Summary of Antidumping and Countervailing Subsidy Duties Concerning Hydrofluorocarbon (HFC) Imports to the United States

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The purpose of this memo is to provide an information concerning United States antidumping and countervailing subsidy duties related to hydrofluorocarbon (HFC) imports.

1. What are antidumping and countervailing subsidy duties?

Two methods that foreign companies may use to gain an unfair advantage in the U.S. market are “dumping” and foreign government subsides.

Dumping is “when a foreign producer sells a product in the United States at a price that is below that producer's sales price in the country of origin ("home market"), or at a price that is lower than the cost of production.”^1 2 Because dumping typically involves substantial volumes of a product entering the domestic market, it often endangers the financial viability of the domestic manufacturers. If such practices continue over a sustained period, it may drive the affected companies out of business.

Foreign companies may also receive subsidies from their home governments, like grants or interest-free loans. These can result in harm to U.S. industries if those U.S. industries must compete with subsidized imports.

The U.S. government can address or “remedy” foreign dumping and unfair subsidization by imposing antidumping (AD) and countervailing duties (CVD) on imports. The U.S. must find that the imports are being dumped or subsidized and are also found to injure, or threaten to injure, the U.S. industry. Once imposed, U.S. Customs and Border Protection (CBP) will collect any applicable AD and CVD duties on subject products imported into the United States. These duties offset the value of dumping and/or subsidization, thereby leveling the playing field for domestic industries injured by unfairly traded imports.

2. How does the U.S. government impose antidumping and countervailing duties?^4

A party may petition the Department of Commerce (Commerce, DOC) and U.S. International Trade Commission (USITC), for an investigation into alleged dumping or subsidization. Generally, the petitioning party is a domestic manufacturer or its workers. If the petition meets the legal requirements, an investigation will proceed. DOC’s International Trade Administration

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2 For certain markets the home price of a good cannot be used as a yard stick. In these cases, the U.S. government may determine the cost of the good in question by estimating the cost of the product’s components, labor, and other expenses. See 19 U.S.C. § 1677b(c)(1)(B) and C.F.R. § 351.408.
4 Conversations with International Trade Administration, February 26th, 2021.
ITA will investigate the dumping/subsidy claim, while USITC will separately investigate whether the domestic industry is threatened or actively harmed by the alleged practices.  

ITA and USITC will publish final determinations after conducting their investigations. For import duties to be imposed, there must be a finding that dumping and/or subsidization is occurring and a U.S. industry is injured or threatened with injury. If both conditions are met, a duty order is issued and CBP will collect anti-dumping and/or countervailing subsidy duties on imports within the scope of the duty order. If certain conditions are met, CBP will collect duties retroactively.

The duty amount is based on the “dumping margin” a measure of how much the U.S. sale price is below fair value and/or the subsidy rate determined in the investigation.

Commerce may review existing duty orders, which are routinely assessed and can be modified or eliminated. Certain proceedings may also consider if companies have circumvented existing duties.

3. What actions have Commerce and USITC taken on HFC imports recently?

In 2013, Mexichem Fluor, Inc., a foreign-owned HFC producer with production facilities in the United States, submitted an antidumping petition concerning HFC-134a from China. Commerce determined that imports of HFC-134a from Chinese companies were being subsidized by the Chinese government, and that the product was being sold below fair value in the United States. USITC, however, found that U.S. companies were “not materially injured or threatened with material injury, [nor is] the establishment of an industry in the United States…. materially retarded.” So no duties were imposed.

In 2015, Commerce received a petition concerning certain blended HFCs (R-404, R-407A, R-407C, R-410A, and R-507A/R-507) and certain single component HFCs (HFC-32, HFC-125, and HFC-143a). The petitioners were the American HFC Coalition, its individual members, and District Lodge 154 of the International Association of Machinists and Aerospace Workers. In 2016, Commerce found that these blends and components were being sold or likely to be sold

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6 For some investigations, Commerce and USITC may publish “preliminary findings” and allowing parties to submit comments before publishing their final determinations.

7 19 CFR § 351.206.

8 The dumping margin can be calculated as a percentage: expected price / observed price – 1. So if Commerce determines that a company should be charging roughly $12 for a product, but the observed price is $8, the dumping margin would be 12/8-1 = 0.5 or 50%. Customs might require the company in question pay a 50% duty on imports, to discourage dumping.

9 This list of actions is current as of March 23, 2021.

10 “Sold, or likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended.” See 79 FR 62597 and 79 FR 62594.


12 80 FR 43387.
in the United States at less than fair value. 13 Subsequently, USITC found that while the HFC blends were harming U.S. industry, the single component HFCs were not. 14 In August 2016, an antidumping duty order was imposed on HFC blends from China. 15 16

In April of 2016, the same group that submitted the blended HFC petition submitted an antidumping duty petition concerning HFC-134a imports from China. 17 In March 2017, Commerce again found that HFC-134a produced in China “is being, or is likely to be, sold in the US under fair value.” 18 This time, USITC found that U.S. industry was being harmed, and an antidumping duty order was imposed on HFC-134a from China. 19 20 21

In June of 2019, Commerce initiated inquiries based on requests from domestic parties and information from CBP to determine whether certain products were circumventing the HFC blends order:

1. Based on information from CBP and additional information from the American HFC Coalition, Commerce initiated an inquiry to determine whether imports of unfinished blends of HFC components HFC-32 and HFC-125 from China that are further processed into finished HFC blends in the United States are circumventing the HFC blends duty order. 22 In March 2020, Commerce found that these imports were circumventing the duty order. 23

2. Based on a covered merchandise referral from CBP and additional information from the American HFC Coalition, Commerce initiated an inquiry to determine whether imports of unpatented R-421A from China are circumventing the HFC blends duty order. 24 In June 2020, Commerce found that these imports were circumventing the duty order. 25

3. Based on a request from the American HFC Coalition, Commerce initiated an inquiry to determine whether HFC components HFC-32, HFC-125, and HFC-143a from China “that are further processed into HFC blends in the United States” are circumventing the HFC blends duty order. 26 In August 2020, Commerce determined not to include such imports within the scope of the duty order based on advice provided by USITC that doing

13 81 FR 42314.
15 81 FR 55436.
17 81 FR 18830.
18 82 FR 12192.
20 82 FR 18422.
21 “1,1,1,2-Tetrafluoroethane (R-134A) from The People Republic of China [ A-570-044 ].” Trade.gov, International Trade Administration, https://legacy.trade.gov/enforcement/operations/scope/country/china/products/prc-tetrafluoroethane-ad.asp.
22 84 FR 28276.
23 85 FR 15428.
24 84 FR 28281.
25 85 FR 34416.
26 84 FR 28273.
so would be inconsistent with the USITC’s negative injury determination during the investigation.27

4. Based on a request from the American HFC Coalition, Commerce initiated an inquiry to determine whether HFCs produced in China that are blended in India are circumventing the HFC blends duty order.28 In October 2020, Commerce found that these imports were circumventing the duty order.29

Commerce received an antidumping petition in January 2020 from Arkema Inc. concerning imports of HFC-32 from China.30 In January 2021, Commerce found HFC-32 produced in China “is being, or is likely to be, sold in the United States at less than fair value.” In February 2021, USITC found that these imports were harming US industry.31 In March 2021 an antidumping duty order was imposed on HFC-32 from China.32

Commerce initiated AD/CVD investigations concerning certain imports of HFC-125 in February 2021 in response to petitions filed by Honeywell International, Inc.33 34 In March 2021, USITC found that these imports were harming US industry.35 In June and August 2021, respectively, Commerce published preliminary determinations finding that countervailable subsidies are being provided to producers and exporters of R-125 from China, and that R-125 is being or is likely to be sold in the United States at less than fair value.36 37

Duty rates can and do change over time as a result of review.38 Current duty rates can be found on the International Trade Administration website.39

Table 1: Summary of HFC-related duty orders

<table>
<thead>
<tr>
<th>Date of action</th>
<th>Action</th>
</tr>
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<tbody>
<tr>
<td>August 2016</td>
<td>Duties imposed on certain HFC blends from China (R-404A, R-407A, R-407C, R-410A, and R-507A/R-507)</td>
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<tr>
<td>April 2017</td>
<td>Duties imposed on HFC-134a from China</td>
</tr>
<tr>
<td>March 2020</td>
<td>Unfinished blends of R-32 and R-125 imported from China found to be circumventing the blends duty order</td>
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<tr>
<td>June 2020</td>
<td>Unpatented blends of R-421A from China found to be circumventing the blends duty order</td>
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</tbody>
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27 85 FR 51018.
28 84 FR 28269.
29 85 FR 61930.
30 85 FR 10406.
32 86 FR 13886.
33 86 FR 8583.
34 86 FR 8589.
35 86 FR 12712.
36 86 FR 33648.
37 86 FR 45959.
38 82 FR 18422.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 2020</td>
<td>HFCs produced in China that are blended in India found to be circumventing the blends duty order (R-404A, R-407A, R-407C, R-410A, and R-507A/R-507)</td>
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<tr>
<td>March 2021</td>
<td>Duties imposed on HFC-32 from China</td>
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