

Commerce Whacks Chinese Refrigerant With Steep Early Levy

By **Alyssa Aquino**

Law360 (August 11, 2021, 6:03 PM EDT) -- Chinese producers of a type of refrigerant face steep anti-dumping duties reaching up to 280.48% after the U.S. Department of Commerce on Wednesday preliminarily ruled that importers were selling the goods in the U.S. at unfair prices.

Commerce's International Trade Administration assigned a 280.37% dumping rate for pentafluoroethane, or R-125, produced by Zhejiang Sanmei Chemical Ind. Co. Ltd. and a 280.48% dumping margin for imports made by companies considered part of the China-wide entity.

Fox Rothschild LLP's Lizbeth Levinson, an attorney for Sanmei, told Law360 she was "extremely surprised by the results."

"We have not yet seen the calculations," she said in a statement. "We intend to analyze Commerce's calculations closely for clerical errors and to continue our full cooperation in the case."

Commerce and the International Trade Commission have been investigating Chinese R-125 imports since February, at the request of Honeywell International Inc.

The conglomerate, which is also the U.S.'s sole domestic producer of the refrigerant, accused its Chinese rivals of dumping the products in the U.S. market and further alleged that they benefited from illegal subsidies.

In August 2016, Commerce issued remedial tariffs against Chinese HFC blends. As most refrigerant blends include R-125, Honeywell said it had expected domestic demand to soar and had prepared for the demand by purchasing new machinery and equipment.

But Honeywell never benefited from the rising demand, as Chinese R-125 producers "began flooding" the U.S. market with unfairly cheap products, Honeywell said. It estimated the Chinese producers were dumping their R-125 at margins between 155.78% and 230.52% and predicted the situation would worsen without U.S. intervention.

In June, Honeywell wrote Commerce saying that Chinese producers had surged their imports as the trade investigation was underway in an attempt to duck any potential tariffs. In its Wednesday results, Commerce disagreed that Sanmei had stepped up its importing activity, but found that other R-125 producers' increasing shipments amounted to a "critical circumstance," an initial finding that may make any final tariffs toward them retroactive.

Commerce's final ruling will be released by Dec. 3. Any tariffs will only go into effect if the ITC determines the foreign products are economically harming their U.S. rivals.

Daniel Cannistra of Crowell & Moring LLP, which is representing Honeywell, said his team was pleased with Wednesday's results.

"We are pleased with the outcome and hopeful that the result will offset the negative impact that unfairly subsidizing and dumping imports have had on the refrigerant market," Cannistra said in a statement.

Sanmei is represented by Lizbeth Levinson, Ronald Wisla and Brittney Powell of Fox Rothschild LLP.

Honeywell is represented by Daniel Cannistra, Spencer Toubia, Cherie Waltermann, Walter Sam Boone and Clayton Kaier of Crowell & Moring LLP.

The investigation is Pentafluoroethane (R-125) from China, investigation number A-570-137, in the International Trade Administration.

--Editing by Emily Kokoll.