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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-988]

Silica Bricks and Shapes from the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination

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

SUMMARY: The Department of Commerce ("Department") preliminarily determines that silica bricks and shapes from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The weighted-average dumping margins are shown in the "Preliminary Determination" section of this notice. We intend to issue the final determination within 135 days after publication of this preliminary determination in the Federal Register.

EFFECTIVE DATE: [Insert date of publication in the Federal Register]

FOR FURTHER INFORMATION CONTACT: Rebecca Pandolph or Jonathan Hill, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3627 and (202) 482-3518, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The products covered by the scope of this investigation are refractory bricks and shapes, regardless of size, that contain at least 90 percent silica (SiO₂) where at least 50 percent of the silica content, by weight, is crystalline silica, regardless of other materials contained in the bricks and shapes. Refractory refers to nonmetallic materials having those chemical and physical

properties that make them applicable for structures, or as components of systems, that are exposed to environments above 1000 degrees Fahrenheit (538 degrees Celsius). The products covered by the scope of this investigation are currently classified under Harmonized Tariff Schedule of the United States (“HTSUS”) numbers 6902.20.1020 and 6902.20.5020. Because the definition of “refractory” in the HTSUS differs from that in the scope of this investigation, products covered by the scope of this investigation may also enter under HTSUS number 6909.19.5095. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

The scope of this investigation does not cover refractory bricks and shapes, regardless of size, that are made, in part, from non-crystalline silica (commonly referred to as fused silica) where the silica content is less than 50 percent, by weight, crystalline silica.

Methodology

The Department has conducted this antidumping duty investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act. Specifically, unless specified otherwise, the factors of production (“FOPs”) for the respondent, Tianjin New Century Refractories Co., Ltd.; Tianjin New World Import & Export Trading Co., Ltd.; and XinYi American Advanced Material Co., Ltd. (collectively, “New Century Group”) have been valued using data from the primary surrogate country, Ukraine, a country comparable economically to the PRC and a significant producer of comparable merchandise.

For a full description of the methodology underlying our conclusions, see “Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation of Silica

Bricks and Shapes from the People’s Republic of China” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with this notice (“Preliminary Decision Memorandum”) and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Combination Rates

In the Initiation Notice, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.¹ This practice is described in Policy Bulletin 05.1.²

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

¹ See Silica Bricks and Shapes from the People’s Republic of China: Initiation of Antidumping Duty Investigation, 77 FR 73982, 73986 (December 12, 2012) (“Initiation Notice”).

² See Import Administration’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (“Policy Bulletin 05.1”), available on the Department’s Web site at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

Exporter	Producer	Weighted-Average Dumping Margin
Tianjin New Century Refractories Co., Ltd.; Tianjin New World Import & Export Trading Co., Ltd.; and XinYi American Advanced Material Co., Ltd.	Dengfeng Yuzhong Refractories Co. Ltd.	84.89%
PRC-wide Entity*		91.16%

* The PRC-wide entity includes Shandong Daqiao Co., Ltd.

Disclosure and Public Comment

The Department intends to disclose calculations performed for this preliminary determination to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration via IA ACCESS no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, must be submitted via IA ACCESS no later than five days after the deadline for case briefs.³ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department. The executive summary should be limited to five pages total, including footnotes.

Interested parties, who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed hearing request must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date

³ See 19 CFR 351.309.

of publication of this notice.⁴ Hearing requests should contain the party's name, address, and telephone number, the number of participants in the hearing, and a list of the issues to be discussed at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing, two days before the scheduled date.

For the final determination in this investigation, interested parties may submit publicly available information to value the FOPs within 40 days after the publication of this preliminary determination.⁵ In accordance with 19 CFR 351.301(c)(1) (2008), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by any other interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) (2008) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1) (2008).⁶ Additionally, for each piece of factual information submitted with surrogate value rebuttal comments, the interested party must provide a written explanation of the information that is already on the record of the ongoing proceeding that the factual information intends to rebut, clarify, or correct.

⁴ See 19 CFR 351.310(c).

⁵ See 19 CFR 351.301(c)(3)(i) (2008).

⁶ See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

Suspension of Liquidation

In accordance with section 733(d) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of silica bricks and shapes from the PRC, as described in the “Scope of the Investigation” section, entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit⁷ equal to the weighted-average amount by which normal value exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combination listed in the table above will be equal to the weighted-average dumping margin listed for that combination in the table; (2) for all other combinations of PRC exporters/producers of the merchandise under consideration, the cash deposit rate will be equal to the weighted-average dumping margin listed in the table above for the PRC-wide entity; and (3) for all non-PRC exporters of the merchandise under consideration which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These cash deposit instructions will remain in effect until further notice.

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of silica bricks and

⁷ See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

shapes, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

Postponement of Final Determination and Extension of Provisional Measures

On June 4, 2013, New Century Group requested, pursuant to section 735(a)(2)(a) of the Act and 19 CFR 351.210(b)(2)(ii), that the Department postpone its final determination to 135 days after publication of the preliminary determination.⁸ Additionally, New Century Group requested, pursuant to 19 CFR 351.210(e)(2) and section 733(d) of the Act, that the Department extend the application of the provisional measures from a four-month period to a six-month period. In accordance with section 735(a) of the Act and 19 CFR 351.210(b), the Department is granting these requests to postpone the final determination until no later than 135 days after the publication of this notice in the Federal Register because (1) the preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the merchandise under consideration, and (3) there are no compelling reasons to deny these requests. The Department is further extending the application of the provisional measures from a four-month period to a six-month period.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

June 13, 2013 _____
Date

⁸ See Letter from New Century Group to Dr. Rebecca Blank, Acting Secretary of Commerce regarding, “Silica Bricks and Shapes from the People’s Republic of China: Request for Postponement of Final,” dated June 4, 2013.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope Comments
2. Respondent Selection
3. Discussion of the Methodology
 - a. Non-Market Economy Country
 - b. Surrogate Country
 - c. Single Entity Treatment
 - d. Separate Rates
 - e. Application of Facts Available and Adverse Inferences
 - f. Date of Sale
 - g. Fair Value Comparisons
 - h. Factor Valuation Methodology
 - i. Currency Conversion
4. Verification

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