



C-570-955
Administrative Review
POR: 01/01/2014-12/31/2014
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September 6, 2016

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Countervailing Duty Administrative Review of Certain Magnesia
Carbon Bricks from the People's Republic of China; 2014

I. SUMMARY

The Department is conducting an administrative review of the countervailing duty (CVD) order on certain magnesia carbon bricks (MCBs) from the People's Republic of China (PRC). The period of review (POR) is January 1, 2014, through December 31, 2014. This administrative review was requested by the MCB Fair Trade Committee (MCBFTC), an *ad hoc* association of U.S. producers of magnesia carbon bricks.¹ We preliminarily find that there is no evidence of any reviewable entries, shipments, or U.S. sales of subject merchandise during the POR by the Companies Subject to Review.² As a result, we are preliminarily issuing a determination of no shipments.

¹ The MCBFTC is comprised of three U.S. producers of magnesia carbon bricks: Resco Products, Inc. (Resco); Magnesita Refractories Company; and Harbison Walker International, Inc. (collectively, MCBFTC). See Letter to the Secretary from the MCBFTC, "Certain Magnesia Carbon Bricks from the People's Republic of China: Request for Administrative Review," (September 30, 2015). Resco is the petitioner in the underlying CVD investigation.

² The following companies are subject to this administrative review: Dashiqiao City Guancheng Refractor Co., Ltd. (*aka* Dashiqiao City Guancheng Refractory Co., Ltd.); Fedmet Resources Corporation (Fedmet); Fengchi Imp. and Exp. Co., Ltd. of Haicheng City; Fengchi Mining Co., Ltd. of Haicheng City; Fengchi Refractories Co., of Haicheng City; Jiangsu Sujia Group New Materials Co., Ltd.; Liaoning Fucheng Refractories Group Co., Ltd.; Liaoning Fucheng Special Refractory Co., Ltd.; Liaoning Jiayi Metals & Minerals Co., Ltd.; Puyang Refractories Group Co., Ltd.; RHI Refractories Liaoning Co., Ltd. (RHI); Yingkou Bayuquan Refractories Co., Ltd. (Yingkou Bayuquan); Yingkou Dalmond Refractories Co., Ltd.; Yingkou Guangyang Co., Ltd.; Yingkou Jiahe Refractories Co. Ltd.; Yingkou Kyushu Refractories Co., Ltd.; Yingkou New Century Refractories Ltd.; and Yingkou Wonjin Refractory Material Co., Ltd. (collectively, Companies Subject to Review). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 69193 (November 9, 2015) (*Initiation Notice*).



II. BACKGROUND

On September 21, 2010, we published the CVD order on MCBs from the PRC.³ Subsequently, on September 1, 2015, we notified interested parties of their opportunity to request an administrative review on this CVD order.⁴ On September 30, 2015, the MCBFTC submitted a timely request for an administrative review of 18 companies.⁵ We published the *Initiation Notice* on November 9, 2015, stating that in the event we limited the number of respondents for individual examination, we intended to select respondents based on U.S. Customs and Border Protection (CBP) data.⁶

On November 10, 2015, we notified interested parties that CBP's database, which is comprised of data that are compiled from actual entries of subject merchandise, demonstrated no POR entries of MCBs from the PRC that are subject to CVD duties with respect to the Companies Subject to Review.⁷

On November 13, 2015, we requested that CBP confirm whether any shipments of MCBs from the PRC entered the United States during the POR with respect to the Companies Subject to Review.⁸

On December 8 and December 9, 2015, we received no shipment certifications from RHI; Yingkou Bayuquan; Fedmet; and from the Fengchi Companies.⁹ In its December 9, 2015, no shipment certification, Fedmet stated that it is a U.S. importer of MCBs and other non-subject merchandise from the PRC, and that it is not a Chinese producer or exporter of MCBs.¹⁰ Fedmet also stated that it is not affiliated with any Chinese producer.¹¹

On December 30, 2015, CBP responded to our November 13, 2015, no shipment inquiry request and provided information on certain POR entries of subject merchandise.¹² Our review of the CBP

³ See *Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order*, 75 FR 57442 (September 21, 2010).

⁴ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation, Opportunity to Request Administrative Review*, 80 FR 52741 (September 1, 2015).

⁵ See Letter to the Secretary from the MCBFTC, "Certain Magnesia Carbon Bricks From the People's Republic of China: Request for Administrative Review," (September 30, 2015).

⁶ See *Initiation Notice* at 80 FR 69194.

⁷ See Department Memorandum, "Release of Customs and Border Protection Data for Respondent Selection," (November 10, 2015) (Results of CBP Query for Respondent Selection).

⁸ See CBP Msg. No. 5317316 (November 13, 2015), placed on the record of this review under ACCESS barcode no. 3417872-01 (November 17, 2015) (No Shipment Inquiry).

⁹ See Letter to the Secretary from RHI, "Magnesia Carbon Bricks from China (CVD); Notice of No Sales," (December 8, 2015); see also Letter to the Secretary from Yingkou Bayuquan, "Magnesia Carbon Bricks from the People's Republic of China, Case No. C-570-955: No Shipments Letter," (December 9, 2015); see also Letter to the Secretary from Fedmet, "Magnesia Carbon Bricks from the People's Republic of China, Case No. C-570-955: No Shipments Letter," (December 9, 2015) (Fedmet No Shipment Certification); and Letter to the Secretary from Fengchi Imp. and Exp. Co., Ltd. of Haicheng City; Fengchi Mining Co., Ltd. of Haicheng City; and Fengchi Refractories Co., of Haicheng City (collectively, the Fengchi Companies), "Magnesia Carbon Bricks from the People's Republic of China, Case No. C-570-955: No Shipments Letter," (December 9, 2015).

¹⁰ See Fedmet No Shipment Certification at 1-2.

¹¹ *Id.*

¹² See Department Memorandum, "No Shipment Inquiries Regarding Certain Companies," (January 27, 2016) (CBP No Shipment Response).

No Shipment Response leads us to conclude that there were no POR entries of subject merchandise with respect to the Companies Subject to Review.

On February 11, 2016, the MCBFTC requested that we gather additional information on the POR entries referenced in the CBP No Shipment Response.¹³ Based on the MCBFTC's request, we gathered entry summary packages from CBP for the entries listed in the CBP No Shipment Response, and provided interested parties with an opportunity to comment on this information.¹⁴ On May 13, 2016, we received timely comments from Fedmet and from the MCBFTC on the CBP Entry Summaries.¹⁵ In its comments, Fedmet provided a statement to support its December 9, 2015 no shipment certification, and contends that the CBP Entry Summaries provide no indication that the entries in question constitute subject merchandise.¹⁶ With respect to the MCBFTC's comments, the MCBFTC requested we issue a questionnaire to clarify information on the record, particularly regarding the CBP Entry Summaries.¹⁷ However, our review of the CBP Entry Summaries leads us to conclude that the entries referenced therein are subject to AD and CVD duties under the AD and CVD orders for MCBs from the PRC.¹⁸ As a result, we concluded that it was not necessary to gather additional information on these entries.

On May 20, 2016, we extended the time limit for these preliminary results from June 7, 2016, to no later than September 5, 2016.¹⁹ On this same day, the MCBFTC requested we issue a questionnaire to Fedmet to clarify information that Fedmet submitted in its May 13, 2016 submission.²⁰ On May 27, 2016, Fedmet requested that we reject the MCBFTC's May 20, 2016 submission as untimely, arguing that that we made no provision to accept rebuttal comments regarding the CBP Entry Summaries.²¹ However, our memorandum placing the CBP Entry Summaries on the record did not instruct parties that rebuttal comments would be rejected.²² As a result, we find that the MCBFTC's May 20, 2016 submission is timely, and that rejecting this submission is not warranted.

¹³ See Letter to the Secretary from the MCBFTC, "Certain Magnesia Carbon Bricks From the People's Republic of China: Comments on CBP's Response To No Shipment Inquiry, (February 11, 2016).

¹⁴ See Department Memorandum, "Placement of U.S. Customs and Border Protection (CBP) Entry Summary Packages on the Record of the Administrative Review," (April 25, 2016) (CBP Entry Summaries).

¹⁵ See Letter to the Secretary from Fedmet, "Magnesia Carbon Bricks from the People's Republic of China, Case No. C-570-955: Comments on CBP Entry Summary Packages," (May 13, 2016); see also Letter to the Secretary from the MCBFTC, "Certain Magnesia Carbon Bricks From the People's Republic of China: Comments on CBP Entry Packages," (May 13, 2016). We note that comments from Fedmet and from the MCBFTC on the CBP Entry Summaries concern business proprietary information and cannot be summarized in this public Decision Memorandum. For our analysis of the information contained in the CBP Entry Summaries, see the Department Memorandum, "Preliminary Results of the 2014 Countervailing Duty Administrative Review of Certain Magnesia Carbon Bricks from the People's Republic of China: Preliminary Analysis Memorandum," (September 6, 2016) (Preliminary Analysis Memorandum).

¹⁶ See Fedmet's May 13, 2016 submission at 2-3.

¹⁷ See the MCBFTC's May 13, 2016 submission at 2-4.

¹⁸ See Preliminary Analysis Memorandum.

¹⁹ See Department Memorandum, "Certain Magnesia Carbon Bricks from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review," (May 20, 2016); see also, *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

²⁰ See Letter from the MCBFTC, "Certain Magnesia Carbon Bricks From the People's Republic of China: Rebuttal To Fedmet's Comments on CBP Entry Packages," (May 20, 2016).

²¹ See Letter from Fedmet, "Magnesia Carbon Bricks from the People's Republic of China, Case No. C-570-955: Request to Reject Petitioner's Rebuttal Comments on CBP Entry Packages," (May 27, 2016).

²² See CBP Entry Summaries.

III. SCOPE OF THE ORDER

The scope of the order includes certain chemically-bonded (resin or pitch), magnesia carbon bricks with a magnesia component of at least 70 percent magnesia (MgO) by weight, regardless of the source of raw materials for the MgO, with carbon levels ranging from trace amounts to 30 percent by weight, regardless of enhancements (for example, magnesia carbon bricks can be enhanced with coating, grinding, tar impregnation or coking, high temperature heat treatments, anti-slip treatments or metal casing) and regardless of whether or not antioxidants are present (for example, antioxidants can be added to the mix from trace amounts to 15 percent by weight as various metals, metal alloys, and metal carbides). Certain magnesia carbon bricks that are the subject of these orders are currently classifiable under subheadings 6902.10.1000, 6902.10.5000, 6815.91.0000, 6815.99.2000 and 6815.99.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.

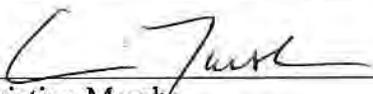
IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS

Based on our examination of the record, we preliminarily determine that, consistent with 19 CFR 351.213(d)(3), the Companies Subject to Review had no reviewable entries, shipments, or sales of subject merchandise to the United States during the POR.²³ Any POR entries entered by companies other than the Companies Subject to Review will be subject to countervailing duties under the CVD order on MCBs from the PRC.

V. RECOMMENDATION

We recommend applying the above determination of no shipments for these preliminary results. In addition, we recommend not rescinding this review but, rather, completing this review and issuing appropriate instructions to CBP based on the final results of this review.²⁴

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

9/6/16

Date

²³ See Preliminary Analysis Memorandum.

²⁴ See, e.g., *Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke the Order (in Part)*; 2011-2012, 78 FR 15686 (March 12, 2013) and accompanying Decision Memorandum at 7-8, unchanged in *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of Order (in Part)*; 2011-2012, 78 FR 42497 (July 16, 2013) at the section, "Rescission, in Part;" see also *Silicomanganese From India: Preliminary Results of Antidumping Duty Administrative Review: 2014-2015*, 81 FR 28826 (May 10, 2016) and accompanying Decision Memorandum at 3.