

**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:**  
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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.

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