

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-954]

**Certain Magnesia Carbon Bricks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* August 2, 2010.

**SUMMARY:** On March 12, 2010, the Department of Commerce (the "Department") published the *Preliminary Determination* of sales at less than fair value ("LTFV") in the antidumping investigation of magnesia carbon bricks ("bricks") from the People's Republic of China ("PRC").<sup>1</sup> On April 21, 2010, the Department published the *Amended Preliminary Determination* in the antidumping investigation of bricks from the PRC.<sup>2</sup> On May 20, 2010, the Department published the *Preliminary Critical Circumstances Determination* in the antidumping investigation of bricks from the PRC.<sup>3</sup> The period of investigation ("POI") is January 1, 2009—June 30, 2009. Based on our analysis of the comments received, we have made changes to the margin calculation for RHI Refractories Liaoning Co., Ltd. ("RHI"). We continue to find that bricks from the PRC are being, or are likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Paul Walker or Dana Griffies, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0413 or (202) 482-3023, respectively.

<sup>1</sup> See *Certain Magnesia Carbon Bricks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 11847 (March 12, 2010) ("Preliminary Determination").

<sup>2</sup> See *Certain Magnesia Carbon Bricks from the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 75 FR 20813 (April 21, 2010) ("Amended Preliminary Determination").

<sup>3</sup> See *Certain Magnesia Carbon Bricks from the People's Republic of China: Notice of Preliminary Affirmative Determination of Critical Circumstances*, 75 FR 28237 (May 20, 2010) ("Preliminary Critical Circumstances Determination").

## SUPPLEMENTARY INFORMATION:

## Background

On April 1, 2010, Liaoning Mayerton Refractories Co., Ltd. and Dalian Mayerton Refractories Co., Ltd. (collectively, "Mayerton") stated that it would no longer participate in the investigation.<sup>4</sup>

For RHI, the Department conducted sales verification from April 12–16, 2010 and factors of production ("FOP") verification May 17–20, 2010.<sup>5</sup> For Yingkou New Century Refractories Ltd. ("New Century") and Fengchi Import & Export Co., Ltd. of Haicheng City ("Fengchi"), the Department conducted separate rates verifications on May 21, and May 24, 2010, respectively.<sup>6</sup> See the "Verification" section below for additional information.

Between June 14, 2010 and July 14, 2010, the Department placed labor wage rate data on the record and invited parties to comment on the Department's labor wage rate methodology.<sup>7</sup>

Between June 18, 2010 and July 16, 2010, we received case and rebuttal briefs from the Petitioner,<sup>8</sup> the government of the PRC ("GOC") and RHI.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Investigation of Magnesia Carbon

<sup>4</sup> See Mayerton's April 1, 2010 letter at 1.

<sup>5</sup> For sales, we conducted verification of RHI's North American affiliates, Veitsch Radix America, Inc. (incorporated in Canada) ("VRC") and Veitsch Radix America, Inc. (incorporated in the U.S.) ("VRA"), which handled all of RHI's POI sales. See Memo to the File, through Scot T. Fullerton, Program Manager, from Paul Walker and Dana Griffies, Case Analysts, "Investigation of Magnesia Carbon Bricks from the People's Republic of China: Sales Verification of Veitsch Radix America, Inc.," dated June 10, 2010 ("VRC Verification Report"). For FOPs, we conducted verification of RHI, which produced the merchandise under consideration. See Memo to the File, through Scot T. Fullerton, Program Manager, from Paul Walker and Dana Griffies, Case Analysts, "Investigation of Magnesia Carbon Bricks from the People's Republic of China: Factors of Production Verification of RHI Refractories Liaoning Co., Ltd.," dated June 11, 2010 ("RHI Verification Report").

<sup>6</sup> See Memo to the File, through Scot T. Fullerton, Program Manager, from Paul Walker and Dana Griffies, Case Analysts, "Investigation of Magnesia Carbon Bricks from the People's Republic of China: Verification of Yingkou New Century Refractories Ltd.," dated June 10, 2010 ("New Century Verification Report"); Memo to the File, through Scot T. Fullerton, Program Manager, from Paul Walker and Dana Griffies, Case Analysts, "Investigation of Magnesia Carbon Bricks from the People's Republic of China: Verification of Fengchi Import & Export Co., Ltd. of Haicheng City," dated June 11, 2010 ("Fengchi Verification Report").

<sup>7</sup> See the memoranda to the file dated June 15, 2010, June 22, 2010, July 6, 2010 and July 14, 2010.

<sup>8</sup> The petitioner is Resco Products, Inc. (hereinafter referred to as the "Petitioner").

Bricks from the People's Republic of China: Issues and Decision Memorandum for the Final Determination" ("I&D Memo"), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties raised, and to which we respond in the I&D Memo, are attached to this notice as Appendix I. The I&D Memo is a public document and is on file in the Central Records Unit ("CRU"), Room 1117, and is accessible on the World Wide Web at <http://trade.gov/ia/index.asp>. The paper copy and electronic version of the memorandum are identical in content.

**Changes Since the Preliminary Determination**

Based on our analysis of information on the record of this investigation, we have made changes to RHI's margin calculation for the final determination. For the final determination, we have adjusted the surrogate value for fused magnesia to exclude certain aberrational data and adopted a new methodology for calculating the surrogate value for labor.<sup>9</sup> In addition, we have applied certain discounts that RHI reported to its sales database.<sup>10</sup>

Regarding Mayerton, for the final determination, we have applied total adverse facts available ("AFA") for its failure to participate and included it as part of the PRC-wide entity. For more information see the "Mayerton" section below.

**Scope of Investigation**

The merchandise under investigation consists of 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 this

<sup>9</sup> See I&D Memo at Comment 1a & 1b; see also Memorandum to the File from Paul Walker, Case Analyst, through Scot T. Fullerton, Program Manager, "Magnesia Carbon Bricks from the People's Republic of China: Surrogate Values for the Final Determination," dated concurrently with this notice.

<sup>10</sup> See I&D Memo at Comment 2b.

investigation are currently classifiable under subheadings 6902.10.1000, 6902.10.5000, 6815.91.0000, 6815.99.2000 and 6815.99.4000<sup>11</sup> 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.

#### Use of Facts Available

Section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party “promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information,” the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed “deficient” under section 782(d) if: (1) The information is submitted by the

established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the administering authority finds that an interested party has not acted to the best of its ability to comply with a request for information, the administering authority may, in reaching its determination, use an inference that is adverse to that party. The adverse inference may be based upon: (1) The petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 of the Act or determination under section 753 of the Act, or (4) any other information placed on the record.

#### Mayerton

As noted above, Mayerton withdrew from the instant investigation. By ceasing to participate in the investigation, Mayerton prevented the Department from verifying the accuracy of its information as provided by section 782(i) of the Act, and thus, failed to demonstrate eligibility for a separate rate.<sup>12</sup> Therefore, Mayerton is considered to be part of the PRC-wide entity. Due to its failure to act to the best of its ability in responding to the Department’s requests for information, we find that Mayerton, as part of the PRC-wide entity, significantly impeded the Department’s proceeding.<sup>13</sup> Accordingly, we have assigned the PRC-wide rate margin to Mayerton of 236.00 percent. For a discussion of the PRC-wide entity’s rate, see the “PRC-wide Entity” and “Corroboration” sections, below.

#### Verification

As provided in section 782(i) of the Act, we conducted verification of the information submitted by RHI, New Century and Fengchi for use in our final determination.<sup>14</sup> We used standard verification procedures, including examination of relevant accounting and production records, as well as original

source documents provided by the respondents.

#### Surrogate Country

In the *Preliminary Determination*, we stated that we selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production.<sup>15</sup> For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

#### Critical Circumstances

In the *Preliminary Critical Circumstances Determination*, the Department determined that, in accordance with section 733(e)(1) of the Act, critical circumstances exist with respect to RHI, the separate rate respondents<sup>16</sup> and the PRC-wide entity (which includes Mayerton).<sup>17</sup>

No other information has been placed on the record since the *Preliminary Critical Circumstances Determination* to contradict the information upon which we based our finding that critical circumstances exist, nor has any party commented on our preliminary critical circumstances finding. Therefore, for the final determination, in accordance with section 735(a)(3) of the Act, we continue to find that critical circumstances exist with respect to RHI, the separate rate respondents and the PRC-wide entity (including Mayerton).

#### Separate Rates

In proceedings involving non-market-economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can

<sup>15</sup> See *Preliminary Determination* at 11848–49.

<sup>16</sup> As noted in the “Separate Rates” section below, these include Dashiqiqiao City Guancheng Refractor Co., Ltd.; Fengchi; 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.; Yingkou Bayuquan Refractories Co., Ltd.; Yingkou Dalmond Refractories Co., Ltd.; Yingkou Guangyang Co., Ltd.; Yingkou Kyushu Refractories Co. Ltd.; New Century; Yingkou Wonjin Refractory Material Co., Ltd.; and Yingkou Jiaye Refractories Co., Ltd.

<sup>17</sup> See *Preliminary Critical Circumstances Determination* at 28239.

<sup>11</sup> In the *Preliminary Determination*, we included HTSUS subheading 6815.99 in our description of the scope of the investigation. Subsequently, we determined that all of the ten-digit subheadings under subheading 6815.99 must be used instead. Accordingly, the appropriate HTSUS ten-digit subheadings have been listed.

<sup>12</sup> See Section 776(a)(2)(D) of the Act.

<sup>13</sup> See Sections 776(a)(2)(C) and (D) and 776(b) of the Act; see also *Certain Circular Welded Carbon Quality Steel Line Pipe from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 14514, 14516 (March 31, 2009).

<sup>14</sup> See VRC Verification Report, RHI Verification Report, New Century Verification Report and Fengchi Verification Report.

demonstrate that it is sufficiently independent so as to be entitled to a separate rate.<sup>18</sup> In the *Preliminary Determination*, we found that Dashiqiao City Guancheng Refractor Co., Ltd.; Fengchi Imp. and Exp. Co., Ltd. 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.; Yingkou Bayuquan Refractories Co., Ltd.; Yingkou Dalmond Refractories Co., Ltd.; Yingkou Guangyang Co., Ltd.; Yingkou Kyushu Refractories Co, Ltd.; Yingkou New Century Refractories Ltd.; and Yingkou Wonjin Refractory Material Co., Ltd., demonstrated their eligibility for, and were hence assigned, separate-rate status. In the *Amended Preliminary Determination*, we found that Yingkou Jiahe Refractories Co., Ltd. demonstrated its eligibility for, and was hence assigned, separate-rate status. No party has commented on the eligibility of these companies for separate rate status. Consequently, for the final determination, we continue to find that the evidence placed on the record of this investigation by these companies demonstrates both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation. Thus, we continue to find that the separate rate companies are eligible for separate-rate status.

While the Petitioner has commented on RHI's eligibility for a separate rate, which we have addressed in Comment 3 of the I&D Memo, we continue to find that RHI is eligible for a separate rate. Accordingly, for the final determination, we continue to find that the evidence placed on the record of this investigation by RHI demonstrates both a *de jure* and *de facto* absence of government control with respect to its exports of the merchandise under investigation.<sup>19</sup> Thus, we continue to find that RHI is eligible for separate-rate status.

### PRC-wide Entity

In the *Preliminary Determination*, we treated PRC exporters/producers that did not respond to the Department's request for information, as part of the PRC-wide entity because they did not demonstrate that they operate free of government control. No additional

<sup>18</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"), and 19 CFR 351.107(d).

<sup>19</sup> See I&D Memo at Comment 3.

information has been placed on the record with respect to these entities after the *Preliminary Determination*. The PRC-wide entity, and Mayerton, have not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.<sup>20</sup> We find that, because the PRC-wide entity, and Mayerton, did not respond to our request for information, they have failed to cooperate to the best of their ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity. Because we begin with the presumption that all companies within a NME country are subject to government control, and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate, *i.e.*, the PRC-wide rate, to all other exporters of the merchandise under consideration from the PRC. Such companies, including Mayerton, did not demonstrate entitlement to a separate rate.<sup>21</sup> The PRC-wide rate applies to all entries of the merchandise under consideration, except for those companies which have received a separate rate.

### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this

<sup>20</sup> See Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 870 (1994) ("SAA").

<sup>21</sup> See, *e.g.*, *Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706, 25707 (May 3, 2000).

investigation."<sup>22</sup> To "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.<sup>23</sup>

The AFA rate that the Department used is from the Petition, however, we have updated the labor wage rate used to calculate the Petition rates. The Department's practice is not to recalculate dumping margins provided in petitions, but rather to corroborate the applicable petition rate when applying that rate as adverse facts available.<sup>24</sup> In the instant case, however, the surrogate wage rate used in the Petition was based upon the Department's methodology that the Federal Circuit found unlawful in *Dorbest II*.<sup>25</sup> In light of the Federal Circuit decision to invalidate the wage rate methodology, the Department has adjusted the petition rate using the surrogate value for labor used in this final determination.

Petitioner's methodology for calculating the United States price and normal value in the Petition is discussed in the *Initiation Notice*.<sup>26</sup> To corroborate the AFA margin that we have selected, we compared this margin to the margins we found for RHI. We found that the margin of 236.00 percent has probative value because it is in the range of the model-specific margins that

<sup>22</sup> See SAA at 870.

<sup>23</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>24</sup> See *Certain Steel Grating from the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 75 FR 32366 (June 8, 2010) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>25</sup> See Comment 1b below.

<sup>26</sup> See *Certain Magnesia Carbon Bricks from the People's Republic of China and Mexico: Initiation of Antidumping Duty Investigations*, 74 FR 42852 (August 25, 2009) ("Initiation Notice").

we found for RHI.<sup>27</sup> Accordingly, we find that the rate of 236.00 percent is corroborated within the meaning of section 776(c) of the Act.

### Final Determination Margins

We determine that the following percentage weighted-average margins

exist for the following entities for the POI:

Exporter	Producer	Weighted-average margin
RHI Refractories Liaoning Co., Ltd .....	RHI Refractories Liaoning Co., Ltd .....	128.10
Dashiqiao City Guancheng Refractor Co., Ltd .....	Dashiqiao City Guancheng Refractor Co., Ltd .....	128.10
Fengchi Imp. And Exp. Co., Ltd. of Haicheng City .....	Fengchi Refractories Co., of Haicheng City .....	128.10
Jiangsu Sujia Group New Materials Co., Ltd .....	Jiangsu Sujia Group New Materials Co., Ltd .....	128.10
Liaoning Fucheng Refractories Group Co., Ltd .....	Liaoning Fucheng Refractories Group Co., Ltd .....	128.10
Liaoning Fucheng Special Refractory Co., Ltd .....	Liaoning Fucheng Special Refractory Co., Ltd .....	128.10
Liaoning Jiayi Metals & Minerals Co., Ltd .....	Liaoning Jiayi Metals & Minerals Co., Ltd .....	128.10
Yingkou Bayuquan Refractories Co., Ltd .....	Yingkou Bayuquan Refractories Co., Ltd .....	128.10
Yingkou Dalmond Refractories Co., Ltd .....	Yingkou Dalmond Refractories Co., Ltd .....	128.10
Yingkou Guangyang Co., Ltd .....	Yingkou Guangyang Co., Ltd .....	128.10
Yingkou Jiahe Refractories Co., Ltd .....	Yingkou Jiahe Refractories Co., Ltd .....	128.10
Yingkou Kyushu Refractories Co, Ltd .....	Yingkou Kyushu Refractories Co, Ltd .....	128.10
Yingkou New Century Refractories Ltd .....	Yingkou New Century Refractories Ltd .....	128.10
Yingkou Wonjin Refractory Material Co., Ltd .....	Yingkou Wonjin Refractory Material Co., Ltd .....	128.10
PRC-wide Entity* .....	.....	236.00

\* This rate also applies to Liaoning Mayerton Refractories Co., Ltd. and Dalian Mayerton Refractories Co., Ltd.

### Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with section 351.224(b) of the Department's regulations.

### Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, and consistent with our finding of critical circumstances for RHI, the separate rate companies and the PRC-wide entity, pursuant to section 733(e)(2) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of the merchandise under consideration from the PRC entered, or withdrawn from warehouse, for consumption on or after December 12, 2009, which is 90 days prior to the date of publication of the *Preliminary Determination*.<sup>28</sup> CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

Additionally, the Department determined in its final determination for the companion countervailing duty ("CVD") investigation that RHI's merchandise benefited from export

subsidies.<sup>29</sup> Therefore, we will instruct CBP to require a cash deposit or posting of a bond equal to the weighted-average amount by which normal value exceeds U.S. price for RHI, as indicated above, minus the amount determined to constitute an export subsidy.<sup>30</sup>

With respect to the companies receiving a separate rate, we note that the rate applied in this proceeding as a separate rate is the calculated rate received by RHI. In the companion countervailing duty investigation, the Department found that RHI merchandise benefited from export subsidies during the POI, and, consequently, all other exporters (besides RHI and Mayerton) were found to have benefited from export subsidies based upon RHI results. Therefore, we will instruct CBP to require a cash deposit or posting of a bond equal to the weighted-average amount by which normal value exceeds U.S. price for RHI, as indicated above, minus the amount determined to constitute an export subsidy.

With respect to the PRC-wide entity, as AFA, we applied to highest rate form the petition that we were able to corroborate. See the "Corroboration" section above. We note that, although in the companion countervailing duty investigation the Department found that all other exporters (besides RHI and Mayerton) were found to have benefited from export subsidies, because we have applied AFA to the PRC-wide entity, we

will not instruct CBP to deduct any export subsidy from the PRC-wide entity's cash deposit rate.

### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the merchandise under consideration. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the

<sup>27</sup> See Memorandum to the File, through Scot T. Fullerton, Program Manager, from Paul Walker, Case Analyst, "Investigation of Magnesia Carbon Bricks from the People's Republic of China: RHI Refractories Liaoning Co., Ltd.," dated concurrently with this notice.

<sup>28</sup> Correction to an inadvertent error in the date listed in the *Preliminary Critical Circumstances Determination*.

<sup>29</sup> See *Certain Magnesia Carbon Bricks from the People's Republic of China: Final Affirmative*

*Countervailing Duty Determination*, dated concurrently with this notice.

<sup>30</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from India*, 69 FR 67306, 67307 (November 17, 2004).

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 26, 2010.

**Ronald K. Lorentzen,**

*Acting Deputy Assistant Secretary for Import Administration.*

## APPENDIX I

Comment 1: Surrogate Values

- a. Magnesia
- b. Labor

Comment 2: Deductions to Gross Unit Price

- a. Indirect Selling Expenses
- b. Discounts

Comment 3: RHI's Separate Rate

Comment 4: Service Contracts

Comment 5: Exclusion of Resin-bonded Magnesia Carbon Functional Refractory Products from the Scope

Comment 6: Double Remedy

Comment 7: FOP Allocation Ratio

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-955]

#### **Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**SUMMARY:** The Department of Commerce (the Department) has reached a final determination that countervailable subsidies are being provided to producers/exporters of magnesia carbon bricks (MCBs) from the People's Republic of China (PRC). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

**DATES:** *Effective Date:* August 2, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Summer Avery or Toni Page, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4052 or (202) 482-1398, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Case History

The following events have occurred since the preliminary determination. *See Certain Magnesia Carbon Bricks From the People's Republic of China: Preliminary Negative Countervailing Duty Determination*, 74 FR 68241 (December 23, 2009) (*Preliminary Determination*).

On January 7, 2010, Petitioner<sup>1</sup> submitted a letter, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), requesting alignment of the final countervailing duty (CVD) determination with the final antidumping duty (AD) determinations of MCBs from the PRC and Mexico. On January 28, 2010, the Department aligned the final CVD determination with the final determinations in the companion AD investigations of MCBs from the PRC and Mexico. *See Certain Magnesia Carbon Bricks From the People's Republic of China: Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations*, 75 FR 4528 (January 28, 2010).

On January 22, 2010, the GOC filed a request for a hearing for the instant investigation.

The Department issued three supplemental questionnaires to the Government of the People's Republic of China (GOC) on December 8, 2009, February 22, 2010, and March 26, 2010, respectively. The GOC submitted responses on January 5, 2010, March 15, 2010, March 22, 2010, and April 2, 2010.

The Department issued two supplemental questionnaires to Liaoning Mayerton Refractories (LMR) and its cross-owned affiliate Dalian Mayerton Refractories Co. Ltd. (DMR) (collectively, Mayerton) on December 8, 2009 and February 22, 2010, respectively. Mayerton submitted a response on January 5, 2010 for the first supplemental questionnaire but did not respond to the Department's second supplemental questionnaire. On April 1, 2010, Mayerton filed a letter with the Department informing us that that they would no longer be participating in this investigation.

The Department issued two supplemental questionnaires to RHI Refractories Liaoning Co., Ltd. (RHIL) as well as its cross-owned affiliates RHI Refractories (Dalian) Co., Ltd. (RHID) and Liaoning RHI Jinding Magnesia Co., Ltd. (RHII) (collectively, RHI) on December 8, 2009 and February 22,

2010, respectively. RHI submitted responses to the Department's questionnaires on January 5, 2010, March 15, 2010, and March 22, 2010. Public versions of all questionnaires and responses, as well as the various memoranda cited below, are available in the Department's Central Records Unit (CRU), Room 1117 in the HCHB building of the Commerce Department.

From May 4 through May 7, 2010, we conducted verification of the questionnaire responses submitted by RHI. We issued the verification report for RHI on June 1, 2010. *See Memorandum to the File from Toni Page and Summer Avery, International Trade Analysts, Verification of the Questionnaire Responses Submitted by RHI Refractories Liaoning Co., Ltd., RHI Refractories (Dalian) Co., Ltd., and Liaoning RHI Jinding Magnesia Co., Ltd.* (June 1, 2010).

On May 6, 2010, the Department issued its post-preliminary determination regarding two programs, "Export Restraints of Raw Materials" and the "Provision of Electricity for Less than Adequate Remuneration." *See Countervailing Duty Investigation of Certain Magnesia Carbon Bricks from the People's Republic of China: Post-Preliminary Determination* (May 6, 2010).

The Department received case briefs from Petitioner, the GOC, and RHI on June 10, 2010 and rebuttal briefs from the same parties on June 17, 2010. On June 17, 2010, the GOC withdrew its hearing request.

##### Scope of Investigation

The merchandise under investigation consists of 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 this investigation are currently classifiable under subheadings 6902.10.1000, 6902.10.5000, 6815.91.0000,

<sup>1</sup> The Petitioner in the instant investigation is Resco Products Inc.