



A-570-954
Administrative Review
POR 9/1/17 – 8/31/18
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October 9, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Administrative Review of the Antidumping Duty Order on Certain
Magnesia Carbon Bricks from the People's Republic of China;
2017-2018

I. Summary

In response to a request from the Magnesia Carbon Bricks Fair Trade Committee (MC Bricks Committee),¹ the Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain magnesia carbon bricks (magnesia carbon bricks) from the People's Republic of China (China) for the period of review (POR) September 1, 2017 through August 31, 2018. We preliminarily find that there is no evidence of reviewable entries, shipments, or U.S. sales of subject merchandise during the POR by any of the companies subject to review.² However, we are continuing our examination of the no shipment certifications after these preliminary results. As a result, we preliminarily intend to rescind this review of the companies subject to review in the final results of review.

¹ The MC Bricks Committee is an *ad hoc* association comprised of three U.S. producers of magnesia carbon bricks: Resco Products, Inc. (Resco); Magnesita Refractories Company; and HarbisonWalker International, Inc. See MC Bricks Committee's Letter, "Certain Magnesia Carbon Bricks from The People's Republic of China: Request for Administrative Review," dated October 1, 2018 (MC Bricks Committee Request for Review). Resco is the petitioner in the underlying AD investigation.

² The following companies are subject to this administrative review: Fedmet Resources Corporation (Fedmet); Fengchi Imp. and Exp. Co., Ltd. of Haicheng City, Fengchi Mining Co., Ltd. of Haicheng City, and Fengchi Refractories Co., of Haicheng City (collectively, Fengchi), Liaoning Zhongmei High Temperature Material Co., Ltd., Liaoning Zhongmei Holding Co., Ltd., RHI Refractories Liaoning Co., Ltd., Shenglong Refractories Co., Ltd., Yingkou Heping Sanhua Materials Co., Ltd., and Yingkou Heping Samwha Minerals, Co., Ltd. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 57414 (November 15, 2018) (*Initiation Notice*).

Interested parties are invited to comment on these preliminary results. We intend to issue the final results of this administrative review by no later than 120 days after the publication of these preliminary results, unless otherwise extended, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended.

II. Background

On September 20, 2010, Commerce published the AD order on magnesia carbon bricks from China in the *Federal Register*.³ On September 1, 2017, we notified interested parties of their opportunity to request an administrative review of this AD order for entries applicable to the POR.⁴ On October 1, 2018, the MC Bricks Committee timely submitted a request to review the companies subject to review.⁵ On October 10, 2018, Fedmet submitted a letter opposing the MC Bricks Committee's request to review, arguing that it is not a Chinese exporter or producer and therefore the MC Bricks Committee may not request a review of Fedmet.⁶ On October 15, 2018, the MC Bricks Committee submitted a response, arguing that Fedmet is not prejudiced by its review request and that the existence of subject merchandise "from Fedmet in the marketplace" indicates that Fedmet should be reviewed.⁷ On October 18, 2018, Fedmet responded to the MC Bricks Committee's letter, arguing that the Committee's failure to allege that Fedmet is an exporter or producer of subject merchandise in its response letter is a *de facto* admission that it has no lawful basis on which to request a review of Fedmet.⁸ No other parties submitted a request for an administrative review.

We published the *Initiation Notice* on November 15, 2018, which stated 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 (CBP) data for U.S. imports of magnesia carbon bricks from China during the POR.⁹

On December 13, 2018, we received timely no shipment certifications from Fedmet and from Fengchi.¹⁰ In its certification, Fedmet stated that it is not a Chinese producer or exporter of

³ See *Certain Magnesia Carbon Bricks from Mexico and the People's Republic of China: Antidumping Duty Orders*, 75 FR 57257 (September 20, 2010).

⁴ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 45889 (September 11, 2018).

⁵ See MC Bricks Committee Request for Review.

⁶ See Fedmet's Letter, "Magnesia Carbon Bricks from the People's Republic of China, Case No. A-570-954: Response to Petitioner's Request for Administrative Review," dated October 10, 2018.

⁷ See MC Bricks Committee's Letter, "Certain Magnesia Carbon Bricks From The People's Republic Of China: Response to Fedmet's Objection To Petitioner's Request For Administrative Review," dated October 15, 2018.

⁸ See Fedmet's Letter, "Certain Magnesia Carbon Bricks from the People's Republic of China. Case No. A-570-954: Response to Petitioner's Letter Regarding its Request for Administrative Review," dated October 18, 2018.

⁹ See *Initiation Notice*.

¹⁰ See Fedmet's Letter, "Magnesia Carbon Bricks from the People's Republic of China, Case No. A-570-954: No Shipments Certification," dated December 13, 2018 (Fedmet's No Shipments Certification); see also Letter from Fengchi, "Magnesia Carbon Bricks from the People's Republic of China, Case No. A-570-954: No Shipments Certification," dated December 13, 2018.

magnesia carbon bricks, but, rather, is a U.S. importer of non-subject merchandise from China.¹¹ No other companies under review submitted no shipment certifications.

On July 12, 2019, we notified interested parties that CBP's database, which is comprised of data that are compiled from actual entries of subject merchandise, did not indicate any entries of subject merchandise from China that are subject to AD duties with respect to the companies subject to review.¹² No party submitted comments.

On July 15, 2019, we requested that CBP confirm whether any shipments of subject merchandise from China entered the United States during the POR with respect to Fedmet and Fengchi. On July 31, 2019, CBP responded that its research found no shipments of subject merchandise for Fedmet or Fengchi for the POR.¹³

On July 8, 2019, we extended the time for these preliminary results from July 12, 2019, to no later than October 10, 2019.¹⁴

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 Intent to Rescind the Administrative Review, in Part, and Status of the China-wide Entity

Based on the record evidence thus far, as detailed above, we preliminarily determine that Fedmet and Fengchi did not have any reviewable entries, shipments, or sales of the subject merchandise to the United States during the POR. Should evidence arise that leads us to conclude that the companies subject to review imported subject merchandise during the POR, we will revisit this issue in the final results of this administrative review. Absent any evidence of reviewable

¹¹ See Fedmet's No Shipments Certification.

¹² See Memorandum, "Eighth Administrative Review of Magnesia Carbon Bricks from the People's Republic of China: Customs Data of U.S. Imports of Magnesia Carbon Bricks," dated July 12, 2018.

¹³ See Memorandum, "Certain magnesia carbon bricks from China (A-570-954)" dated July 31, 2019, (detailing CBP's response to Commerce's no shipment inquiry).

¹⁴ See Memorandum, "Administrative Review of the Antidumping Duty Order on Magnesia Carbon Bricks from the People's Republic of China: Extension of Deadline for Preliminary Results," dated July 8, 2019.

entries, shipments, or sales being placed on the record, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the administrative review of these companies in the final results of review.

Additionally, none of the remaining companies subject to this review filed a separate rate application or certification. These companies are: Liaoning Zhongmei High Temperature Material Co., Ltd., Liaoning Zhongmei Holding Co., Ltd., RHI Refractories Liaoning Co., Ltd., Shenglong Refractories Co., Ltd., Yingkou Heping Sanhua Materials Co., Ltd., and Yingkou Heping Samwha Minerals, Co., Ltd.. Thus, Commerce preliminarily determines that these companies have not demonstrated their eligibility for separate rate status. As such, Commerce preliminarily determines that these companies are part of the China-wide entity. In addition, Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.¹⁵ Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.¹⁶ In this administrative review, no party requested a review of the China-wide entity. Moreover, we have not self-initiated a review of the China-wide entity. Because no review of the China-wide entity is being conducted, the China-wide entity's entries are not subject to the review and the rate applicable to the NME entity is not subject to change as a result of this review. The China-wide entity rate is 236.00 percent.

V. Public Comment

Case briefs must be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than 30 days after the date of publication of these preliminary results, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁷ Commerce will notify interested parties when it has determined a deadline for case briefs *via* ACCESS. Parties who submit case or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁸

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically through ACCESS, within 30 days after the publication of this notice. Hearing requests should contain the party's name, address, telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time to be determined. Prior to the hearing, Commerce will contact all parties who submitted case or rebuttal briefs to determine if they wish to participate in the hearing. Commerce will then

¹⁵ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

¹⁶ In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

¹⁷ See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

¹⁸ See 19 CFR 351.309(c)(2) and 351.309(d)(2).

distribute a hearing schedule to these parties prior to the hearing, and only those parties listed on the hearing schedule may present issues raised in their briefs.

All submissions, with limited exceptions, must be filed electronically using ACCESS.¹⁹ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, on the due dates established above (or, where applicable, to be established by Commerce at a later date). Documents excepted from the electronic submission requirements must be filed manually, (*i.e.*, in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by on the due date.²⁰

VI. Recommendation

We recommend that you approve the preliminary findings described above.

Agree

Disagree

10/9/2019

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Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

¹⁹ See 19 CFR 351.303.

²⁰ *Id.*