



A-570-954
Administrative Review
POR 9/1/16 – 8/31/17
Public Document
E&C/V: PW

DATE: October 3, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of 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;
2016-2017

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, 2016, through August 31, 2017. 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 Letter from the MC Bricks Committee, "Certain Magnesia Carbon Bricks from The People's Republic of China: Request for Administrative Review," dated October 2, 2017 (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); and RHI Refractories Liaoning Co., Ltd. (collectively, Companies Subject to Review). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 52268 (November 13, 2017) (*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 on this AD order for entries applicable to the POR.⁴ On October 2, 2017, the MC Bricks Committee timely submitted a request to review the Companies Subject to Review.⁵ No other parties submitted a request for an administrative review.

We published the *Initiation Notice* on November 13, 2017, 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.⁶ On December 14, 2017, we notified interested parties that our review of CBP's database, which is comprised of data that is compiled from actual entries of subject merchandise, lead us to conclude that there were no entries of subject merchandise from China that are subject to AD duties with respect to the Companies Subject to Review.⁷

On November 27, 2017, we received timely no shipment certifications from Fedmet and from Fengchi.⁸ In its certification, Fedmet stated that it is not a Chinese producer or exporter of magnesia carbon bricks, but, rather, is a U.S. importer of non-subject merchandise from China.⁹

On November 29, 2017, we requested that CBP confirm whether any shipments of subject merchandise from China entered the United States during the POR with respect to the Companies Subject to Review.¹⁰

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*, 82 FR 41595 (September 1, 2017) (*Opportunity Notice*).

⁵ See MC Bricks Committee Request for Review.

⁶ See *Initiation Notice* at the section, "Respondent Selection."

⁷ See Memorandum, "Seventh Administrative Review of Magnesia Carbon Bricks from the People's Republic of China: Customs Data of U.S. Imports of Magnesia Carbon Bricks," dated December 14, 2017.

⁸ See Letter from Fedmet, "Magnesia Carbon Bricks from the People's Republic of China, Case No. A-570-954: No Shipments Certification," dated November 27, 2017 (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 November 27, 2017.

⁹ See Fedmet's No Shipments Certification.

¹⁰ See CBP message no. 7349307, dated December 15, 2017; CBP message no. 7349308, dated December 15, 2017.

On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the duration of the closure of the Federal Government from January 20 through January 22, 2018.¹¹ As a result, all deadlines in this segment of the proceeding have been extended by three days.

On February 22, 2018, the MC Bricks Committee submitted information in response to Fedmet's No Shipments Certification and requested that we issue a questionnaire to Fedmet inquiring about its sales and exports of magnesia carbon bricks, and whether Fedmet was aware of whether any consignees in Canada that may have shipped magnesia carbon bricks sourced from Fedmet into the United States.¹² On April 16, 2018, we issued a questionnaire to Fedmet on these issues,¹³ to which Fedmet timely responded on May 1, 2018.¹⁴ In its May 1, 2018 questionnaire response, Fedmet reiterated that: (1) it is a U.S. importer of non-subject merchandise from China; (2) it imports various types of refractory bricks from non-subject sources and; (3) it had no imports of magnesia carbon bricks from China during the POR.¹⁵ Fedmet also stated that it is not aware of any consignees or customers in Canada that may have shipped magnesia carbon bricks sourced from Fedmet into the United States.¹⁶

On May 9, 2018, the MC Bricks Committee requested that we issue additional questions to Fedmet regarding its no shipments certification and its May 1, 2018 questionnaire response.¹⁷ On May 21, 2018, Fedmet responded to the MC Bricks Committee's May 9, 2018, submission, in which Fedmet repeated its claim that it did not import subject merchandise during the POR.¹⁸ On June 25, 2018, the MC Bricks Committee proposed supplemental questions with respect to its May 9, 2018, submission.¹⁹

On June 1, 2018, we extended the time for these preliminary results from June 5, 2018, to no later than September 4, 2018.²⁰ On August 31, 2018, we further extended the deadline for issuing these preliminary results to no later than October 3, 2018.²¹

¹¹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018.

¹² See Letter from the MC Bricks Committee, "Certain Magnesia Carbon Bricks from The People's Republic of China: Request for Additional Information Regarding Fedmet's No Shipment Claims," dated February 22, 2018.

¹³ See Letter to Fedmet regarding "Questionnaire for Fedmet Resources Corporation," dated April 16, 2018.

¹⁴ See Letter from Fedmet, "Magnesia Carbon Bricks from the People's Republic of China, Case No. A-570-954: Questionnaire Response," dated May 1, 2018.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Letter from the MC Bricks Committee, "Certain Magnesia Carbon Brick from The People's Republic of China: Comments Regarding Fedmet's April 30, 2018 Questionnaire Responses," dated May 9, 2018.

¹⁸ See Letter from Fedmet, "Certain Magnesia Carbon Bricks from the People's Republic of China, Case Nos. A-570-954 and C-570-955: Fedmet's Response to Petitioner's Comments," dated May 21, 2018.

¹⁹ See Letter from the MC Bricks Committee, "Certain Magnesia Carbon Bricks from The People's Republic of China: Comments Regarding Fedmet's May 21, 2018 Letter," dated June 25, 2018.

²⁰ 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 June 1, 2018.

²¹ See Memorandum, "Administrative Review of the Antidumping Duty Order on Magnesia Carbon Bricks from the People's Republic of China: Second Extension of Deadline for Preliminary Results," dated August 31, 2018.

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

Based on the record evidence thus far, as detailed above, we preliminarily determine that the Companies Subject to Review had no 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 shipments 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.

V. Public Comment

Case briefs must be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) at a date to be determined by Commerce, and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for the submission for case briefs.²²

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.²³

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, NW, Washington, DC 20230, at a time to be determined. Prior to the hearing, Commerce will contact all parties who submitted case or

²² See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

²³ See 19 CFR 351.309(c)(2) and 351.309(d)(2).

rebuttal briefs to determine if they wish to participate in the hearing. Commerce will then 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.²⁴ 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.²⁵

VI. Recommendation

We recommend that you approve the preliminary findings described above.



Agree



Disagree

10/3/2018

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

²⁴ See 19 CFR 351.303.

²⁵ *Id.*

