandise, and must be performed in a separate facility.⁵² Respondent Cyl-Tec acknowledges that the manufacturing facilities to produce aluminum cylinders and the subject merchandise are different; however, it maintains the production process needed to make aluminum cylinders is similar to the “billet pierce” process used in the production of the subject merchandise.⁵³

In arguing that small-size and large-size HPSCs are two separate like products, respondents BTIC and America Fortune maintain that while small cylinders are manufactured using the “spun tube” process where the starting material is a seamless steel tube, the large size cylinders are manufactured using a “billet pierce” method, where the starting material is a billet or a slug of steel, which is pressed and extruded to form a cylinder, constituting different types of cylinders involving different manufacturing processes.⁵⁴

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.⁵⁵ Respondent Cyl-Tec maintains that both the subject merchandise and ISO-approved cylinders are essentially interchangeable and that both can be used for the same applications and uses. Moreover, respondent Cyl-Tec contends that the same grade of steel (4130X) can be used to produce both the subject merchandise and ISO-approved cylinders.⁵⁶ Respondents BTIC and America Fortune also maintain that both the subject merchandise and ISO-approved cylinders are interchangeable, citing testimony at the preliminary conference whereby a witness for Cyl-Tec noted multinational corporations have encouraged Cyl-Tec to maintain inventories of ISO-approved cylinders, which can be sold both domestically and internationally.⁵⁷

Petitioner maintains that the subject merchandise is only interchangeable with aluminum cylinders in three markets—the medical supply, beverage, and specialty gas/scuba market—and only if they

⁴⁹ Conference transcript, p. 34 (Van Auken). 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 postconference brief, p. 12.

⁵⁰ Respondent Cyl-Tec’s postconference brief, p. 5.

⁵¹ Respondents BTIC and America Fortune’s postconference brief, p. 15.

⁵² Petitioner maintains that Norris does not have the capability to manufacture aluminum cylinders in either its Longview, TX or Huntsville, AL plants and that Norris is not aware of any cylinder producer anywhere in the world that manufactures both aluminum cylinders and the subject merchandise in the same facility. Petitioner’s postconference brief, pp. 12-13.

⁵³ Respondent Cyl-Tec’s postconference brief, p. 8.

⁵⁴ Respondents BTIC and America Fortune’s postconference brief, pp. 10-11.

⁵⁵ 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 postconference brief, p. 11.

⁵⁶ Respondent Cyl-Tec’s postconference brief, p. 4.

⁵⁷ Respondents BTIC and America Fortune’s postconference brief, pp. 14-15. Conference transcript pp. 104-105 (Bennett).

are built with relatively low maximum pressure capacities.⁵⁸ According to Norris' records, small medical and CO₂ cylinders where aluminum cylinders would compete, accounted for less than *** percent of Norris' sales during the period.⁵⁹ Respondent Cyl-Tec maintains that both the subject merchandise and aluminum cylinders are for the most part interchangeable, as both are governed by DOT specifications. Moreover, it contends that a significant part of the small cylinder market has been taken over by aluminum cylinders precisely because they are interchangeable.⁶⁰ It estimates that at least 65 percent of the cylinder market is taken by aluminum cylinders and that among small cylinders (less than or equal to 150 cubic feet capacity), the percentage may be close to 75 percent.⁶¹

In arguing that small size and large size HPSCs are two separate like products, respondents BTIC and America Fortune maintain that these two size segments cylinders are not interchangeable because they cater to entirely different market segments.⁶²

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.⁶³ Respondent Cyl-Tec maintains that perceptions of ISO-approved cylinders and the subject merchandise may be somewhat varied, adding that because ISO-approved cylinders are relatively new to the U.S., some customers may view the two products as somewhat different.⁶⁴

Petitioner maintains that customers know the difference between subject merchandise and aluminum cylinders and that although there has been some competition in relatively low pressure applications where aluminum has a weight advantage, customers generally prefer to purchase the subject merchandise for high pressure applications where large and thus relatively heavier amounts of aluminum would be unnecessary to achieve required pressures.⁶⁵ Respondent Cyl-Tec maintains that customers, especially in the medical, beverage, and specialty gas markets, view aluminum cylinders and the subject merchandise as being essentially the same product.⁶⁶

⁵⁸ Petitioner notes that in order to produce an aluminum cylinder with a maximum pressure capacity equivalent to the subject merchandise of the equivalent size, the manufacturer would have to use a larger amount of aluminum, which would be considerably more expensive. Petitioner's postconference brief, p. 12.

⁵⁹ Petitioner's postconference brief, p. 37.

⁶⁰ These markets include the beverage and medical markets. Respondent Cyl-Tec's postconference brief, p. 7. Conference transcript, pp. 85-86 (Bennett).

⁶¹ Cyl-Tec notes that even larger cylinders are increasingly being made of aluminum. Respondent Cyl-Tec's postconference brief, p. 7.

⁶² Respondents BTIC and America Fortune's postconference brief, p. 10.

⁶³ At the preliminary conference, 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. Conference transcript, p. 35 (Van Auken).

⁶⁴ Respondent Cyl-Tec adds that for some customers, ISO-approved cylinders are the same product and can be used interchangeably with subject merchandise, noting that *** sometimes specifically request suppliers to provide quotations for ISO cylinders. Respondent Cyl-Tec's postconference brief, p. 5

⁶⁵ Petitioner's postconference brief, p. 14.

⁶⁶ Respondent Cyl-Tec adds that while there had been a perception that aluminum was a much more expensive product, recent declines in aluminum prices have made steel and aluminum products more competitive with each other. Respondent Cyl-Tec's postconference brief, p. 8. Conference transcript, pp. 85-86, 99 (Bennett).

Respondents BTIC and America Fortune contend that customers have entirely different perceptions about small size and large size cylinders, as borne out by distinct account-keeping methods, noting that small size cylinders are referred in the industry as “non-asset cylinders,” while large size cylinders are referred to in the industry as “asset cylinders.”⁶⁷

Channels of Distribution⁶⁸

Petitioner contends that as a manufacturer of both the subject merchandise as well ISO-approved cylinders, it has found that there is virtually no 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. Respondent Cyl-Tec maintains that the channels of distribution for ISO-approved cylinders and the subject merchandise are the same, noting that Cyl-Tec purchases both from the same producer, BTIC, and sells them to the same type of customers such as *** and recently to ***.⁶⁹

Petitioner maintains that sales of aluminum cylinders and the subject merchandise have only occurred in the limited number of markets in which aluminum cylinders have been able to compete with the subject merchandise—the medical supply, beverage, and specialty gas/scuba market.⁷⁰ Respondent Cyl-Tec maintains that aluminum cylinders and the subject merchandise are often distributed through the similar channels. For instance, Cyl-Tec sells both aluminum cylinders and subject merchandise to the same customers while other distributors, including Kaplan, Quest Cylinder, and Cramer Decker stock both products. Moreover, Worthington, a producer of both aluminum cylinders and the subject merchandise, also sells cylinders through the same channels of distribution.⁷¹

In arguing that small-size and large-size HPSCs are two separate like products, respondents BTIC and America Fortune contend that of the two main channels of distribution (buying groups and major consumers), large size cylinders are predominantly sold to major customers who are end users.⁷²

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

⁶⁷ As the cylinder size increases, customers categorize these assets in their inventory records and track their movements when such cylinders are rented or leased out. In contrast, small size cylinders are used and consumed by customers themselves and are also referred to as “ownership cylinders.” Respondents BTIC and America Fortune’s postconference brief, p. 11. Conference transcript, p. 37 (Van Auken) and p. 96 (Bennett).

⁶⁸ 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*.

⁶⁹ Respondent Cyl-Tec’s postconference brief, p. 5. Respondents BTIC and America Fortune concur adding that both ISO-approved cylinders and the subject merchandise are marketed through the same dual channels—buying groups and direct end-user channels. Respondents BTIC and America Fortune’s postconference brief, p. 15.

⁷⁰ Petitioner adds that in many consumer markets into which the subject merchandise are sold—including the construction industry—there is no distribution of aluminum cylinders at all. Petitioner’s postconference brief, p. 13.

⁷¹ Respondent Cyl-Tec’s postconference brief, p. 8.

⁷² Respondents BTIC and America Fortune acknowledge there could be an overlap at the level of buying groups. Respondents BTIC and America Fortune’s postconference brief, p. 10.

produce.⁷³ Respondent Cyl-Tec acknowledges that there can be a price differential between ISO-approved cylinders and the subject merchandise; however, it maintains that this differential is not based upon actual cost issues. Rather, it contends that it is simply because ISO-approved cylinders have a different perception in the U.S. market.⁷⁴ BTIC and America Fortune maintain that there is little difference in price between ISO-approved cylinders and the subject merchandise given “their similar cost of manufacture as a result of using the same type of steel and employing a similar production process with minor differences in testing procedures.”⁷⁵

Petitioners maintain that although both aluminum cylinders and the subject merchandise are sold in markets where relatively low maximum pressure capacities are needed (medical supply, beverage, and specialty gas/scuba markets) at similar prices; aluminum cylinders used in other markets are sold at a significant premium.⁷⁶ Respondent Cyl-Tec maintains that the prices of aluminum cylinders have typically been above that of the subject merchandise; however, it contends that recent competition has driven down the price of aluminum cylinders and for certain sizes, aluminum cylinders have actually supplanted steel cylinders.⁷⁷

In arguing that small size and large size HPSCs are two separate like products, respondents BTIC and America Fortune contend that prices for large size cylinders are higher compared to those of the smaller cylinders.⁷⁸

⁷³ Petitioner adds that the process for gaining the UN-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 postconference brief, p. 15. Conference transcript, pp. 45-46 (Van Auken).

⁷⁴ Respondent Cyl-Tec believes that the price differential between the subject merchandise and the ISO approved cylinders will come down to reflect their actual cost as the latter becomes more common in the marketplace. Respondent Cyl-Tec’s postconference brief, p. 6.

⁷⁵ Respondents BTIC and America Fortune’s postconference brief, p. 15.

⁷⁶ Petitioner maintains that the large amount of aluminum that would be necessary to create a maximum pressure capacity equivalent to that achievable with a small amount of steel is the main reason for this price premium. Petitioner’s postconference brief, p. 15.

⁷⁷ Respondent Cyl-Tec’s postconference brief, pp. 8-9. Hearing transcript, pp. 98-99 (Bennett).

⁷⁸ Respondents BTIC and America Fortune’s postconference brief, p. 11.

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

Norris sells ***. Shipments of imports from China *** (table II-1).

Table II-1

HPSCs: U.S. producers' and importers' shares of reported U.S. shipments, by source and channel of distribution, 2008-10, January-March 2010, and January-March 2011

* * * * *

Buying Groups

The 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, IDC/AIWD (Independent Distributor Cooperative/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. 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, purchases are most often made from the preferred vendor²

Norris reported that *** of its sales were to buying groups in 2010. Most importers did *** in 2010. However, one importer from China, Cyl-Tec, reported that *** percent of its total sales went to buying groups in 2010 and another importer from Canada, Worthington, reported that *** percent of its sales went to buying groups in 2010.

Norris reported that it negotiated prices in 2010 with ***. It was selected as the preferred vendor with ***.³ Cyl-Tec, an importer from China negotiated prices with *** in 2010. It was selected as the preferred vendor ***.

¹ Petition, pp. 4 and 5.

² Petition, p. 6.

³ In the case of ***, Norris partially succeeded ***. In this competition for ***.

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 ***.⁴

GEOGRAPHIC DISTRIBUTION

U.S.-produced and imported HPSCs and imports from China 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, and the other three sell only in specific regions (the Northeast, the Midwest, the Southeast, the Central Southwest, the Mountain Region and the Pacific Coast).

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, the U.S. producer Norris has the ability to respond to changes in demand with large changes in the quantity of shipments 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 fell from *** percent in 2008, to *** percent in 2009 and was *** percent in 2010. The rate was *** percent in interim 2011 as compared with *** percent in interim 2010.

Alternative markets

Norris’s exports fell from *** percent of total shipments in 2008 to *** percent in 2010. During January-March 2011, Norris’s exports accounted for *** percent of total shipments as compared with *** percent in January-March 2010.

Inventory levels

Norris’s ratio of inventories to total shipments rose from *** percent in 2008 to *** percent in 2010. During January-March 2011, it was *** percent as compared with *** percent in January-March 2010.

Production alternatives

Norris reported that ***.

⁴ Petition, p. 7.

Subject Imports

Based on available information, Chinese producer, BTIC, has the ability to respond to changes in demand with *** 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 high capacity utilization rates, the existence of alternative markets and *** inventory levels,.

Industry capacity

BTIC's capacity increased from *** million units in 2008 to *** units in January-March 2010. It is projected to reach *** in 2011 and *** in 2012. Its capacity utilization rate increased from *** percent in 2008 to *** percent in 2010. During January-March 2011, the rate was *** percent as compared with *** percent in January-March 2010. The rate is projected to be *** percent for 2011 and *** percent for 2012.

Alternative markets

The majority of BTIC's shipments are *** percent of BTIC's total shipments in 2008, *** percent in 2009, and *** percent in 2010. During January-March 2011, they were *** percent of total shipments as compared with *** percent in January-March 2010. They are projected to account for *** to *** percent of total shipments in 2011 and 2012, respectively. Exports to markets other than the United States ranged from a low of *** percent of total shipments in 2009 to *** percent in 2010. During January-March 2011, they were equal to *** percent of total shipments as compared with *** percent in January-March 2010. They are projected to account for *** percent of total shipments in 2011 and *** percent in 2012.

Inventory levels

BTIC's ratio of end-of-period inventories to total shipments was *** percent in 2008, *** percent in 2009, and *** percent in 2010. During interim 2011, the ratio was *** as compared with *** percent in interim 2010. The ratio is projected to be *** and *** percent for 2011 and 2012 respectively.

Production alternatives

***.

U.S. Demand

Demand Characteristics

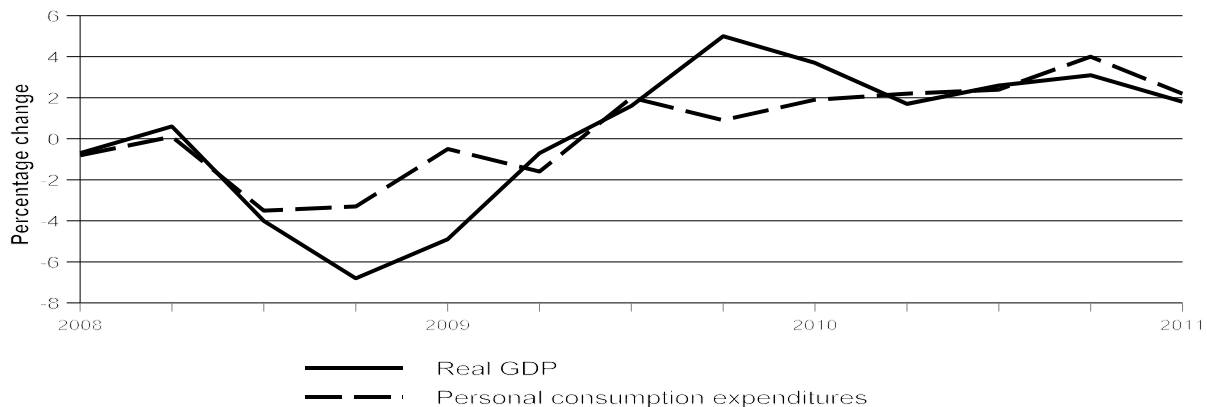
The demand for HPSCs is driven by demand in major end use markets including construction, the medical supply market, the beverage market and the specialty gas/scuba market. The total value of construction spending in the United States fell by 31 percent from January 2008 through April 2011 (figure II-1). The aggregate U.S. economy, as measured by percentage changes in the gross domestic product and personal consumption expenditures, declined during 2008 and the first two quarters of 2009 and then increased in all quarters from July-September 2009 through January-March 2011 (figure II-2).

Figure II-1
Total construction spending: Total value of U.S. construction spending, seasonally adjusted, monthly, January 2008-April 2011



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

Figure II-2
Percent changes in real gross domestic product (GDP) growth and real personal consumption expenditures, by quarters, January 2008-March 2011



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

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, 2008. Norris reported that the industry ***. Among nine responding importers, four reported that the industry is subject to business cycles or conditions of competition, and five reported that it is not. One importer, (***) reported that sales are higher in February - April, and September - 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 (***), also reported that there is also a seasonal aspect to this market. It also reported that sales of HPSCs are subject to general business cycles.

Apparent Consumption

Apparent consumption of HPSCs decreased from *** in 2008 to *** units in 2009, and then recovered somewhat to *** units in 2010. During January-March 2011, apparent consumption was *** units as compared with *** units in January-March 2010.

Demand Perceptions

When asked how U.S. demand for HPSCs had changed since January 2008, Norris reported that demand ***. Among nine responding importers, three reported that demand had decreased, three reported that demand had fluctuated and three reported that demand was unchanged. Firms reporting decreases or fluctuations generally attributed the changes in demand to economic conditions. Some firms reported that demand recovered to some extent in 2010.

In the discussion of whether the market for HPSCs is seasonal, some firms also commented on recent market conditions. Norris stated that ***. Importer, *** also stated that the recession in 2008-10 caused a prolonged economic downturn which significantly curtailed industrial demand from the fall of 2008 through the spring of 2010. Importer *** stated that during the 2008-09 recession, sales decreased due to the general decline in economic activity, but since 2010, conditions have improved substantially as the overall economy has improved.

Substitute Products

When asked whether other products can be substituted for HPSCs, the majority of questionnaire respondents answered “no,” but some firms did discuss substitutes. Norris reported that ***. Two importers, *** both reported that aluminum cylinders and cryogenic cylinders can be used as substitutes, and *** also cited composite cylinders as a substitute. *** stated that aluminum cylinders are becoming increasingly price competitive with smaller HPSCs and are replacing them in medical applications and the beverage industry. Cyl-Tec cited the lighter weight of aluminum cylinders as an advantage.⁵ In its postconference brief, ***.⁶

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.

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

⁵ Conference transcript, p. 85 (Bennet).

⁶ Petitioner’s postconference brief, p. 37.

Norris reported that *** percent of its sales were produced to order and *** percent were from inventory. Norris' 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 from items produced to order. For importers' sales from inventories, lead times ranged from *** days and for products produced to order lead times ranged from ***.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

To determine whether U.S.-produced HPSCs can generally be used in the same applications as imports from China and nonsubject countries, the U.S. producer and importers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably. The U.S. producer reported that the products are *** interchangeable, and a majority of importers reported that they are “always” or “frequently” interchangeable (table II-2). One importer, (***) reported that HPSCs sold in the U.S. market must meet relevant safety requirements, but that there are quality and other differences which will limit interchangeability. Another importer, (***) reported that many other countries employ their own federal regulations which cover product design, construction and use standards and specifications.

Table II-2
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			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	3	2	2	0
U.S. vs. nonsubject	***	***	***	***	3	1	3	0
China vs. nonsubject	***	***	***	***	2	1	3	0

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-3). Norris reported that these differences are *** a factor in their sales while the majority of importers reported that they are “always” or “frequently” a factor in their sales. One importer, ***, reported that the key issues for its customers are quality and availability (U.S. product has long lead times), product range (including nonsubject merchandise such as cryogenic and aluminum cylinders), technical services (re-testing and service), made to order specifications and technical expertise. Another importer, *** reported that quality is currently a problem with Chinese-manufactured cylinders. Importer (***) reported that because *** U.S. customers purchased Chinese-made cylinders. Importer *** reported that additional services (inserting valves) are provided by the Chinese manufacturer at no cost.

Table II-3

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			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	3	2	2	0
U.S. vs. nonsubject	***	***	***	***	1	3	2	0
China vs. nonsubject	***	***	***	***	1	3	1	0

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

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

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 alleged margin of dumping and alleged 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

As the sole domestic producer of HPSCs, Norris represented all of U.S. production during 2010.¹ Norris maintains production facilities in Longview, TX, where it is headquartered and Huntsville, AL, which Norris acquired in 2010 from former domestic producer, Taylor Wharton International Incorporated ("TWI"). 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.² 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.³ Norris ***.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on Norris' capacity, production, and capacity utilization data are presented in table III-1. Throughout the period examined, Norris' capacity *** over that period. Norris reported ***.

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; Conference transcript, pp. 21, 32, and 39 (Van Auken); Petitioner's postconference brief, p. 4.

³ *** Worthington sold small and medium-sized HPSCs to Norris to fill out Norris' product line. However, Norris 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 postconference brief, pp. 37-38. ***. Email to Commission staff from ***, June 7, 2011

Table III-1
HPSCs: U.S. capacity, production, and capacity utilization, 2008-10, January-March 2010, and January-March 2011

* * * * *

Norris reported ***. When compared to its production of the subject merchandise, Norris' production of ISO approved HPSCs accounted for ***.⁴ When asked to describe the constraints that limit its production capacity and its ability to shift production capacity between products, Norris ***.

U.S. PRODUCERS' SHIPMENTS

Data on Norris' shipments of HPSCs are presented in table III-2. U.S. commercial shipments accounted for *** of Norris' total shipments, representing between *** and *** percent of total shipments over the period examined.⁵ Export shipments accounted for *** of Norris' total shipments, representing between *** and *** percent of total shipments over the period examined. Principal export markets identified by Norris included: ***.

Table III-2
HPSCs: U.S. producers' shipments, by types, 2008-10, January-March 2010, and January-March 2011

* * * * *

Data on Norris' shipments of HPSCs, by gas capacity are presented in table III-3. Between 2008 and 2010, HPSCs between 150 and 702 cubic feet accounted for ***.⁶

Table III-3
HPSCs: U.S. producers' shipments, by gas capacity, 2008-10

* * * * *

⁴ Of Norris' total overall annual production capacity ***, *** is allocated to subject merchandise and the remaining *** is allocated to non-subject ISO-approved HPSCs. Norris' trade data and financial results with respect to cylinders manufactured to ISO 9809-1, ***, specifications are included in app. E.

⁵ Norris ***.

⁶ 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 postconference brief, pp. 37-38.

U.S. PRODUCERS' INVENTORIES

Table III-4 presents end-of-period inventories for HPSCs. As detailed below, ***.

Table III-4

HPSCs: U.S. producers' end-of-period inventories, 2008-10, January-March 2010, and January-March 2011

* * * * *

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.⁷

Table III-5

HPSCs: U.S. producers' imports and purchases, 2008-10, January-March 2010, and January-March 2011

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producer's aggregate employment data for HPSCs are presented in table III-6. The number of production-related workers ("PRWs") employed at Norris between 2008 and 2010 decreased by *** percent and wages paid decreased by *** percent over the same period.

Table III-6

HPSCs: U.S. producers' employment-related data, 2008-10, January-March 2010, and January-March 2011

* * * * *

⁷ 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. Reported U.S. imports from China, Canada, and Korea are based on the responses of U.S. importer questionnaires. U.S. imports from all other sources are based on U.S. Customs data that the U.S. Census Bureau used to generate official Commerce import statistics.¹ Importer questionnaires were sent to 22 firms believed to be importers of HPSCs, as well as the only U.S. producer of HPSCs, Norris. Usable questionnaire responses were received from 10 companies, representing the vast majority of total imports from China in 2010.

U.S. IMPORTERS

Of the 10 U.S. importers that provided usable data, five firms reported imports of HPSCs from China, *** of which *** accounted for *** of total reported U.S. imports from China in 2010.² Leading nonsubject sources of HPSCs include Canada³ and Korea.⁴ *** 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 and *** reported being related to firms, either foreign or domestic, that are engaged in the production of HPSCs.^{5 6}

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, by quantity, 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.

¹ Petitioners indicate that in addition to HTS statistical reporting number 7311.00.0030, U.S. imports of subject merchandise from Canada may have also entered under HTS statistical reporting number 7311.11.0090, a “basket” category of steel cylinders. Petition, p. 10. Therefore, 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 have 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. import data for China, Canada, and Korea are based on the responses of U.S. importer questionnaires, while U.S. imports from all other sources are based on official Commerce statistics.

² Other U.S. importers of subject merchandise from China include: ***. The Commission received responses from six firms that certified that they have not imported HSPCs since 2008. These firms are: ***.

³ U.S. importers of subject merchandise from Canada include: ***.

⁴ U.S. importers of subject merchandise from Korea include: ***.

⁵ ***.

⁶ ***.

Table IV-1
HPSCs: U.S. imports, by sources, 2008-10, January-March 2010, and January-March 2011

* * * * *

As detailed in table IV-1, U.S. imports from China, by quantity, decreased by *** percent between 2008 and 2009, increased by *** percent between 2009 and 2010, and increased by *** percent during the interim periods.

In addition to requesting data on U.S. import, the Commission also requested U.S. importers to estimate the share of their firm's U.S. commercial shipments of U.S. imports of HPSCs from China, Canada and Korea, by size, for each calendar year.⁷ The results are presented in tables IV-2, IV-3, and IV-4. As detailed below, *** U.S. shipments of U.S. imports of HPSCs from China and Canada consisted of HPSCs of ***, while shipments from Korea were ***.

Table IV-2
HPSCs: U.S. commercial shipments of U.S. imports from China by size, 2008-10

* * * * *

Table IV-3
HPSCs: U.S. commercial shipments of U.S. imports from Canada by size, 2008-10

* * * * *

Table IV-4
HPSCs: U.S. commercial shipments of U.S. imports from Korea by size, 2008-10

* * * * *

NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.⁸ 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.⁹ In the most recent 12-month period for which official

⁷ The Commission received *** that imported subject merchandise from a source other than China, Korea, or Canada. ***.

⁸ 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)).

⁹ Section 771(24) of the Act (19 U.S.C. § 1677(24)).

Commerce data are available (April 2010 through March 2011), U.S. imports from China accounted for 87.6 percent of total imports.¹⁰

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of HPSCs during the period are shown in table IV-5.

Table IV-5

HPSCs: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2008-10, January-March 2010, and January-March 2011

* * * * *

U.S. MARKET SHARES

U.S. market share data are presented in table IV-6. As detailed below, Norris' share of apparent U.S. consumption decreased from *** to *** percent between 2008 and 2010, while the market share for U.S. imports from China increased from *** to *** percent over the same period. U.S. imports from Canada increased from *** and *** percent of apparent U.S. consumption over the same period.

Table IV-6

HPSCs: U.S. consumption and market shares, 2008-10, January-March 2010, and January-March 2011

* * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of HPSCs is presented in table IV-7. Subject imports exceeded U.S. production of HPSCs in every period, ranging from *** percent in interim 2010 to *** percent in interim 2011.

Table IV-7

HPSCs: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2008-10, January-March 2010, and January-March 2011

* * * * *

¹⁰ 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.

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 2008 and then decreased over the next two years to *** percent in 2010. The principal raw material used in fabricating HPSCs is chrome alloy steel.

U.S. Inland Transportation Costs

Norris estimated that transportation costs accounted for *** percent of its total delivered cost of HPSCs. Among importers, 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, two reported that all of their inland shipments were for distances of 100 miles or less. For the other three importers, between 80 and 100 percent of shipments were for distances of 1,000 miles or less.

PRICING PRACTICES

Pricing Methods

Norris determines its prices ***. Norris reported that ***. Among importers of product from China, four reported that they sell entirely on a spot basis and one reported 80 percent spot sales and 20 percent long-term contract sales. Norris's ***. One importer, ***, reported long-term contracts of three years. Its prices are negotiable during the contract period, but contracts do not contain meet-or-release provisions.

Sales Terms and Discounts

Norris quotes prices on ***. Among importers of product from China, three reported quoting on an f.o.b. basis and two reported quoting on a delivered basis.

Discount policies on sales of HPSCs are varied. Norris reported ***. Among the eight responding importers from China and nonsubject sources, one reported that it provides annual total volume discounts and a one-half percent discount for early payment; one reported that it occasionally offers package discounts in sales fliers; one reported that it offers discounts on an order-by-order basis based on sales volume and inventories; one provides rebates averaging about two percent; and four do not offer discounts.

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 January 2008-March 2011. Pricing data were requested for the products listed on the following page.

- 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 3AA2015, painted.

The U.S. producer and four 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 these firms accounted for approximately *** percent of the quantity of U.S. producer's shipments of HPSCs and *** percent of the quantity of U.S. imports from China during January 2008-March 2011.

Price Trends

Quarterly weighted-average prices and shipment quantities for the four products are presented in tables V-1 through V-4 and figure V-1.¹ U.S. prices for all four products ***. For all four products, U.S. shipment quantities *** irregularly over the period. Prices of imports from China often moved in the same direction as U.S. prices during the 13 quarter period. A summary of price ranges and percentage changes in prices is presented in table V-5.

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, January 2008-March 2011

* * * * *

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, January 2008-March 2011

* * * * *

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, January 2008-March 2011

* * * * *

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, January 2008-March 2011

* * * * *

Figure V-1
HPSCs: Weighted-average prices and quantities of domestic and imported product, by quarters, January 2008-March 2011

* * * * *

¹ Price data for nonsubject imports are presented in appendix F.

Table V-5

HPSCs: Summary of weighted-average f.o.b. prices for products 1-4 from the United States and China, January 2008-March 2011

Item	Number of quarters	Low price (per unit) ¹	High price (per unit) ¹	Change in price ² (percent)
Product 1				
United States	13	\$***	\$***	***
China	13	***	***	***
Product 2				
United States	13	***	***	***
China	13	***	***	***
Product 3				
United States	13	***	***	***
China	13	***	***	***
Product 4				
United States	13	***	***	***
China	13	***	***	***
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 52 quarterly comparisons for the four products, by margins of 3.7 to 38.2 percent.

Table-V-6

HPSCs: Instances of underselling of imports from China and the range of margins, by products, January 2008-March 2011

Item	Underselling	
	Number of instances	Range (percent)
Product 1	13	23.4 - 38.2
Product 2	13	12.3 - 36.0
Product 3	13	8.9 - 29.4
Product 4	13	3.7 - 19.9
Total	52	3.7 - 38.2
Source: Compiled from data submitted in response to Commission questionnaires.		

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. 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

* * * * *

***, ***, ***, ***, ***,

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

* * * * *

***, ***, ***,

The firms cited in lost sales and lost revenue allegations were also asked whether they had switched from purchases of U.S.-produced HPSCs to suppliers of these products from China since January 2008. Of seven responding purchasers, five answered “yes” and two answered “no.” When firms answering “yes” were also asked whether price was the reason for the shift, two firms answered “yes” and three answered “no.” Of the firms answering “no”, one reported that the switch occurred ***. 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.

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 the majority of production of HPSCs in the United States in 2010.²

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 fell *** between 2008 and 2009 and were lower again in 2010 than in 2009. Both were higher in January-March 2011 than in the same period in 2010. The average unit value of sales rose between 2008 and 2009 and declined *** in 2010 but remained above the 2008 level. It was higher in January-March 2011 than in the same period in 2010.³
- The absolute value of cost of goods sold (“COGS”) followed sales—it fell *** between 2008 and 2009 and was lower in 2010 than in 2009. The average unit value of COGS increased, ***. Total COGS and the average unit value of COGS were lower in 2010 than in 2009 commensurate with lower sales. COGS were higher overall as well as on a per-unit basis in January-March 2011 than in January-March 2010 ***.
- Operating income fell *** in 2009 from 2008 and Norris reported ***. Norris reported operating *** in January-March 2011 compared with \$*** in January-March 2010. The average unit value of operating income and the ratio of operating income to sales followed the changes in the value of operating income.

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. 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.

² Norris did not acquire the entire assets (or records) of TWI's plant at Harrisburg, PA, but Norris was able to report limited data for shipments only. Conference transcript, pp. 60-61 (Van Auken and Lebow). Shipments from the Harrisburg, PA, facility, which are not included in the data reported in the financial section of Norris' questionnaire response, ***.

³ Declining sales were attributed, in part, to effects of the recession and the continuing weakness in the U.S. construction industry as well as to imports from China and an inventory overhang of imported HPSCs in 2008 that were only sold in 2009. Petition, p. 19 and Norris' postconference brief, p. 1. Respondents attribute all the downturn in sales to the recession, business cycle, and impact of increasing use of ISO-certified and aluminum cylinders, dispute the levels of imports claimed by petitioner and any inventory overhang, and claim that any injury to Norris is self-inflicted due to that firm's purchase of TWI's “antiquated” plant. Conference transcript, pp. 84-85 and 94 (Bennett) and Cyl-Tec postconference brief, pp. 10-15.

- Except for 2008 and the January-March 2011 interim period, net income before taxes was ***. Cash flow, calculated as net income plus depreciation charges, was positive in each period investigated.

**Table VI-1
HPSCs: Results of total operations of Norris, fiscal years 2008-10, January-March 2010, and January-March 2011**

* * * * *

TriMas Corporation is Norris’ parent corporation; Norris is one of four companies in Engineered Components, which, in turn is one of six reportable segments of the TriMas Corporation. Besides industrial cylinders, companies in the segment make slow-speed and compressor engines, meters, specialty fittings, and precision machined products, and the like.⁴ These four companies are reportedly 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. It is not unusual for a product line or a part of a product line to diverge from the company’s or the segment’s trends, just as they might between firms that produce similar products but have different cost structures. It also should be noted that allocations of costs to the

⁴ The four companies within the reportable Engineered Components segment of TriMas Corporation are: Norris Cylinder (industrial cylinders), Arrow Engine (specialty engines), Hi-Vol Products (nuts and precision machined products), and Precision Tool Company (specialty precision tools). TriMas reported total net sales of \$942.7 million and operating profit of \$114.1 million in 2010; it reported total net sales of \$803.7 million and operating profit of \$49.9 million in 2009. Total net sales and operating profit of the Engineered Components segment were \$153.2 million (16.3 percent of TriMas’ number) and \$17.4 million (15.2 percent of TriMas’ number) in 2010, respectively. The segment’s total net sales and operating income were \$99.7 million (9.2 percent of TriMas number) and \$4.6 million (4.6 percent of TriMas number) in 2009, respectively. TriMas 2010 Annual Report on Form 10-K, p. 36.

The TriMas 2010 annual report stated that net sales of Engineered Components “in 2009 decreased \$100.3 million, or approximately 50.2%, to \$99.7 million, as compared to \$200.0 million in 2008 and sales in the industrial cylinder business decreased \$50.6 million due primarily to the global economic recession, which significantly impacted industrial applications and products.” The lower sales volume and higher cost inventory led to a significant decline in operating profit. TriMas 2010 Annual Report on form 10-K, p. 49. “Net sales in 2010 increased approximately \$53.5 million, or 53.7%, to \$153.2 million, as compared to \$99.7 million in 2009. Sales in our industrial cylinder business increased \$17.1 million. Of this increase, approximately \$9.8 million relates to the asset acquisition in the second quarter of 2010 and approximately \$2.6 million relates to new product introductions during 2010, primarily related to cellular phone tower and breathing air applications. The remainder of the increase relates to the general economic improvement, which began to impact the cylinder business in the second half of 2010.” Commenting on the increase in gross margin, TriMas stated “the most significant drivers of this profitability increase were the productivity and cost reduction efforts implemented in 2009 and early 2010 in response to the economic slowdown in late 2008 and 2009, which the Company is now benefitting from the lower fixed cost structure and efficiencies gained from the productivity initiatives. In addition, this segment experienced low absorption of fixed costs during 2009 due to the historically low sales levels over which to spread such costs.” TriMas 2010 Annual Report on form 10-K, pp. 41-42. Regarding January-March 2011, TriMas reported that net sales of its Engineered Components segment increased 58 percent over the same period in 2010 due to “increased international demand for industrial cylinders, new cylinder applications, and the positive impact of the cylinder asset acquisition” (Huntsville plant). It also reported that “first quarter operating profit improved substantially due to higher sales levels, increased absorption of fixed costs, and productivity and cost reduction efforts, partially offset by higher SG&A expenses.” TriMas Corporation, press release dated April 28, 2011. Annual and Quarterly Reports, EDIS document 452530.

subject product may vary depending upon how many other products are produced in the same plant (i.e., share the plant's fixed costs) and the market performance of those other products.

Norris acquired the TWI plant at Huntsville, AL and certain assets of TWI's Harrisburg, PA plant, in June 2010.⁵ Although respondents allege that Norris' purchased production facility at Huntsville, AL, is outdated and inefficient,⁶ 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

⁵ TWI, which had purchased certain assets from Harsco (including the plants at Harrisburg, PA, and Huntsville, AL), filed voluntary petitions for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware 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, Pennsylvania and Huntsville, Alabama, 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." As of the petition date, it owned and operated eleven facilities in the United States and six facilities in China, Malaysia, and Slovakia. The firm operated its businesses and managing their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. In its filing it reported assets of \$24.5 million versus total secured and unsecured liabilities of \$237.3 million. Information on TWI's bankruptcy filing may be retrieved from Internet site, <http://www.twreorg.com/petitions.php3>. As reported by TWI, the firm streamlined certain of its functions, reduced overhead and operating expenses, and realigned its operations around its three business lines through bankruptcy. 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 the Company 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 to enhance core business strength. TriMas looks for opportunities 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. Commenting on the acquisition of TWI's Huntsville plant, the 2010 TriMas annual report stated that, "Engineered Components has significant opportunities to grow its businesses by offering its products to new customers, markets and geographies. Norris Cylinder's 2010 acquisition of Taylor Wharton International's Huntsville, Alabama facility adds highly-engineered specialty cylinder products to its product portfolio. We believe this acquisition enables Norris Cylinder to expand its product portfolio to its existing customers, while bringing new customers to Norris Cylinder." TriMas' 2010 Annual Report on Form 10-K, p. 12. The annual report also stated, "On June 8, 2010, the Company's Norris Cylinder subsidiary, included in the Company's Engineered Components reportable segment, completed the acquisition of certain assets and liabilities from Taylor-Wharton International, and its subsidiary, TW Cylinders, related to TWI's high and low-pressure cylinder business for \$11.1 million, including a net working capital adjustment of \$0.1 million, which was finalized during the fourth quarter of 2010. The acquisition was completed following approval by the United States Bankruptcy Court for the District of Delaware pursuant to Section 363 of the U.S. Bankruptcy Code. The assets purchased generated approximately \$17 million in revenue during 2009. The fair value of the net assets acquired exceeded the purchase price, resulting in a bargain purchase gain of approximately \$0.4 million, which is included in other expense, net in the accompanying consolidated results of operations for the year ended December 31, 2010. The assets acquired, liabilities assumed and results of operations of the aforementioned acquisitions are not significant compared to the overall assets, liabilities and results of operations of the Company." TriMas 2010 Annual Report on form 10-K, p. 75. EDIS document 452530.

⁶ Respondents asserted that the TWI facilities were antiquated and inefficient; they cited as one example of inefficiency the transfer of unfinished cylinders from Texas to Alabama for processing. Conference transcript, pp. 84-85, 95 (Bennett) and Cyl-Tec postconference brief, pp. 14-15.

plant. 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. These data indicate that *** reported by Norris on its HPSC operations. Huntsville ***. From 2008 to 2010 ***. Further, while total COGS ***. These data are shown in table VI-2.

Table VI-2

HPSCs: Results of operations of Norris' Longview, TX and Huntsville, AL plants, by plant, fiscal years 2008-10, January-March 2010, and January-March 2011

* * * * *

Norris also provided data on its operations producing cylinders to standard UNISO 9809-1.⁸ These cylinders are made ***. These data are included in appendix E.

Overall, Norris' raw material costs and other factory costs fell *** between 2008 and 2010. However, the ***.⁹ Reportedly the cost of steel used in making HPSCs ***.¹⁰ The interim period data show that a *** increase in sales volume was accompanied by a *** increase in the ratio of raw material costs to sales and the per-unit cost of raw materials. On the other hand, *** in January-March 2011 than in the same period in 2010.

A variance analysis for Norris is presented in summary form in table VI-3 for total operations and separately for the reported data for the Longview and Huntsville plants. The information for these variance analyses is derived from tables VI-1 and VI-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 decrease in operating income from 2008 to 2010 of *** is attributable to the favorable price variance (higher unit prices) that was overwhelmed by the unfavorable net cost/expense variance (higher unit costs) and unfavorable volume variance.¹¹ Between January-March 2010 and January-March 2011 operating ***, attributable to favorable price and net cost/expense variances. Variances for the Longview and Huntsville plants also are depicted in table VI-3. ***.

⁷ Norris' postconference brief, pp. 4-5.

⁸ "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.

⁹ Petition, p. 20.

¹⁰ Petition, p. 20.

¹¹ 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-3

HPSCs: Variance analysis on results of operations of Norris, fiscal years 2008-10, January-March 2010, and January-March 2011

* * * * *

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-4.

Table VI-4

HPSCs: Norris’ capital expenditures and R&D expenses, fiscal years 2008-10, January-March 2010, and January-March 2011

* * * * *

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-5.

Table VI-5

HPSCs: Value of Norris’ assets used in the production, warehousing, and sale, and return on investment, fiscal years 2008-10

* * * * *

Changes in the values of current assets shown in table VI-5 are due to market changes—the *** in sales and ***. Changes in property, plant, and equipment also reflect the ***.

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 alleged 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. producers' 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 petition identified ten potential producers of HPSCs in China.³ The Commission received questionnaire responses from one producer of HPSCs in China, BTIC. These data are presented in Table VII-1. Based on its reported exports to the United States, BTIC accounted for the vast majority of U.S. imports in 2010. 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 2010.⁴

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 Questionnaires were sent to the following firms in China listed in the petition: BTIC, Jindun, Shanghai High Pressure Container Co., Ltd., Hebei 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. Of these ten firms, petitioner states that BTIC is responsible for most exports to the United States and that Jindun is responsible for some exports to the United States. Petition, p. 8.

⁴ Sales by BTIC of subject merchandise accounted for *** percent by value of BTIC's sales of all steel cylinders in 2010. Respondents BTIC and America Fortune's postconference brief, p. 26.

As detailed in table VII-1, BTIC's production *** during the period for which data were gathered.⁵ ***. 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.⁶ BTIC's main export markets include ***.⁷

According to testimony presented at the preliminary conference, there are at least three manufacturers in China that produce DOT-approved HPSCs, BTIC, Jindun (located in Zhejiang Province),⁸ and a third firm located in Shanghai.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, 2008-10, January-March 2010, January-March 2011, and projected 2011-12**

* * * * *

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

⁵ BTIC's capacity is based upon *** operating on a *** work month. In some months over the period, BTIC ***. Respondents BTIC and America Fortune's postconference brief, p. 26.

⁶ Counsel for BTIC and America Fortune indicates that ***. Email to Commission staff from ***, June 3, 2011.

⁷ According to ***. BTIC Foreign Producer Questionnaire, II-6.

⁸ Conference transcript, p. 104 (Zheng); and respondent BTIC's corrections to the transcript, June 7, 2011.

⁹ Conference transcript, p. 104 (Zheng). Based on a review of the firms identified in the petition and independent research as possible manufacturers of subject merchandise in China, staff believes the firm located in Shanghai to be Shanghai High Pressure Container Co., Ltd. ("Shanghai HPC") According to its website, Shanghai HPC is the manufacturer of the "first International Standard high pressure gas cylinder{s} in China." The website reports that the firm has an annual output over 1,000,000 units, which includes ISO-rated cylinders as well as DOT-approved HPSCs. <http://www.anchorcylinder.com/en/index.asp>, retrieved, June 13, 2011.

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.

The Commission requested foreign producers/exporters to estimate the share of their firm's production of HPSCs from 2008 to 2010, by size, for each calendar year. As detailed in table VII-2, ***.

Table VII-2
HPSCs: Chinese production of HPSCs, share of total production, by size, 2008-10

* * * * *

The Commission also requested foreign producers/exporters to estimate the share of their firm's U.S. exports of HPSCs from 2008 to 2010, by size for each calendar year. As detailed in table VII-3, ***.

Table VII-3
HPSCs: Chinese exports of HPSCs to U.S., by size, 2008-10

* * * * *

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.

Table VII-4

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
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
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

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
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
Zhangjiaogang 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.

Table VII-5

HSPCs: U.S. importers' end-of-period inventories of imports, 2008-10, January-March 2010, and January-March 2011

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of HPSCs from China after March 31, 2011. *** firms indicated that they had imported or arranged for the importation of HPSCs from China. *** reported ***. *** reported ***. *** reported that it ***. *** reported ***.

ANTIDUMPING 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.'"¹⁴

Global Market

In addition to HPSCs from nonsubject sources Canada and Korea, a petitioner's witness identified HPSC production in Austria, Brazil, the Czech Republic, India, and Italy¹⁵ and a respondent's witness identified HPSC imports from Brazil, the Czech Republic, India, and Italy.¹⁶ Producers in these 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.

¹⁴ 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).

¹⁵ Conference transcript, pp. 20-21 (Van Auken).

¹⁶ Conference transcript, p. 88 (Bennet).

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.				

Exports of HPSCs from nonsubject countries were not readily available. Reported values¹⁷ of exports in 2008-10 of iron or steel containers for compressed or liquified gasses (HS 7311), including HPSCs, are shown in table VII-8 for the United States, subject-country China, and the 12 non-subject countries (discussed previously in this section) with manufacturers of HPSCs meeting the DOT specifications listed in Commerce's product scope. Among these 12 non-subject countries, Germany, Italy, and Korea exported more than 10 percent of the global reported total value of all cylinders classified under HS 7311 in a given year between 2008 and 2010.

Table VII-8
HSPCs: Reported exports of iron or steel containers for compressed or liquified gasses (HS 7311), 2008-10

Exporter	2008	2009	2010	2008	2009	2010
	<i>(1,000 dollars)</i>			<i>(percent of reported total)</i>		
United States	269,549	232,460	230,143	7.4	8.4	8.1
Subject exporter:						
China	326,137	296,125	400,430	8.9	10.7	14.1
Non-subject exporters:						
Argentina	52,097	22,938	24,869	1.4	0.8	0.9
Austria	185,540	87,637	88,249	5.1	3.2	3.1
Brazil	131,910	35,623	33,134	3.6	1.3	1.2
Canada	60,476	37,657	38,122	1.7	1.4	1.3
Czech Republic	250,572	171,202	159,219	6.9	6.2	5.6
France	151,408	118,235	118,203	4.1	4.3	4.2
Germany	289,409	300,931	275,501	7.9	10.9	9.7
Italy	356,805	284,095	269,851	9.8	10.3	9.5
Japan	31,847	18,140	26,283	0.9	0.7	0.9
Korea	375,505	209,276	267,553	10.3	7.6	9.4
Mexico	65,216	50,662	64,537	1.8	1.8	2.3
United Kingdom	159,121	121,842	94,774	4.4	4.4	3.3
Others	945,354	775,788	757,344	25.9	28.1	26.6
Subtotal, nonsubject	3,055,262	2,234,027	2,217,640	83.7	80.9	77.9
Reported total (84 exporters)	3,650,949	2,762,611	2,848,214	100.0	100.0	100.0
Note.--"Reported total" is the sum of exports reported by 84 trade partners.						
Source: Compiled by Commission staff from Global Trade Information System (GTIS).						

¹⁷ Export quantities were not consistently available, for the Global Trade Information System (GTIS) includes the first unit of quantity, which is either in kilograms or number of units, depending on the individual reporting country. No units of quantity were available from GTIS for Canada for its exports under HS 7311.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION**

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

**High Pressure Steel Cylinders From
China; Institution of Antidumping and
Countervailing Duty Investigations and
Scheduling of Preliminary Phase
Investigations**

AGENCY: United States International
Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701-TA-480 and 731-TA-1188 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that 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 imports from China of High Pressure Steel Cylinders, provided for in subheading 7311.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by June 24, 2011. The Commission's views are due at Commerce within five business days thereafter, or by July 5, 2011.

For further information concerning the conduct of these investigations 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 B (19 CFR part 207).

DATES: *Effective Date:* May 11, 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.—These investigations are being instituted in response to a petition filed on May 11, 2011, by Norris Cylinder Company, Longview, Texas.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations,

provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 1, 2011, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Requests to appear at the conference should be filed with the Office of the Secretary (William.bishop@usitc.gov and Sharon.bellamy@usitc.gov) on or before May 30, 2011. Parties in support of the imposition of antidumping and countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 6, 2011, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the 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 207.12 of the Commission's rules.

By order of the Commission.

Issued: May 12, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011-12074 Filed 5-17-11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE**International Trade Administration
[C-570-978]****High Pressure Steel Cylinders From
the People's Republic of China;
Initiation of Countervailing Duty
Investigation**

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

DATES: *Effective Date:* June 8, 2011.

FOR FURTHER INFORMATION CONTACT:
Scott Holland and Yasmin Nair, AD/
CVD Operations, Import
Administration, International Trade
Administration, U.S. Department of
Commerce, 14th Street and Constitution
Avenue, NW., Washington, DC 20230;
telephone: (202) 482-1279 and (202)
482-3813, respectively.

SUPPLEMENTARY INFORMATION:**The Petition**

On May 11, 2011, the Department of Commerce ("Department") received a countervailing duty ("CVD") petition concerning imports of high pressure steel cylinders ("steel cylinders") from the People's Republic of China ("PRC") filed in proper form by Norris Cylinder Company ("Petitioner"). See The Petitions for the Imposition of Antidumping and Countervailing Duties Against High Pressure Steel Cylinders from the People's Republic of China, dated May 11, 2011 ("the Petition"). On May 17, 2011, the Department issued requests to Petitioner for additional information and for clarification of certain areas of the CVD Petition. Based on the Department's requests, Petitioner filed a supplement to the Petition regarding general issues on May 20, 2011 ("Supplement to the AD/CVD Petitions").

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("Act"), Petitioner alleges that producers/exporters of steel cylinders from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, and threaten further material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate (see "Determination of Industry Support for the Petition" below).

Period of Investigation

The period of investigation is January 1, 2010, through December 31, 2010.

Scope of Investigation

The products covered by the scope of this investigation are steel cylinders from the PRC. For a full description of the scope of the investigation, see the "Scope of the Investigation," in Appendix I of this notice.

Comments on Scope of the Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the "Scope of Investigation" language has been modified from the language in the Petition to reflect these clarifications. See Memorandum to the File from Meredith A.W. Rutherford regarding Petitions for the Imposition of Antidumping Duties and Countervailing Duties on High Pressure Steel Cylinders from the People's Republic of China; Conference Call with Petitioner, May 24, 2011.

Moreover, as discussed in the preamble to the regulations (see *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period of time for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by Monday, June 20, 2011, which is twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the PRC antidumping duty investigation as well as the PRC CVD investigation. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on May 16, 2011, the Department invited representatives of the Government of the PRC ("GOC") for consultations with respect to the CVD petition. On May 25, 2011, the Department held consultations with representatives of the GOC via conference call. See Ex-Parte Memorandum on Consultations regarding the Petition for Imposition of Countervailing Duties on High Pressure

Steel Cylinders from the People's Republic of China, dated May 27, 2011.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)). Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an

investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation.

Based on our analysis of the information submitted on the record, we have determined that steel cylinders constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: High Pressure Steel Cylinders from the People's Republic of China ("Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering High Pressure Steel Cylinders from the People's Republic of China, dated concurrently with this notice and on file in the CRU.

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section in Appendix I of this notice. To establish industry support, Petitioner provided its production of the domestic like product in 2010. *See* Supplement to the AD/CVD Petitions, at 4. Petitioner maintains that it was the sole remaining producer of the domestic like product in 2010 and, therefore, alleges that it represents the total production of the domestic like product. *See* Volume I of the Petition, at 3, and Supplement to the AD/CVD Petitions, at 4. To demonstrate that it was the sole producer, Petitioner provided an affidavit from the President of Norris Cylinder Company, who has many years of professional experience in the steel cylinders industry. *See* Supplement to the AD/CVD Petitions, at 4, and Exhibit III-64. We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like

product and, as such, we find that the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 702(c)(4)(D) of the Act, and Initiation Checklist at Attachment II. Second, we find that the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. *See* Initiation Checklist at Attachment II. Finally, we find that the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. For further discussion, *see* Initiation Checklist at Attachment II.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of steel cylinders from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industry producing steel cylinders. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced shipments, reduced capacity,

underselling and price depression or suppression, reduced employment, a decline in financial performance, lost sales and revenue, and an increase in import penetration. *See* Volume I of the Petition, at 11–22. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III, Injury.

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations. The Department has examined the Petition on steel cylinders from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of steel cylinders in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

A. State-Owned Enterprise (“SOE”) Programs

1. Preferential Loans for SOEs.
2. Loan and Interest Forgiveness for SOEs.
3. Provision of Land and/or Land Use Rights to SOEs at Less than Adequate Remuneration.

B. Grant Programs

1. The State Key Technology Renovation Project Fund.
2. Circular on Issuance of Management Methods for Foreign Trade Development Support Fund.
3. Rebates for Export and Credit Insurance Fees.
4. GOC and Sub-Central Grants, Loans, and Other Incentives for

Development of Famous Brands and China World Top Brands.

C. Loans and Directed Credit

1. Preferential Lending to Steel Product Producers under the Ninth Five-Year Plan.
2. Treasury Bond Loans.
3. Preferential Lending to Steel Cylinders Producers and Exporters Classified as “Honorable Enterprises”.

D. Income Tax Programs

1. “Two Free, Three Half” Program for FIEs.
2. Income Tax Reductions for Export-oriented FIEs.
3. Preferential Tax Programs for FIEs that are Engaged in Research and Development.
4. Income Tax Reduction for FIEs that Re-Invest Profits in Export-oriented Enterprises.
5. Local Income Tax Exemption and Reduction Programs for “Productive” FIEs.
6. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment.

E. Other Tax Programs

1. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries.
2. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment.
3. VAT Exemptions for Central Region.

F. Government Provision of Goods or Services for Less Than Adequate Remuneration (“LTAR”)

1. Hot-Rolled Steel.
2. Seamless Tube Steel.
3. Welded Tube Steel.
4. Standard Commodity Steel Billets and Blooms.
5. High-Quality Chromium Molybdenum Alloy Steel Billets and Blooms.
6. Electricity.

G. Subsidies to Steel Cylinders Producers Located in Economic Development Zones

1. Subsidies Provided in the Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of investigation. We intend to make our decision regarding respondent

selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GC. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition is filed, whether there is a reasonable indication that imports of subsidized steel cylinders from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: May 31, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Attachment I

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 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.

[FR Doc. 2011-14042 Filed 6-7-11; 8:45 am]

BILLING CODE 3510-DS-P

Countervailing Duties: High Pressure Steel Cylinders from the People's Republic of China dated May 11, 2011, ("Petition"). On May 13, 2011, the Department issued a supplemental questionnaire requesting information and clarification of certain areas of the Petition. Petitioner timely filed additional information on May 20, 2011.²

Period of Investigation

The period of investigation ("POI") is October 2010 through March 2011. *See* 19 CFR 351.204(b)(1).

In accordance with section 732(b) of Tariff Act of 1930, as amended ("the Act"), Petitioner alleges that imports of steel cylinders from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the antidumping duty investigation that Petitioner is requesting the Department to initiate (*see* "Determination of Industry Support for the Petition" section below).

Scope of Investigation

The products covered by the scope of this investigation are steel cylinders from the PRC. For a full description of the scope of the investigation, *see* "Scope of Investigation," in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the "Scope of Investigation" language has been modified from the language in the Petition to reflect these clarifications. *See* Memo to the File from Meredith A.W. Rutherford regarding Petitions for the Imposition of Antidumping Duties and Countervailing Duties on High Pressure Steel Cylinders

² *See* Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of High Pressure Steel Cylinders from the People's Republic of China (the PRC): Supplemental Questions, dated May 20, 2011 ("Supplement to the AD/CVD Petition").

DEPARTMENT OF COMMERCE

International Trade Administration [A-570-977]

High Pressure Steel Cylinders from the People's Republic of China: Initiation of Antidumping Duty Investigation

DATES: *Effective Date:* June 8, 2011.

FOR FURTHER INFORMATION CONTACT: Timothy Lord, Emeka Chukwudebe, or Matthew Renkey, AD/CVD Operations, Office 9, (202) 482-7425, (202) 482-0219, or (202) 482-2312, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On May 11, 2011, the Department of Commerce ("Department") received a petition concerning imports of high pressure steel cylinders ("steel cylinders") from the People's Republic of China ("PRC") filed in proper form by Norris Cylinder Company¹ ("Petitioner"). *See* Petitions for the Imposition of Antidumping and

¹ Norris Cylinder Company ("Norris") identifies itself as the sole producer of the domestic like product based on its knowledge of the industry. *See* Volume II of the Petition, at Exhibit II-1.

from the People's Republic of China; Conference Call with Petitioner, May 24, 2011.

Moreover, as discussed in the preamble to the regulations (*see Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by Monday, June 20, 2011, which is twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the PRC antidumping duty investigation as well as the PRC countervailing duty investigation. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of steel cylinders to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe steel cylinders, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the

order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by June 20, 2011. Additionally, rebuttal comments must be received by June 27, 2011.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the

like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that steel cylinders constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: High Pressure Steel Cylinders from the People's Republic of China ("Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petition Covering High Pressure Steel Cylinders from the People's Republic of China, on file in the Central Records Unit ("CRU"), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioner provided its production of the domestic like product in 2010. *See* Supplement to the AD/CVD Petitions, dated May 20, 2011 ("Supplement to the AD/CVD Petitions"), at 4. Petitioner maintains that it was the sole remaining producer of the domestic like product in 2010, and, therefore, alleges that it represents the total production of the domestic like product in 2010. *See* Volume I of the Petitions, at 3, and Supplement to the AD/CVD Petitions, at 4. To demonstrate that it was the sole producer, Petitioner provided an affidavit from the President of Norris Cylinder Company, who has many years of professional experience in the steel cylinders industry. *See* Volume II of the AD Petitions, at Exhibit

II-1, and Supplement to the AD/CVD Petitions, at 4. We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, we find that the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 732(c)(4)(D) of the Act, and Initiation Checklist at Attachment II. Second, we find that the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. *See* Initiation Checklist at Attachment II. Finally, we find that the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *Id.*

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping duty investigation that it is requesting the Department initiate. *Id.*

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by

reduced market share, reduced shipments, reduced capacity, underselling and price depression or suppression, reduced employment, a decline in financial performance, lost sales and revenue, and an increase in import penetration. *See* Volume I of the Petition, at 11–22. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III, Injury.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports steel cylinders from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also discussed in the Initiation Checklist. *See* Initiation Checklist, at 5–10.

U.S. Price

Petitioner calculated export price ("EP") based on the average unit customs value of U.S. imports of subject merchandise from China classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 7311.00.00.30, as compiled by the U.S. Census Bureau and obtained from the ITC's Dataweb. Petitioner utilized two methodologies to calculate EP, with one methodology adjusting average unit value to account for differences in steel cylinders model prices.³ Petitioner also made adjustments for domestic brokerage and handling and domestic inland freight. *See* Initiation Checklist; *see also* Volume II of the Petition, at 18–21 and Exhibit II–23.

Petitioner calculated constructed export price ("CEP") based on a proprietary source's pricing to unaffiliated U.S. end-users during the POI. Petitioner made adjustments for rebates, freight, value-added inputs, U.S. customs and duty fees, credit expense, domestic brokerage and handling, inland freight, and distributor markup. *See* Initiation Checklist; *see also* Volume II of the Petition, at 21–24 and Exhibits II–25 through II–28.

³ The EP margins listed *infra* are based on this methodology.

Normal Value

Petitioner claims the PRC is a non-market economy ("NME") country and that no determination to the contrary has been made by the Department. *See* Volume II of the Petition, at 1. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, in accordance with section 771(18)(C)(i) of the Act, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner contends that India is the appropriate surrogate country for the PRC because: (1) it is at a level of economic development comparable to that of the PRC and (2) it is a significant producer of comparable merchandise. *See* Volume II of the Petition, at 1–2. Based on the information provided by Petitioner, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioner calculated NV and the dumping margins using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. In calculating NV, Petitioner based the quantity of each of the inputs used to manufacture the domestic like product on its own consumption rates, modified where applicable. Petitioner states that it is not aware of publicly available information regarding the actual usage rates of Chinese producers to produce steel cylinders. However, Petitioner further notes that because Norris is one of a few producers worldwide, and there are only a few basic production methods used to produce steel cylinders, it is very familiar with the production process in the PRC. *See* Volume II of the Petition, at 4–18 and Exhibit II–7.

As noted above, Petitioner determined the consumption quantities of all raw materials based on its own production

experience. Petitioner valued most of the factors of production based on reasonably available, public surrogate country data, specifically, Indian import data from the Global Trade Atlas (“GTA”). See Initiation Checklist; see also Volume II of the Petition, at 6–12 and Exhibit II–9. Where required, Petitioner inflated surrogate values to the POI by means of the Wholesale Price Index (“WPI”) for India. Because WPI data were not yet available for February and March 2011, the final two months of the POI, Petitioner assumed these figures were the same as that for January 2011 and calculated an average WPI for the POI accordingly. See Initiation Checklist; see also Volume II of the Petition, at Exhibit II–10. In addition, Petitioner made currency conversions, where necessary, based on the POI-average rupees/U.S. dollar exchange rate, as reported on the Department’s Web site. See Initiation Checklist; see also Volume II of the Petition, at Exhibit II–9. Petitioner determined labor costs using the labor consumption, in hours, derived from Petitioner’s own experience. See Initiation Checklist; see also Volume II of the Petition, at 12 and Exhibit II–17. For purposes of initiation, the Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation.

Petitioner determined energy and utility costs using Petitioner’s own usage rates. To account for manufacturing differences between the U.S. and the PRC, Petitioner made adjustments to electricity and natural gas. See Initiation Checklist; see also Volume II of the Petition, at 13–14 and Exhibit II–1.

Petitioner determined labor costs using the usage rates derived from Petitioner’s own experience and valued labor using data from *Nails AR1*.⁴ See Initiation Checklist; see also Volume II of the Petition, at 12 and Exhibit II–17.

Petitioner determined packing costs using consumption rates derived from Petitioner’s own experience, and valued the relevant factors using data from GTA. See Initiation Checklist; see also Volume II of the Petition, at 17–18 and Exhibits II–9 and II–15.

Petitioner calculated factory overhead, selling, general and administrative expenses, and profit by averaging data from the 2009–2010 financial statements of four Indian producers of steel cylinders: (1) Everest Kanto (“Everest”); (2) Rama Cylinders

Private Limited (“Rama”); (3) Maruti Koatsu Cylinders Pvt. Limited (“Maruti”); and (4) Nitin Cylinders Limited (“NCL”). See Initiation Checklist; see also Volume II of the Petition, at 14–17 and Exhibit II–22.

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of steel cylinders from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. prices and NV calculated in accordance with section 773(c) of the Act, as described above, the estimated EP dumping margins (adjusted according to model size), for steel cylinders from the PRC range from 85.10 percent to 176.25 percent, and the estimated CEP dumping margins range from 17.04 percent to 151.90 percent. See Initiation Checklist; see also Volume II of the Petition, at 24 and Exhibit II–7.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on steel cylinders from the PRC, the Department finds the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of steel cylinders from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Targeted Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5). See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008). The Department stated that “{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.” *Id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in this investigation pursuant to section

777A(d)(1)(B) of the Act, such allegation is due no later than 45 days before the scheduled date of the preliminary determination.

Respondent Selection

For this investigation, the Department will request quantity and value information from known exporters and producers identified with complete contact information in the Petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. See *Circular Welded Austenitic Stainless Pressure Pipe from the People’s Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People’s Republic of China*, 70 FR 21996, 21999 (April 28, 2005). On the date of the publication of this initiation notice in the **Federal Register**, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html>, and a response to the quantity and value questionnaire is due no later than June 21, 2011. Also, the Department will send the quantity and value questionnaire to those PRC companies identified in Volume I of the Petition, at Exhibit I–1.

Interested parties must submit applications for disclosure under administrative protective order (“APO”) in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department’s Web site at <http://ia.ita.doc.gov/apo>.

Separate-Rate Application

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries, dated April 5, 2005 (“Policy Bulletin”), available on the Department’s web site at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to

⁴ See *Certain Steel Nails From the People’s Republic of China: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 16379 (March 23, 2011) (“Nails AR1”).

make it more administrable and easier for applicants to complete. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status. The quantity and value questionnaire will be available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of the publication of this initiation notice in the **Federal Register**.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Policy Bulletin states:

While continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See Policy Bulletin at 6 (emphasis added).

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the Government of the PRC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, no later than June 27, 2011, whether there is a reasonable indication that imports of steel cylinders from the PRC are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures, 73 FR 3634. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.⁵ Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011.⁶ The formats for the

revised certifications are provided at the end of the Interim Final Rule. The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: May 31, 2011.

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

Appendix I

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 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

⁵ See section 782(b) of the Act.

⁶ See Certification of Factual Information to Import Administration During Antidumping and

Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491 (February 10, 2011) ("Interim Final Rule") amending 19 CFR 351.303(g)(1) and (2).

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.

[FR Doc. 2011-14029 Filed 6-7-11; 8:45 am]

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APPENDIX B
CALENDAR OF PUBLIC CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject: High Pressure Steel Cylinders from China
Inv. Nos.: 701-TA-480 and 731-TA-1188 (Preliminary)
Date and Time: June 1, 2011 - 9:30 a.m.

The conference in connection with these investigations was held in the Main Hearing Room (room 101), 500 E Street, SW, Washington, D.C.

In Support of the Imposition of Antidumping Duties:

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

Daniel Klett, Principal, Capital Trade Inc.

Edward M. Lebow
Nora Whitehead

) – OF COUNSEL
)

**In Opposition to the Imposition of
Antidumping Duties:**

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)

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

Beijing Tianhai Industry Co., Ltd.

Bill Zheng, Chief Operating Officer, America Fortune Company

Richard Rottmann, ThyssenKrupp Steel Services

Max F. Schutzman) – OF COUNSEL
Dharmendra Choudhary)

APPENDIX C
SUMMARY DATA

Table C-1
HPSCs: Summary data concerning the U.S. market, 2008-10, January-March 2010, and January-March 2011

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APPENDIX D
TARIFF TREATMENT

Harmonized Tariff Schedule of the United States (2011)

Annotated for Statistical Reporting Purposes

XV
73-22

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
7311.00.00		Containers for compressed or liquefied gas, of iron or steel		Free		25%
	30	Certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49 CFR or under a specific exemption to those requirements: Seamless steel containers not overwrapped, marked DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T or DOT-E followed by a specific exemption number	No. kg			
	60	Other	No. kg			
	90	Other	No. kg			

APPENDIX E

**NORRIS' SUMMARY DATA FOR CYLINDERS PRODUCED TO ISO-9809-1
SPECIFICATIONS**

Table E-1
ISO 9809-1: Norris' summary data, 2008-10, January-March 2010, and January-March 2011

* * * * *

APPENDIX F
NONSUBJECT COUNTRY PRICE DATA

Nonsubject Price Comparisons

Table F-1 compares quarterly prices of nonsubject imports from Canada and Korea with U.S. producer prices and Chinese prices for products 1-4 during January 2008-March 2011.

Table F-1

HPSCs: Number of quarterly price comparisons of imported nonsubject and U.S. products 1, 2, 3, and 4, and imported nonsubject and Chinese products 1-4

* * * * *

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

Figure F-1

HPSCs: Weighted-average prices and quantities of domestic and imported product, by quarters, January 2008-March 2011

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