

Wiley, on Behalf of the American Personal Transportation Vehicle Manufacturers Coalition, Files Critical Circumstances Allegations Against Imports of LSPTVs from China

FILING RESPONDS TO SURGE IN IMPORTS FOLLOWING AD/CVD PETITIONS FILED IN JUNE 2024

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Washington, DC – The American Transportation Vehicle Manufacturers Coalition (Coalition), represented by Wiley Rein LLP, has filed critical circumstances allegations with the U.S. Department of Commerce (Commerce) regarding a continuing surge of imports of low-speed personal transportation vehicles (LSPTVs) from China that are injuring the domestic industry. The Coalition filed these allegations in response to a 109% increase in Chinese LSPTV imports between June 2024 and August 2024, compared to March 2024 and May 2024. An affirmative critical circumstances determination by Commerce and the International Trade Commission allows for antidumping and countervailing duties to be imposed retroactively on Chinese imports of LSPTVs that entered the United States 90 days before the preliminary determination.

Notably, LSPTV imports from China in the first three months of the Coalition filing AD/CVD petitions (i.e., June 2024 to August 2024) alone were greater than the total volume of Chinese imports that entered since the beginning of the year (i.e., January 2024 to May 2024). “Since we submitted our petitions a few months ago, several Chinese companies appear to have actively accelerated imports of LSPTVs, likely to evade the impending duties. It was therefore imperative to file these critical circumstances allegations in response

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to these new surges of imports,” said Robert E. DeFrancesco, lead counsel to the Coalition and a partner in the International Trade Practice at Wiley. “We cannot allow Chinese companies to continue harming the U.S. market and have requested that Commerce make an expedited determination as to whether critical circumstances exist.”

Background: On July 10, 2024, Commerce initiated antidumping and countervailing duty investigations in response to the petitions filed on June 20, 2024 by the Coalition. On August 2, 2024, the U.S. International Trade Commission (USITC) made a unanimous affirmative preliminary determination that dumped and subsidized imports from China are currently injuring U.S. manufacturers of LSPTVs. The data so far present a strong case that Chinese producers quickly increased their LSPTV exports to the United States following the petitions filed by the Coalition to avoid any duties that could follow an affirmative determination.

Critical Circumstances: Critical circumstances occur when Commerce determines that import volumes of a product that is subject to an antidumping and countervailing duty investigation are rapidly increasing in the U.S. market.

The official U.S. import statistics available through August 2024 show that imports of LSPTVs from China have significantly increased in recent months.

Analysis of Critical Circumstances Trends for China

Source Country

Import Volume (Units)

% Increase

March to May 2024

June to August 2024

China

42,647

89,075

108.91

A critical circumstances finding can help offset unfair import surges during an investigation. If Commerce finds that critical circumstances exist, duties can be imposed retroactively on merchandise entered up to 90 days before the preliminary determinations. For those duties to be finalized, the USITC must also find that the surge in imports undermines the relief to which the domestic industry is entitled.

Antidumping and Countervailing Duties: Antidumping duties are intended to offset the amount by which a product is sold at less than fair value, or “dumped,” in the United States. The margin of dumping is calculated by Commerce. Countervailing duties are intended to offset unfair subsidies that are provided by foreign governments and benefit the production of a particular good. After affirmative preliminary determinations by Commerce, estimated duties in the amount of the dumping and subsidization will be collected from importers at the time of importation. The USITC will determine whether the domestic industry is materially injured or threatened with material injury by reason of the unfairly traded imports.

Next Steps: Commerce will investigate and make preliminary and final determinations of whether critical circumstances exist. Commerce’s preliminary countervailing duty determination is due in late November 2024. The agency’s preliminary antidumping duty determination is currently due in early December 2024, but that may be extended until late January 2025. Final determinations of dumping, subsidization, and injury will likely occur in spring 2025.

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