Certain Magnesia Carbon Bricks from China and Mexico

Investigation Nos. 701-TA-468 and 731-TA-1166-1167 (Review)

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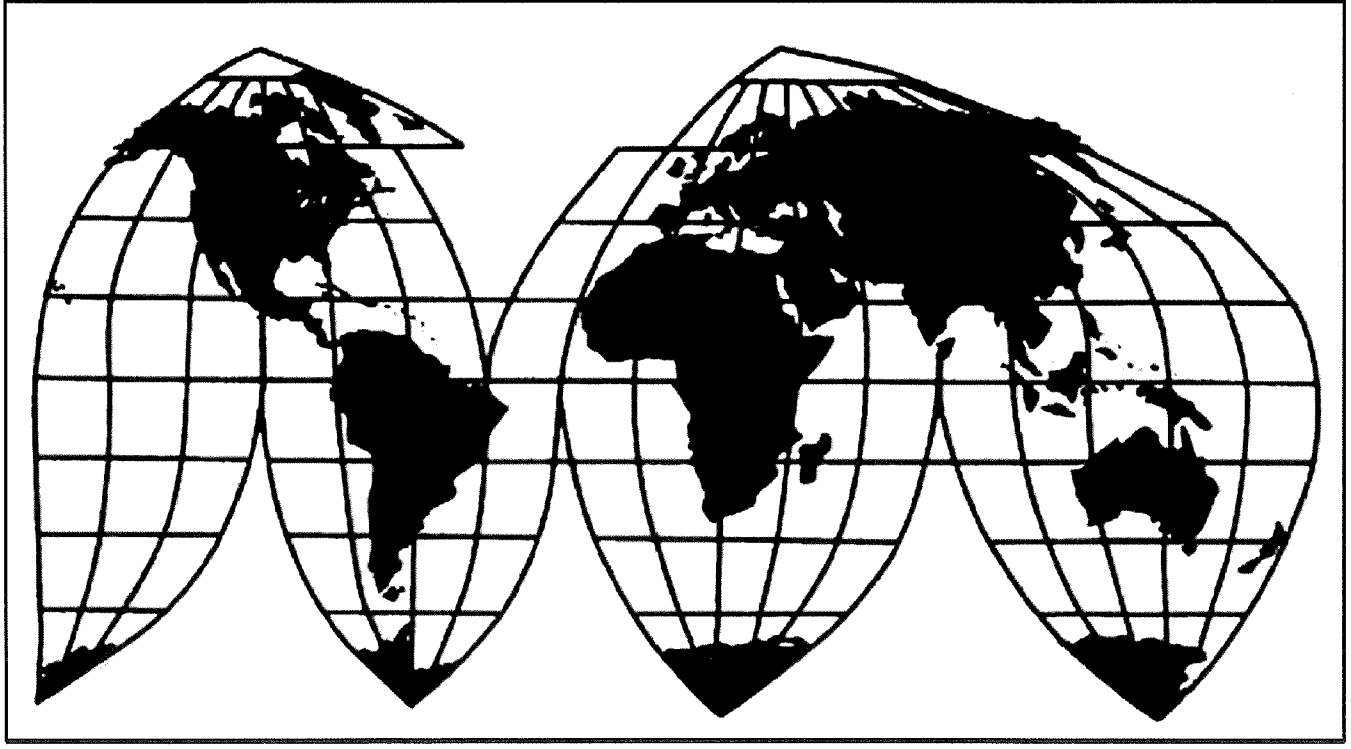

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CONTENTS

CONTENTS

Page

Appendixes

Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-468 and 731-TA-1166-1167 (Review)

Certain Magnesia Carbon Bricks from China and Mexico

DETERMINATIONS

On the basis of the record[1] developed in the subject five-year reviews, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930, that revocation of the countervailing duty order on certain magnesia carbon bricks from China and the antidumping duty orders on certain magnesia carbon bricks from China and Mexico would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), instituted these reviews on August 3, 2015 (80 F.R. 46050) and determined on November 6, 2015 that it would conduct expedited reviews (80 F.R. 74799, November 30, 2015).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Tariff Act"), that revocation of the countervailing duty order on magnesia carbon bricks ("MCBs") from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and that revocation of the antidumping duty orders on MCBs from China and Mexico would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Background

The Commission instituted the original investigations of MCBs from China and Mexico in response to petitions filed on July 29, 2009 by Resco Products, Inc. ("Resco"), a U.S. producer of MCBs.[1] In September 2010, the Commission determined that a domestic industry was materially injured by reason of cumulated subject imports of MCBs from China and Mexico,[2] and the U.S. Department of Commerce ("Commerce") subsequently issued antidumping duty orders on those imports[3] along with a countervailing duty order on MCBs from China.[4]

The Commission instituted these first five-year reviews on August 3, 2015.[5] The Commission received one submission in response to its notice of institution, filed by the Magnesia Carbon Brick Fair Trade Committee ("Domestic Producers") on behalf of domestic producers Resco, Magnesita Refractories Co. ("Magnesita"), and HarbisonWalker International, Inc. ("Harbison"). The Commission did not receive any responses from respondent interested parties to the notice of institution. On November 6, 2015, the Commission determined that the domestic interested party group response was adequate for all reviews and that the respondent interested party group responses were inadequate for all reviews. The Commission did not find any other circumstances that would warrant conducting full reviews and therefore

[1] Confidential Report ("CR") at I-9, Public Report ("PR") at I-6.

[2] *Certain Magnesia Carbon Bricks from China and Mexico*, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final), USITC Pub. 4182 (Sept. 2010) ("*Original Determinations*, USITC Pub. 4182"). In the original investigations, three Commissioners (Lane, Pinkert, and Wiliamson) made an affirmative present injury determination with respect to cumulated imports from China and Mexico. *Original Determinations*, USITC Pub. 4182 at 3-25. Three Commissioners (Chairman Okun and Commissioners Pearson and Aranoff) made an affirmative threat determination for subject imports from China and a negative determination for subject imports from Mexico. Id. at 27-42.

[3] *Certain Magnesia Carbon Bricks from Mexico and the People's Republic of China: Antidumping Duty Orders*, 75 Fed. Reg. 57257 (Sept. 20, 2010).

[4] *Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order*, 75 Fed. Reg. 57442 (Sept. 21, 2010).

[5] *Certain Magnesia Carbon Bricks from China and Mexico, Institution of Five-Year Reviews*, 80 Fed. Reg. 46050 (Aug. 3, 2015).

determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act.[6]

II. Domestic Like Product and Industry

A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."[7] The Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[8] The Commission's practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.[9]

1. The Subject Merchandise

Commerce has defined the scope of the orders in these five-year reviews as follows:

> certain chemically bonded (resin or pitch), MCBs 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, MCBs 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 anti-oxidants 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).[10]

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[6] *Certain Magnesia Carbon Bricks from China and Mexico*; Scheduling of Expedited Five-Year Reviews, 80 Fed. Reg. 74799 (Nov. 6, 2015).

[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(10); *see*, *e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[9] *See*, *e.g.*, *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

[10] *See* 80 Fed. Reg. 75971 (Dec. 7, 2015) (Commerce results of sunset reviews of CVD orders); 80 Fed. Reg. 76447, 76448 (Dec. 9, 2015) (Commerce results of sunset reviews of AD orders). There have

(*continued*...)

MCBs are a refractory product made mostly from a combination of magnesia and carbon that provides thermal and corrosion resistance in steel industry operations involving high temperatures and harsh operating conditions.[11] MCBs are produced in a large number of grades with different levels of magnesia, carbon, and various other additives depending upon the intended applications.[12] The high carbon content of MCBs is achieved by adding pitch or graphite during production, which ultimately prevents liquid slag from penetrating and eroding the final product.[13]

MCBs are considered the most durable refractory bricks on the market for furnaces and ladle linings.[14] MCBs are primarily used by the steel industry to line the lower sidewalls, upper sidewalls, slag lines, and roofs of ladles and ladle metallurgy furnaces involved in production and refining where there is direct contact with both molten steel and molten slag.[15] MCBs also are used to line basic oxygen furnaces and electric arc furnaces.[16]

2. Domestic Like Product Definition in the Original Investigations

In the original investigations, the Commission found that MCBs were not used interchangeably with other refractory products and that, compared with other refractory products, MCBs often used different production processes and had distinct uses, different physical characteristics, and higher prices.[17] Applying its traditional six-factor test, the Commission found a single domestic like product, consisting of all MCBs, that was coextensive with Commerce's scope definition.[18]

3. Analysis and Conclusion

In these expedited reviews, the Domestic Producers indicate that they agree with the Commission's definition of a single domestic like product in the original investigations.[19] There is no new information in the record that would suggest any reason to revisit the Commission's

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(…*continued*)
been two final scope rulings by Commerce with respect to MCBs since the imposition of the orders in 2010. CR at I-11.

[11]CR at I-5, PR at I-3.

[12]CR at I-5, PR at I-3-4.

[13]CR at I-5, PR at I-4.

[14]CR at I-5, PR at I-4.

[15]CR at I-5, PR at I-4.

[16]CR at I-5, PR at I-4.

[17]*Original Determinations*, USITC Pub. 4182 at 6-7.

[18]*Original Determinations*, USITC Pub. 4182 at 4-7. The definition of the domestic like product was not disputed in the final phase of the investigations.

[19]Domestic Producers' Final Comments (Dec. 3, 2015) ("Domestic Producers' Comments") at 2; Domestic Producers' Response to the Notice of Institution (Sept. 2, 2015) ("Domestic Producers' Response") at 17.

domestic like product definition from the original investigations.[20] We consequently find a single domestic like product consisting of all MCBs coextensive with Commerce's scope of the orders under review.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[21] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In the original investigations, the Commission defined the domestic industry to consist of all domestic producers of MCBs.[22] While two firms were related parties because they both imported subject merchandise during the POI, the Commission found that appropriate circumstances did not exist to exclude any firm from the domestic industry.[23]

In these reviews, the Domestic Producers again support defining one domestic industry consisting of all U.S. producers of MCBs.[24] In the absence of arguments or data to the contrary, we again define the domestic industry to include all producers of the domestic like product, MCBs.

In these reviews, one domestic producer of MCBs, ***, qualifies as a related party because ***.[25] Because ***, we find that appropriate circumstances do not exist to exclude *** from the domestic industry.[26] Accordingly, we define the domestic industry to include all four producers of the domestic like product: Resco, Magnesita, Harbison, and TYK.

III. Cumulation

A. Legal Standard

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows:

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[20] *See generally* CR at I-6-8, PR at I-4-6.

[21] 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. *See* 19 U.S.C. § 1677.

[22] *Original Determinations*, USITC Pub. 4182 at 7-8.

[23] *Original Determinations*, USITC Pub. 4182 at 8. The Commission found that the primary interest of each related party was in domestic production and that neither firm had been shielded from the effects of subject imports. *Id*.

[24] Domestic Producers' Comments at 2; Domestic Producers' Response at 29, 31.

[25] CR at I-15-16, PR at I-11.

[26] Specifically, in 2014, ***. CR at I-16, PR at I-11. In 2014, *** domestic producer of MCBs. CR/PR at Appendix B. It supports the continuation of the orders. *See* Domestic Producers' Response at 5.

> the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.[27]

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.[28] The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

B. Cumulation in the Original Investigations

In the original investigations, the Commission cumulated subject imports from China and Mexico for its analysis of material injury by reason of subject imports.[29] With respect to fungibility, the Commission found that MCBs from both of the subject countries were fungible with each other and the domestic like product.[30] Domestic producers, importers, and purchasers generally agreed that subject imports from China and Mexico and domestically produced MCBs were always or frequently interchangeable.[31] The Commission also found overlapping geographic markets for subject imports and the domestic like product.[32] It found an overlap of channels of distribution because both the domestic like product and subject

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[27] 19 U.S.C. § 1675a(a)(7).

[28] 19 U.S.C. § 1677(7)(G)(i); *see also*, *e.g.*, *Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

[29] *Original Determinations*, USITC Pub. 4182 at 8-11. In the original investigations, the three dissenting Commissioners exercised their discretion not to cumulate subject imports from China and Mexico for purposes of their threat analysis. *Id*. at 27-42.

[30] *Original Determinations*, USITC Pub. 4182 at 10.

[31] *Original Determinations*, USITC Pub. 4182 at 10.

[32] *Original Determinations*, USITC Pub. 4182 at 10.

imports were mostly sold to end users.[33] Finally, it found that the domestic like product and imports from each subject country were present in the U.S. market throughout the period of investigation ("POI").[34] Having found the pertinent statutory criteria to be satisfied, the Commission cumulated subject imports from China and Mexico.[35]

C. Analysis

In these reviews, the statutory threshold for cumulation is satisfied because all reviews were initiated on the same day, August 3, 2015.[36] In addition, we consider the following issues in deciding whether to exercise our discretion to cumulate the subject imports: (1) whether imports from either of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among subject imports from the subject countries and the domestic like product; and (3) whether subject imports are likely to compete in the U.S. market under different conditions of competition.

1. Likely Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.[37] Neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact" on the domestic industry.[38] With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

Based on the record in these reviews, we do not find that imports from either subject country would likely have no discernible adverse impact on the domestic industry in the event of revocation.

China. Subject imports from China were substantial throughout the original POI: they were 34,613 short tons in 2007, 41,701 short tons in 2008, 33,643 short tons in 2009, 5,620 short tons in January-March 2009 ("interim 2009"), and 6,210 short tons in January-March 2010 ("interim 2010").[39] Subject imports from China accounted for between *** and *** percent of

[33] *Original Determinations*, USITC Pub. 4182 at 11.
[34] *Original Determinations*, USITC Pub. 4182 at 10-11.
[35] *Original Determinations*, USITC Pub. 4182 at 10-11.
[36] *See* 80 Fed. Reg. 46050 (Aug. 3, 2015).
[37] 19 U.S.C. § 1675a(a)(7).
[38] SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).
[39] *Original Determinations Confidential Staff Report*, INV-HH-080 (Aug. 13, 2010) ("*Original Determinations CR*") at Table IV-2a (EDIS Doc. No. 432557).

apparent U.S. consumption on an annual basis from 2007 to 2009.[40] After issuance of the orders, subject imports from China remained present in the U.S. market, but at lower volumes, which ranged from *** short tons in 2013 to *** short tons in 2011.[41] In 2014, subject imports from China accounted for *** percent of apparent U.S. consumption.[42]

Domestic Producers assert that there are currently 36 subject producers of MCBs in China.[43] The MCB industry in China had substantial unused capacity during the original investigations, with capacity utilization rates ranging from 46.7 percent to 67.9 percent between 2007 and 2009, and subject producers in China reportedly have expanded their capacity since the original investigations.[44] According to Global Trade Atlas ("GTA") data, between 2010 and 2014, China was the world's largest exporter of certain refractory products, a product category that includes MCBs as well as significant amounts of out-of-scope merchandise, with exports ranging from 1.1 million short tons to 1.2 million short tons.[45] Thus, we do not find that subject imports from China would likely have no discernible adverse impact on the domestic industry if the pertinent orders were revoked.

Mexico. The volume of subject imports from Mexico during the original POI was *** short tons in 2007, *** short tons in 2008, *** short tons in 2009, *** short tons in interim 2009, and *** short tons in interim 2010.[46] Subject imports from Mexico accounted for between *** and *** percent of apparent U.S. consumption on an annual basis from 2007 to 2009.[47] After issuance of the orders, subject imports from Mexico remained in the U.S. market, but at lower volumes, which ranged from *** short tons in 2014 to *** short tons in 2012.[48] In 2014, subject imports from Mexico accounted for *** percent of apparent U.S. consumption.[49]

RHI-Refmex S.A. de C. V. ("Refmex") was the sole producer of MCBs in Mexico during both the original investigations and the period of review.[50] It had substantial unused capacity during the original investigations, with its capacity utilization rates ranging from *** percent to *** percent between 2007 and 2009.[51] Domestic Producers indicate that Refmex continues to have unused capacity, exports MCBs to markets other than the United States, and is able to switch production from out-of-scope products to MCBs.[52] In light of this information, we do not find that subject imports from Mexico would likely have no discernible adverse impact on the domestic industry if the pertinent order were revoked.

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[40]CR/PR at Table I-5.
[41]CR/PR at Table I-3.
[42]CR/PR at Table I-5.
[43]CR at I-27, PR at I-21.
[44]*Original Determinations CR* at Table VII-1 (EDIS Doc. No. 432557); CR at I-28, PR at I-21.
[45]CR/PR at Table I-8.
[46]*Original Determinations CR* at Table IV-2a (EDIS Doc. No. 432557).
[47]CR/PR at Table I-5.
[48]CR/PR at Table I-3.
[49]CR/PR at Table I-5.
[50]CR at I-28, PR at I-21.
[51]*Original Determinations CR* at Table VII-2.
[52]Domestic Producers' Response at 16-17.

2. Likely Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.[53] Only a "reasonable overlap" of competition is required.[54] In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.[55]

Fungibility. As discussed above, the Commission found in the original investigations that subject imports from China and Mexico were fungible with both the domestic like product and with each other.[56] There is no new information in these reviews to indicate that this has changed.

Geographic Overlap. In the original investigations, the Commission found overlapping geographic markets for subject imports and the domestic like product.[57] MCBs produced in the United States are shipped nationwide, and imports from each subject country entered the United States through multiple regions in 2014.[58]

Channels of Distribution. In the original investigations, the Commission found that subject imports from China and Mexico and the domestic like product generally were sold in the same channels of distribution (*i.e.*, to end users).[59] There is no new information in these reviews to indicate that this has changed.

Simultaneous Presence in Market. In the original investigations, the Commission found that subject imports from China and Mexico and domestically produced MCBs were all present

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[53]The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. *See, e.g., Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[54]*See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); *Wieland Werke,* 718 F. Supp. at 52 ("Completely overlapping markets are not required."); *United States Steel Group v. United States,* 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. *See, e.g*., *Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff'd sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int'l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

[55]*See generally*, *Chefline Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int'l Trade 2002).

[56]*Original Determinations*, USITC Pub. 4182 at 10.

[57]*Original Determinations*, USITC Pub. 4182 at 10.

[58]CR at I-26, PR at I-20.

[59]*Original Determinations*, USITC Pub. 4182 at 11.

in the U.S. market throughout the POI.[60] As previously stated, subject imports from China and Mexico have been present in the U.S. market during each year from 2010 to 2014.[61]

Analysis. The record of these expedited reviews contains very limited information concerning the characteristics of subject imports in the U.S. market during the period of review. The record contains no information suggesting that the reasonable overlap of competition found in the original investigations would not exist upon revocation. In light of this, and the absence of any contrary arguments, we find a likely reasonable overlap of competition between subject imports from China and Mexico and the domestic like product.

3. Other Likely Conditions of Competition

In determining whether to exercise our discretion to cumulate the subject imports, we assess whether subject imports from the subject countries would compete under similar or different conditions in the U.S. market if the orders under review were revoked. The record in these reviews does not indicate that there would likely be any significant difference in the conditions of competition among subject imports upon revocation. Accordingly, we exercise our discretion to cumulate subject imports from China and Mexico.

IV. Revocation of the Antidumping and Countervailing Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[62] The SAA states that "under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[63] Thus, the likelihood

[60] *Original Determinations*, USITC Pub. 4182 at 10-11.

[61] CR/PR at Table I-3. In fact, MCBs were imported from China during every month from January 2010 to December 2014. MCBs from Mexico entered the United States during *** from January 2010 to December 2012, and were imported in *** of 2013 and *** of 2014. CR/PR at Table I-7.

[62] 19 U.S.C. § 1675a(a).

[63] SAA, H.R. Rep. 103-316, vol. I at 883-84 (1994). The SAA states that "{t}he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." *Id*. at 883.

standard is prospective in nature.[64] The U.S. Court of International Trade has found that "likely," as used in the five-year review provisions of the Tariff Act, means "probable," and the Commission applies that standard in five-year reviews.[65]

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[66] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis in original investigations."[67]

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[68] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[69] The statute further

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[64]While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[65]*See NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), *aff'd mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) ("more likely than not" standard is "consistent with the court's opinion;" "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); *Usinor v. United States*, 26 CIT 767, 794 (2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[66]19 U.S.C. § 1675a(a)(5).

[67]SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." *Id*.

[68]19 U.S.C. § 1675a(a)(1).

[69]19 U.S.C. § 1675a(a)(1). Commerce has made no duty absorption findings with respect to the orders under review. CR at I-11, PR at I-7.

provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination.[70]

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[71] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[72]

In evaluating the likely price effects of subject imports if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[73]

In evaluating the likely impact of imports of subject merchandise if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[74] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.[75]

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[70]19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[71]19 U.S.C. § 1675a(a)(2).

[72]19 U.S.C. § 1675a(a)(2)(A-D).

[73]*See* 19 U.S.C. § 1675a(a)(3). The SAA states that "{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[74]19 U.S.C. § 1675a(a)(4).

[75]The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be

(*continued*...)

As stated above, the Commission received no responses to the notice of institution from MCB producers in China and Mexico. The record, therefore, contains limited new information with respect to the industries in both subject countries. Accordingly, for our determinations, we rely as appropriate on the facts available from the original investigations, data submitted in the response to the notice of institution, and other industry data.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[76] The following conditions of competition inform our determinations.

Demand Conditions. In the original investigations, the Commission found that MCBs were mainly used in the production of steel, and therefore demand for MCBs was driven by the level of steel production.[77] During the original investigations, raw steel production fluctuated, although it did not return to its pre-recession level of early 2008.[78] Apparent U.S. consumption of MCBs followed a path similar to that of steel production during the POI, increasing between 2007 and 2008, declining between 2008 and 2009, and ending higher in interim 2010 than in interim 2009.[79] The Commission also found that, given the level of apparent U.S. consumption in the first quarter of 2010, it appeared that demand for MCBs had recovered more quickly than steel production.[80]

In these reviews, it appears that factors affecting buying patterns and demand for MCBs in the United States have largely remained unchanged since the original investigations.[81] Apparent U.S. consumption of MCBs on a quantity basis was 100,033 short tons in 2014, contrasted with *** short tons in 2009, the last full year of the original POI.[82] Demand conditions within the reasonably foreseeable future are likely to be challenging due to declining steel production in the United States.[83]

Supply Conditions. In the original investigations, the Commission found that the domestic industry was the largest source of supply for the U.S. market, although the domestic

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(…*continued*)
contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[76]19 U.S.C. § 1675a(a)(4).

[77]*Original Determinations*, USITC Pub. 4182 at 14.

[78]*Original Determinations*, USITC Pub. 4182 at 14.

[79]*Original Determinations*, USITC Pub. 4182 at 13-14.

[80]*Original Determinations*, USITC Pub. 4182 at 14.

[81]CR/PR at Appendix D (purchaser surveys). Responding purchasers reported no changes in the business cycle for MCBs in the U.S. market since 2010. CR/PR at D-5. They also reported no changes in the particular end uses or applications for MCBs in the U.S. market since 2010. CR/PR at D-4.

[82]CR/PR at Table I-5.

[83]*See e.g.*, Domestic Producers' Response at 23.

industry lost market share to cumulated subject imports.[84] Domestic producers' U.S. market share declined between 2007 and 2009 while the U.S. market share of cumulated subject imports increased during the same period.[85] China and Mexico were the largest foreign suppliers of MCBs to the United States.[86] Nonsubject imports generally declined and served a relatively small portion of the U.S. market throughout the POI.[87]

As discussed above, in the current reviews, there are four known domestic producers of MCBs: Resco, Magnesita, Harbison, and TYK.[88] The domestic industry accounted for 80.2 percent of apparent U.S. consumption in 2014, which was more than its *** percent share in 2009.[89] Cumulated subject imports accounted for 11.3 percent of apparent U.S. consumption in 2014, down from their *** percent share in 2009.[90] Nonsubject imports accounted for 8.6 percent of apparent U.S. consumption in 2014, which was more than their *** percent share in 2009.[91]

Substitutability. In the original investigations, the Commission found that there was a high level of interchangeability between the domestic like product and subject imports and that price was an important factor in purchasing decisions.[92]

The information available in these expedited reviews contains nothing to indicate that the substitutability of MCBs from different sources or the importance of price has changed since the original investigations. Accordingly, we again find that subject imports and the domestic like product are highly interchangeable and that price continues to be an important factor in purchasing decisions.

C. Likely Volume of Subject Imports

The Original Investigations. In the original investigations, the Commission found that the volume of cumulated subject imports and the increase in that volume were significant, both in absolute terms and relative to domestic production and consumption.[93] The Commission found that the absolute volume of cumulated subject imports, whether measured in terms of cumulated subject import volume or in terms of U.S. shipments of cumulated subject imports, was significant over the POI.[94] It found that the significant increase in cumulated subject imports' market share during the POI came almost entirely at the expense of the domestic

[84] *Original Determinations*, USITC Pub. 4182 at 15.
[85] *Original Determinations*, USITC Pub. 4182 at 15.
[86] *Original Determinations*, USITC Pub. 4182 at 15.
[87] *Original Determinations*, USITC Pub. 4182 at 15.
[88] CR/PR at Table I-1; CR/PR at I-2.
[89] CR/PR at Table I-5.
[90] CR/PR at Table I-5.
[91] CR/PR at Table I-5.
[92] *Original Determinations*, USITC Pub. 4182 at 16.
[93] *Original Determinations*, USITC Pub. 4182 at 16-17.
[94] *Original Determinations*, USITC Pub. 4182 at 16-17.

industry.[95] It also observed that the ratio of subject imports of MCBs to domestic production increased between 2007 and 2009.[96]

The Current Reviews. The limited evidence in the record of these reviews indicates that the countervailing and antidumping duty orders have had a restraining effect on the subject imports. The volume of cumulated subject imports, which was *** short tons in 2009, the last full year of the POI, and 38,760 short tons in 2010, the year in which the orders were imposed, fell to 16,105 short tons in 2011, declined further in 2012 and 2013, and was 11,276 short tons in 2014.[97] Cumulated subject imports' market share also was lower in 2014, at 11.3 percent of apparent U.S. consumption, than in 2009, when subject imports accounted for *** percent of apparent U.S. consumption.[98]

As previously stated, no producer or exporter of subject merchandise participated in these expedited reviews. In the original investigations, however, the industries in each subject country had substantial unused capacity, which on a cumulated basis exceeded apparent U.S. consumption.[99] The information in the current record indicates that capacity in China, which rose during the original investigations, has continued to increase,[100] and that the industry in Mexico continues to have excess capacity.[101] The industries in each subject country also had some degree of export orientation during the original investigations. The MCB industry in China exported a substantial proportion of its products during the original POI,[102] and available GTA data suggest that the industry in China continues to be export oriented.[103] With respect to the MCB industry in Mexico, the share of its total shipments that went to export markets increased during the original POI, reaching an annual peak of *** percent in 2009.[104] The information available in these reviews, which is from the Domestic Producers, indicates that the Mexican industry exports MCBs to other foreign markets in addition to the United States.[105] Consequently, on the basis of the facts available, we find that the subject producers continue to have substantial capacity and excess capacity and remain export oriented.

Additionally, the United States remains an attractive market to the MCB industries in both subject countries. As discussed above, cumulated subject imports maintained an

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[95] *Original Determinations*, USITC Pub. 4182 at 17.

[96] *Original Determinations*, USITC Pub. 4182 at 17.

[97] CR/PR at Table I-3 & *Original Determinations CR* at Table IV-2a.

[98] CR/PR at Table I-5.

[99] *Original Determinations CR* at Tables VII-1, VII-2, IV-4a.

[100] *Original Determinations CR* at Table VII-1; Domestic Producers' Response at 14-17.

[101] Domestic Producers' Response at 16-17. Moreover, during the original investigations, six of seven responding Chinese producers and the sole Mexican producer reported that they produced, or had the capability of producing, other products on the same equipment and machinery used to produce MCBs. *Original Determinations CR* at VII-6 to VII-7. The record of these expedited reviews does not indicate any change in subject producers' ability to engage in product shifting.

[102] *Original Determinations CR* at Table VII-1.

[103] CR/PR at Table I-8. As previously discussed, the GTA data concern a product category considerably broader than MCBs.

[104] *Original Determinations* CR at Table VII-2.

[105] Domestic Producers' Response at 19-20.

appreciable presence in the U.S. market during the POR, albeit at substantially reduced volumes since the original investigations.[106] There are also antidumping duty orders in effect on MCBs from China and Mexico in other countries.[107] Moreover, the record indicates that the United States continues to be a large market for MCBs.[108]

Accordingly, based on the demonstrated ability of the producers in the subject countries to ship substantial quantities of MCBs to the U.S. market, their substantial production capacity and unused capacity, their export orientation, and the attractiveness of the U.S. market, we find that the likely volume of cumulated subject imports, both in absolute terms and as a share of the U.S. market, would likely be significant in the event of revocation.[109]

D. Likely Price Effects

The Original Investigations. In the original investigations, the Commission found that the domestic like product and subject imports were substitutable and that price was an important factor in purchasing decisions.[110] Based on quarterly weighted-average price information from U.S. producers and importers from January 2007 through March 2010 for five products, it found significant underselling by cumulated subject imports.[111] While not finding significant price depression because prices for domestically produced MCBs generally increased, the Commission found that cumulated subject imports had significant price-suppressing effects as demonstrated by an increase in the domestic industry's ratio of cost of goods sold to net sales, particularly between 2007 and 2009.[112] Furthermore, it found that purchaser responses to lost sales and lost revenue allegations corroborated the significant underselling and price suppression by cumulated subject imports.[113] Given these considerations, the Commission found that cumulated subject imports had significant price effects.[114]

The Current Reviews. As discussed above, we continue to find that subject imports are substitutable for MCBs manufactured in the United States and that price is an important factor in purchasing decisions. The record does not contain current pricing comparisons due to the expedited nature of these reviews. Based on the available information, we find that, if the orders under review were revoked, significant volumes of cumulated subject imports would likely significantly undersell the domestic like product in order to gain market share, as

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[106]CR/PR at Tables I-3 to I-5.

[107]MCBs, as well as other refractory bricks, from China are subject to antidumping duties in Brazil and Turkey. MCBs, as well as other refractory bricks, from Mexico are subject to antidumping duties in Brazil. CR at I-29, PR at I-22.

[108]Domestic Producers' Comments at 18-20.

[109]The record lacks data concerning existing inventories of the subject merchandise.

[110]*Original Determinations*, USITC Pub. 4182 at 18.

[111]*Original Determinations*, USITC Pub. 4182 at 18. Cumulated subject imports undersold the domestic like product in 77 of 91 quarterly comparisons. *Id*.

[112]*Original Determinations*, USITC Pub. 4182 at 19.

[113]*Original Determinations*, USITC Pub. 4182 at 19 & n.158.

[114]*Original Determinations*, USITC Pub. 4182 at 19.

occurred in the original investigations. As a result, cumulated subject imports would likely have significant depressing and/or suppressing effects on the prices of the domestic like product, given the likely significant volume of cumulated subject imports, the importance of price in purchasing decisions for MCBs, and the substitutability of cumulated subject imports and the domestic like product. For the foregoing reasons, we conclude that cumulated subject imports would likely have significant price effects if the orders were revoked.

E. Likely Impact[115]

The Original Investigations. In its original investigations, the Commission found that cumulated subject imports had a significant adverse impact on the domestic industry.[116] The Commission gave particular weight to the full-year data for 2007-09.[117] While the domestic industry's production capacity was relatively constant during the POI, it experienced declines in capacity utilization, production, and shipments.[118] The domestic industry similarly experienced declines in production and related workers, wages paid, and hours worked.[119] Its operating income, net sales, and capital expenditures also declined between 2007 and 2009.[120] The Commission found that the domestic industry's declining profitability during the POI was attributable primarily to a cost-price squeeze due to competition from low-priced cumulated subject imports.[121] The Commission considered other possible causes of injury and found that they could not explain the adverse effects attributable to cumulated subject imports.[122] In

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[115]Under the statute, "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv); *see also* SAA at 887.

In its expedited sunset reviews of the antidumping duty orders, Commerce found likely weighted average dumping margins of up to 57.90 percent on subject imports from Mexico and of up to 236.00 percent on subject imports from China. *Certain Magnesia Carbon Bricks from Mexico and the People's Republic of China, Final Results of Expedited Sunset Reviews of Antidumping Duty Orders*, 80 Fed. Reg. 76447-76448 (Dec. 9, 2015).

In the final results of its expedited sunset review of the countervailing duty order on subject imports from China, Commerce found likely subsidy rates of 24.24 percent for RHI Refractories Liaoning Co., Ltd.; RHI Refractories (Dalian) Co., Ltd.; and Liaoning RHI Jinding Magnesia Co., Ltd.; 253.87 percent for Liaoning Mayerton Refractories and Dalian Mayerton Refractories Co., Ltd.; and 24.24 percent for the all others rate. *Certain Magnesia Carbon Bricks from the People's Republic of China: Final Results of Expedited First Sunset Review of the Countervailing Duty Order*, 80 Fed. Reg. 75971-75972 (Dec. 7, 2015).

[116]*Original Determinations*, USITC Pub. 4182 at 20-23.

[117]*Original Determinations*, USITC Pub. 4182 at 23.

[118]*Original Determinations*, USTC Pub. 4182 at 20-21.

[119]*Original Determinations*, USITC Pub. 4182 at 21.

[120]*Original Determinations*, USITC Pub. 4182 at 20-22.

[121]*Original Determinations*, USITC Pub. 4182 at 22.

[122]*Original Determinations*, USITC Pub. 4182 at 22-23.

particular, nonsubject imports had a small and declining presence in the U.S. market during the POI, and the adverse effects of the cumulated subject imports preceded any decline in demand.[123]

The Current Reviews. Because these are expedited reviews, we have only limited information with respect to the domestic industry's performance. The limited record is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the orders.[124]

The information on the record indicates that in 2014, the domestic industry's capacity was 134,529 short tons, production was 86,553 short tons, capacity utilization was 64.3 percent, net sales were $***, operating income was $***, and the ratio of operating income to net sales was *** percent.[125] The domestic industry's capacity, production, net sales values, operating income, and operating margin were each higher in 2014 than in any full year of the original POI. The industry's capacity utilization was higher in 2014 than in 2008 or 2009.[126]

Based on the limited information on the record, we find that, should the orders be revoked, there would likely be a significant volume of cumulated subject imports and these imports would likely undersell the domestic like product and have significant price effects. These factors, in turn, would likely have a significant impact on the domestic industry, including on its production, capacity utilization, shipments, sales, market share, employment, revenues, and profitability.

We have also considered the role of factors other than cumulated subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. Based on available data, there is no indication that the increased presence of nonsubject imports, which increased their market share from *** percent in 2009 to 8.6 percent in 2014,[127] would prevent cumulated subject imports from entering the U.S. market in significant quantities upon revocation of the orders. Given the high degree of substitutability of MCBs and the fact that the domestic industry is currently by far the largest source of supply to the U.S. market, any increase in cumulated subject imports' market share would likely come, at least in substantial proportion, at the expense of the domestic industry. Moreover, the domestic industry was able to increase its market share, output, and profitability notwithstanding the increased presence of nonsubject imports in 2014 relative to 2009. In light of these considerations, we find that any likely effects of imports from nonsubject countries are distinguishable from the likely effects we have attributed to the cumulated subject imports.

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[123]*Original Determinations*, USITC Pub. 4182 at 22-23.

[124]Based on the record of these reviews, Vice Chairman Pinkert finds that the domestic industry is not vulnerable to the continuation or recurrence of material injury in the event of revocation of the antidumping and countervailing duty orders. The domestic industry performed well in 2014 relative to its performance in the prior years for which the Commission has information and reported an operating income of *** and an operating income margin of *** percent. CR/PR at Table I-2.

[125]CR/PR at Table I-2.

[126]CR/PR at Table I-2.

[127]CR/PR at Table I-5.

Accordingly, we conclude that if the orders were revoked, cumulated subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

V. Conclusion

For the above reasons, we determine that revocation of the countervailing duty order on MCBs from China and revocation of the antidumping duty orders on MCBs from China and Mexico would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

INFORMATION OBTAINED IN THESE REVIEWS

BACKGROUND

On August 3, 2015, the U.S. International Trade Commission ("Commission") gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] that it had instituted reviews to determine whether revocation of antidumping duty orders on certain magnesia carbon bricks ("MCBs") from China and Mexico and the countervailing duty order on MCBs from China would likely lead to the continuation or recurrence of material injury to a domestic industry.[2] All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.[3] [4] The following tabulation presents information relating to the background and schedule of this proceeding:

Effective or statutory date	Action
August 3, 2015	Notice of initiation and institution by Commerce and Commission
December 1, 2015	Scheduled date for Commerce results of expedited reviews
November 6, 2015	Scheduled date for Commission vote on adequacy
December 31, 2015	Commission statutory deadline to complete expedited reviews
July 28, 2016	Commission statutory deadline to complete full reviews

RESPONSES TO THE COMMISSION'S NOTICE OF INSTITUTION

Individual responses

The Commission received one submission in response to its notice of institution in the subject reviews. It was filed on behalf of the Magnesia Carbon Bricks Fair Trade Committee

[1] 19 U.S.C. 1675(c).

[2] *Certain Magnesia Carbon Bricks From China and Mexico; Institution of Five-Year Reviews*, 80 FR 46050, August 3, 2015. In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of five-year reviews of the subject antidumping and countervailing duty orders concurrently with the Commission's notice of institution. *Initiation of Five-Year ("Sunset") Review*, 80 FR 45945, August 3, 2015. Pertinent *Federal Register* notices are referenced in app. A, and may be found at the Commission's website (www.usitc.gov).

[3] As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in prior proceedings is presented in app. C.

[4] Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the subject merchandise. Presented in app. D are the responses received from purchaser surveys mailed to the purchasers identified in the adequacy phase of these reviews.

("the Committee"), an ad hoc association comprised of the following three U.S. producers of MCBs: Resco Products, Inc. ("Resco"), Magnesita Refractories Company ("Magnesita"), and HarbisonWalker International, Inc. ("HarbisonWalker").

A complete response to the Commission's notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and estimates of coverage for each is shown in table I-1 .

Table I-1

MCBs: Summary of responses to the Commission's notice of institution

Type of interested party	Completed responses	
	Number	Coverage
Domestic:		
U.S. producer association	1	***[1]

[1] The coverage figure represents the three member producers' estimate of their aggregate share of total U.S. production of MCBs in 2014. They indicated that the remainder of MCB production comes from TYK America, Inc. ("TYK"). TYK indicated that it supports continuation of the orders. *Domestic Interested Parties' Response to Notice of Institution,* September 2, 2015, p. 29 and exhs. 19 and 20.

Party comments on adequacy

The Commission received one submission from the domestic interested parties commenting on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. In its comments, the Committee argues that the domestic industry's response to the notice of institution is adequate both individually and on the basis of the domestic industry as a whole since the responding members that accounted for "substantially all" domestic production of MCBs provided a complete response. The Committee further argues that the respondent interested parties' response is inadequate because no respondent filed a response to the Commission's notice of institution. It concludes that because the record of the current reviews is sufficient for the Commission to reach its determinations and because there are no other circumstances that warrant full reviews, the Commission should conduct expedited reviews of the orders on imports of MCBs from China and Mexico.[5]

[5] *The Domestic Industry's Comments on the Adequacy of Responses to the Notice of Institution*, October 16, 2015, pp. 2-5.

Recent developments in the industry

According to domestic interested parties, there have been few developments in the industry since the original investigations. The developments that have occurred are generally tied to the steel industry.

- Steel production in China has been declining and will continue to decline, leading to continued export orientation in the MCB industry.[6]
- There is decreasing demand for MCBs in the United States as demand for steel continues to decrease.[7]

THE PRODUCT

Commerce's scope

Commerce has defined the subject merchandise as:

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 anti-oxidants 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).[8]

Description and uses[9]

MCBs are a refractory product made mostly from a combination of magnesia and carbon that provides thermal and corrosion resistance in operations involving high temperatures and harsh operating conditions. MCBs are produced in a large number of grades

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[6] *Domestic Interested Parties' Response to the Notice of Institution,* September 2, 2015, p. 14.

[7] *Domestic Interested Parties' Response to the Notice of Institution,* September 2, 2015, p. 23.

[8] *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances*, 75 FR 45468, August 2, 2010. Fedmet Resources Corp.'s Bastion® magnesia alumina carbon bricks ("MACBs") are outside the scope of the orders. *Certain Magnesia Carbon Bricks From the People's Republic of China and Mexico: Notice of Court Decision Not in Harmony with Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision*, 80 FR 34899, June 18, 2015. Duferco Steel Inc.'s tap hole sleeve systems are not within the scope of the orders. *Notice of Scope Rulings*, 78 FR 10111, May 30, 2013.

[9] Unless otherwise noted, this information is based on *Certain Magnesia Carbon Bricks From China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, pp. I-8 through I-10.

with different levels of magnesia, carbon, and various other ratios of additives depending upon the intended applications. The high carbon content of MCBs is achieved by adding pitch or graphite during production, which ultimately prevents liquid slag from penetrating and eroding the final product.

MCBs are considered the most durable refractory brick on the market for furnaces and ladle linings. MCBs are primarily used by the steel industry to line the lower sidewalls, upper sidewalls, slag lines, and roofs of ladles and ladle metallurgy furnaces involved in production and refining where there is direct contact with both molten steel and molten slag. Additionally, MCBs are used to line basic oxygen furnaces and for electric arc furnaces.

Manufacturing process[10]

Magnesia for MCBs comes from three sources: (1) naturally occurring magnesium carbonate (magnesite) mined from ore; (2) sea-water magnesium produced by firing magnesium hydroxide extracted from sea water; or (3) brine magnesia produced from high-salt concentration from deep water wells. The raw material can then be used to make sintered magnesia (magnesia heated to below its melting point to drive off water and carbon dioxide as well as to increase density. This is also referred to as "deadburned" magnesia or fused magnesia (magnesia heated to a melted state for an extended period before cooling).

After processing to produce sintered or fused magnesia, the magnesia is then crushed, ground, and screened. It is then mixed with other materials, including pitch, binders, carbon, and other metallic additives specific to the brick being made. When mixing is complete, the material is transported to a press for forming into individual custom-shaped bricks. Once the bricks are pressed they are heated in batch or tunnel ovens to set the resin binds.[11] Finally, the bricks are packaged for shipment.

U.S. tariff treatment

Based on information available to the Commission, MCBs have been imported under several provisions Harmonized Tariff Schedule of the United States ("HTS") depending on their mineral and chemical composition and the nature of processing they underwent. Subheading 6902.10.10 covers magnesite bricks containing by weight more than 50 percent of magnesium, calcium or chromium, and subheading 6902.10.50 covers other refractory products having the same specified chemical content thresholds (tiles, blocks, or similar goods other than magnesite

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[10] Unless otherwise noted, this information is based on *Certain Magnesia Carbon Bricks From China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, pp. I-10 through I-13.

[11] Magnesite brick, especially magnesium-chromium bricks, are largely chemically bound and not fired after forming. When exposed to high temperatures in service, the brick undergoes similar changes to those that fired brick would have experienced as the chemical bond burns away and the refractory particles become sintered together. Harbison-Walker Refractories Company, *Modern Refractory Practice*, *3rd ed.*, 1950, pp. 24-25.

bricks). These two tariff lines have general rates of duty of free and cover refractories that have been fired after shaping.[12] In addition, depending on the nature of each shipment, imports may be reported under subheading 6815.91.00, which covers a range of articles of mineral substances, not elsewhere specifically provided for, containing magnesite, dolomite or chromite, or subheading 6815.99.40, a residual provision for such articles of stone, mineral substances, carbon fibers, or peat. These two subheadings likewise have general duty rates of free.

During 2012, two new statistical reporting numbers were added to the HTS to gather separate import data for MCBs: 6815.91.0010, other articles of stone or mineral substances containing by weight more than 70 percent magnesia, and chemically bonded by resin or pitch; and 6815.99.4010, other articles of stone or of other mineral substances, not of talc, steatite and soapstone, containing by weight more than 70 percent magnesia and chemically bonded by resin or pitch. Both HTS statistical reporting numbers 6815.91.0010 and 6815.99.4010 cover goods that are chemically bonded as opposed to fired. MCBs may also be imported under HTS statistical reporting number 6810.11.0010, building blocks and bricks containing by weight more than 70 percent magnesia and chemically bonded by resin or pitch, which was established in 2014; subheading 6810.11.00 has a duty rate of 3.2 percent ad valorem.[13] MCBs may also be imported into the United States under two other provisions, HTS subheading 6810.19.50, other tiles, flagstones, bricks and similar articles, with a duty rate of 3.9 percent ad valorem; or statistical reporting number 6810.99.0080, other articles of cement, of concrete, or of artificial stone not elsewhere specified or included; subheadings 6810.19.50 and 6810.99.00 also have general duty rates of free. Both of these HTS provisions are residual or "basket" categories covering multiple products.[14]

The definition of the domestic like product and domestic industry

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. In its original determinations, the Commission defined the domestic like product as consisting of all MCBs that are within Commerce's scope[15] and it defined the domestic industry as all producers of MCBs.[16]

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[12] U.S. International Trade Commission, *U.S. Harmonized Tariff Schedule (2015) (Rev.1), Chapter 69, Note 1*, p. 69-1.

[13] Email from ***, October 8, 2015.

[14] *Certain Magnesia Carbon Bricks From China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, pp. I-6 through I-7; Memorandum ***, December 16, 2011, p. 9.

[15] *Certain Magnesia Carbon Bricks From China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, p. 7.

[16] *Certain Magnesia Carbon Bricks From China and Mexico*, *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, p. 8.

In its notice of institution for these reviews, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry. According to their response to the notice of institution, the domestic producers agree with the Commission's definitions.[17]

THE ORIGINAL INVESTIGATIONS

The original investigations resulted from petitions filed on July 29, 2009, with Commerce and the Commission by Resco alleging that the industry in the United States was materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of certain MCBs from China and by reason of LTFV imports of MCBs from Mexico.[18] Commerce made an affirmative determination with critical circumstances with regard to China[19] and an affirmative determination with regard to Mexico[20] on August 2, 2010. The Commission found that an industry in the United States was materially injured by reason of imports of MCBs from China that were sold in the United States at LTFV and subsidized by the Government of China, and of imports of MCBs from Mexico that were sold in the United States at LTFV. The Commission also determined that imports subject to Commerce's affirmative critical circumstances determination were not likely to undermine seriously the remedial effect of the antidumping duty order on China.[21] On September 8, 2010, the Commission notified Commerce of its final affirmative determinations.[22] On September 20, 2010, Commerce issued antidumping duty orders on imports of MCBs from China and Mexico[23] and, on September 21, 2010, Commerce issued a countervailing duty order on imports of MCBs from China.[24]

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[17] *Domestic Interested Parties' Response to the Notice of Institution,* September 2, 2015, p. 31.

[18] *Certain Magnesia Carbon Bricks From China and Mexico*, *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, p. I-1.

[19] *Certain Magnesia Carbon Bricks From The People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances*, 75 FR 45468, August 2, 2010.

[20] *Certain Magnesia Carbon Bricks from Mexico: Notice of Final Determination of Sales at Less Than Fair Value*, 75 FR 45097, August 2, 2010.

[21] Chairman Okun and Commissioners Pearson and Aranoff determined that an industry in the United States was threatened with material injury by reason of imports of MCBs from China and determined that an industry in the United States was not materially injured or threatened with material injury, or that the establishment of an industry in the United States was not materially retarded, by reason of imports from Mexico of MCBs. *Certain Magnesia Carbon Bricks From China and Mexico*, *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, p. 3.

[22] *Certain Magnesia Carbon Bricks From China and Mexico, Determinations*, 75 FR 56556, September 16, 2010.

[23] *Certain Magnesia Carbon Bricks From Mexico and the People's Republic of China: Antidumping Duty Orders*, 75 FR 57257, September 20, 2010.

[24] *Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order*, 75 FR 57442, September 21, 2010.

Commerce determined the weighted-average dumping margin to be 57.90 percent for Mexican producer/exporter RHI-Refmex S.A. de C.V. and all other producers and exporters in Mexico and determined the weighted-average dumping margin to be 128.10 percent for 14 producers/exporters examined in China and 236.00 percent for all other producers in China.[25] Commerce determined the net countervailable subsidy rate to be 253.87 percent *ad valorem* for Liaoning Mayerton Refractories and its affiliate Dalian Mayerton Refractories Co. Ltd. and 24.24 percent *ad valorem* for RHI Refractories Liaoning Co., Ltd. and its affiliate RHI Refractories (Dalian) Co., Ltd., as well as for all other exporters/manufacturers in China.[26]

PRIOR RELATED INVESTIGATIONS

MCBs have not been the subject of any prior related antidumping or countervailing duty investigations in the United States.

ACTIONS AT COMMERCE

Commerce has not made any duty absorption findings and has not conducted any anti-circumvention inquiries or changed circumstances reviews since the issuance of the orders.

Scope rulings

There have been two final scope rulings with respect to MCBs since the imposition of the orders in 2010. On May 30, 2013, Commerce published a final scope ruling noting that it had determined that Duferco Steel Inc.'s tap hole sleeve systems, whether assembled or disassembled, and sold or entered as a complete set, are outside the scope of the MCB orders because they do not meet the physical description of merchandise.[27] On May 22, 2015, the

[25] The 14 firms subject to the 128.10 percent margin are: RHI Refractories Liaoning Co., Ltd.; Dashiqiao City Guancheng Refractor Co., Ltd.; Fengchi Imp. And Exp. 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.; Yingkou Bayuquan Refractories Co., Ltd.; 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. *Certain Magnesia Carbon Bricks From Mexico and the People's Republic of China: Antidumping Duty Orders*, 75 FR 57257, September 20, 2010.

[26] *Certain Magnesia Carbon Bricks From the People's Republic of China: Countervailing Duty Order*, 75 FR 57442, September 21, 2010.

[27] Commerce noted that a tap hole sleeve system is composed of the following parts: (A) the tap hole sleeve unit, which may be one piece or segmented, (B) tap hole surround blocks, and (C) tap hole end blocks. Commerce also noted that any component parts of the tap hole sleeve system, such as end blocks or surround blocks, which meet the physical definition of the scope, if shipped separately, are covered by the scope of the order. *Notice of Scope Rulings*, 78 FR 10111, May 30, 2013.

U.S. Court of International Trade ("CIT") sustained the final redetermination issued by Commerce, in which it determined that Fedmet Resources Corp.'s ("Fedmet") Bastion® magnesia alumina carbon bricks ("MACBs") are outside the scope of the antidumping and countervailing duty orders on MCBs from China and Mexico, pursuant to the CIT's remand order.[28]

Section 129 proceedings

On July 20, 2015, the U.S. Trade Representative ("USTR") instructed Commerce to implement its determinations under section 129 of the Uruguay Round Agreements Act ("URAA") regarding the antidumping duty investigations on MCBs from China. The recalculated antidumping duty rates, as included in the final determinations ranged from 32.79 to 33.28 percent for producers/exporters in China.[29]

Administrative reviews

There have been no administrative reviews of the antidumping duty order on imports of MCBs from Mexico. Since the imposition of the antidumping duty order on imports of MCBs from China, Commerce has completed two administrative reviews for the following periods of

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[28] On May 3, 2011, Fedmet filed a request for a scope ruling claiming that its Bastion® MACBs were outside the scope of the orders. Commerce issued a final scope ruling on July 2, 2012, and found that Fedmet's Bastion® MACBs were included in the scope of the orders. Fedmet challenged Commerce's final scope ruling before the CIT. On May 30, 2013, the CIT sustained Commerce's analysis. Fedmet appealed the CIT's judgment to the CAFC. On June 20, 2014, in a divided decision, the CAFC reversed the CIT. On February 23, 2015, Commerce issued its final redetermination and found that, pursuant to the CAFC's decision and the CIT's subsequent remand order, Bastion® MACBs imported by Fedmet were not subject to the antidumping and countervailing duty orders. The CIT sustained the final redetermination on May 22, 2015. *Certain Magnesia Carbon Bricks From the People's Republic of China and Mexico: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision*, 80 FR 34899, June 18, 2015.

[29] *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Aluminum Extrusions From the People's Republic of China; Certain Circular Welded Carbon Quality Steel Line Pipe From the People's Republic of China; Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; Certain Magnesia Carbon Bricks From the People's Republic of China; Certain New Pneumatic Off-the-Road Tires From the People's Republic of China; Certain Oil Country Tubular Goods From the People's Republic of China; Certain Potassium Phosphate Salts from the People's Republic of China; Certain Steel Grating From the People's Republic of China; Certain Tow Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China; Circular Welded Austenitic Stainless Pressure Pipe From the People's Republic of China; Citric Acid and Certain Citrate Salts From the People's Republic of China; Lightweight Thermal Paper From the People's Republic of China; Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China; Prestressed Concrete Steel Wire Strand From the People's Republic of China; Raw Flexible Magnets From the People's Republic of China; Sodium Nitrite From the People's Republic of China*, 80 FR 45184, July 29, 2015.

review: March 12, 2010 – August 31, 2011 and September 1, 2012 – August 31, 2013. Commerce determined in both administrative reviews that the final weighted-average dumping margin was 236.00 percent for all producers in China.[30] Commerce also completed two separate administrative reviews of the countervailing duty order on imports of MCBs from China. For the period of review from August 2, 2010 to December 31, 2010, Commerce determined that the final subsidy rate was 262.80 percent *ad valorem* for Fengchi Imp. And Exp. Co., Ltd. of Haicheng City, Fengchi Refractories Co., of Haicheng City, and Yingkou Bayuquan Refractories Co. Ltd. and was 24.24 percent *ad valorem* for the remaining companies under review.[31] For the period of review from January 1, 2012 to December 31, 2012, Commerce determined that the final subsidy rate was 66.27 percent *ad valorem* for Fengchi Imp. And Exp. Co., Ltd. of Haicheng City, Fengchi Refractories Co., of Haicheng City, and Yingkou Bayuquan Refractories Co. Ltd. and was 24.24 percent *ad valorem* for the remaining companies under review.[32]

Current five-year review results

Commerce is currently conducting expedited five-year reviews with respect to the orders on imports of MCBs from China and Mexico and intends to issue the final results of these reviews based on the facts available not later than December 1, 2015.[33]

[30] *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 22230, April 15, 2013 (as corrected by *Certain Magnesia Carbon Bricks From the People's Republic of China: Notice of Correction to the Final Results of the 2010–2011 Antidumping Duty Administrative Review*, 78 FR 28194, May 14, 2013); and *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Results and Final Partial Rescission of the Antidumping Duty Administrative Review; 2012–2013*, 80 FR 19961, April 14, 2015.

[31] *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Results of and Final Partial Rescission of Countervailing Duty Administrative Review; 2010*, 78 FR 22235, April 15, 2013.

[32] *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Results and Final Rescission, in Part, of Countervailing Duty Administrative Review; 2012*, 79 FR 62101, October 16, 2014.

[33] Jim Doyle, Director, Office V, AD/CVD Operations, Enforcement and Compliance, Department of Commerce, International Trade Administration, letter to Catherine DeFilippo, September 21, 2015.

THE INDUSTRY IN THE UNITED STATES

U.S. producers

At the time of the original investigations, four firms (ANH Refractories Company ("ANH"), Magnesita, Resco, and TYK) accounted for all known U.S. production of MCBs.[34] In response to the Commission's notice of institution in these first five-year reviews, the domestic producers noted that, in early 2015, ANH changed its name to HarbisonWalker International.[35] They also reported that HarbisonWalker, Magnesita, Resco, and TYK remain the only known U.S. producers of MCBs today.[36]

Definition of the domestic industry and related parties issues

The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the domestic industry as all domestic producers of MCBs.[37] As was the case in the original investigations, there are currently four known domestic producers of MCBs.[38]

In the original investigations, the Commission reported that ANH was related to ***. ANH explained that ***.[39] In addition, the Commission reported in the original investigations that two U.S. producers (***) were direct importers of the subject merchandise from China. However, the Commission found that the primary interests of *** were in domestic production and determined that it was not appropriate to exclude them from the domestic industry as related parties.[40]

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[34] Three firms (ANH, Magnesita, and Resco) submitted questionnaire responses in the original investigations. These three firms accounted for *** percent of 2009 U.S. production of MCBs. *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, p. III-1.

[35] *Domestic Interested Parties' Response to the Notice of Institution,* September 2, 2015, exh. 1.

[36] *Domestic Interested Parties' Response to the Notice of Institution,* September 2, 2015, p. 29.

[37] *Certain Magnesia Carbon Bricks from China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, p. 7.

[38] *Domestic Interested Parties' Response to Notice of Institution,* September 2, 2015, p. 29 and exhs. 19 and 20.

[39] *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, table III-1.

[40] *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, p. III-9; and *Certain Magnesia Carbon Bricks from China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, pp. 7-8.

In their response to the notice of institution in these first five-year reviews, the domestic interested parties identified only one related party. They reported that Magnesita's affiliate, Magnesita Refractories (Dalian) Company Ltd. ("Magnesita Dalian"), manufactures MCBs in China. Both Magnesita and Magnesita Dalian are 100-percent owned by the same Brazilian parent company, Magnesita Reratarios, S.A. However, the domestic interested parties noted that, ***. Magnesita reported that, during 2014, it ***.[41] Magnesita's *** U.S. production of MCBs during 2014. The domestic interested parties claim that there are no other related parties that produce, export, or import subject MCBs.[42]

U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution of the current five-year reviews.[43] Table I-2 presents a compilation of the data submitted from all responding U.S. producers, as well as trade and financial data submitted by U.S. producers in the original investigations.

The responding U.S. producers claim that although the orders have been effective in restraining subject imports and facilitating improvement in the condition of the domestic industry, it remains vulnerable to material injury. Low demand conditions caused by declining steel production have left capacity utilization (*** percent in 2014) far below optimal levels needed to minimize per-unit fixed costs.[44]

[41] King & Spalding, Letter to Secretary Barton, October 13, 2015.
[42] *Domestic Interested Parties' Response to the Notice of Institution,* September 2, 2015, p. 29.
[43] Individual company trade and financial data are presented in app. B.
[44] *Domestic Interested Parties' Response to the Notice of Institution,* September 2, 2015, p. 28.

Table I-2

MCBs: Trade and financial data submitted by U.S. producers, 2007-2009, and 2014.

Item	2007	2008	2009	2014
Capacity (short tons)	114,241	114,241	114,241	134,529
Production (short tons)	73,552	72,258	49,997	86,553
Capacity utilization (percent)	64.4	63.3	43.8	64.3
U.S. commercial shipments:				
Quantity (short tons)	***	***	***	80,184
Value ($1,000)	***	***	***	114,284
Unit value (per short ton)	***	***	***	1,425
Internal consumption/company transfers:				
Quantity (short tons)	***	***	***	0
Value ($1,000)	***	***	***	0
Unit value (per pound)	***	***	***	0
Total U.S. shipments:				
Quantity (short tons)	59,403	63,789	42,243	80,184
Value ($1,000)	62,611	76,612	53,933	114,284
Unit value (per short ton)	1,054	1,201	1,277	1,425
Net sales ($1,000)	***	***	***	***
COGS ($1,000)	***	***	***	***
COGS/net sales (percent)	***	***	***	***
Gross profit or (loss) ($1,000)	***	***	***	***
SG&A expenses (loss) ($1,000)	***	***	***	***
Operating income (loss) ($1,000)	***	***	***	***
Operating income (loss)/net sales (percent)	***	***	***	***

Source: For the years 2007-09, data are compiled using data submitted in the Commission's original investigations . *See app. C*. For the year 2014, data are compiled using data submitted by domestic interested parties . *Domestic Interested Parties' Response to the Notice of Institution*, September 2, 2015, exh. 19.

U.S. IMPORTS AND APPARENT CONSUMPTION

U.S. importers

In the final phase of the original investigations, the Commission issued questionnaires to 27 firms believed to be importers of subject MCBs, as well as to all U.S. producers of MCBs. Usable questionnaire responses were received from 12 companies, representing 60 percent of total imports from China and 100 percent of total imports from Mexico. *** was the largest importer overall and was the largest importer of subject MCBs from China (29.4 percent) and Mexico (100 percent).[45] *** was the second largest importer of MCBs from the subject countries during the original investigations, accounting for *** percent of 2009 imports of MCBs from China.[46] However, *** claimed to have imported no MCBs from China during 2014. In their response to the Commission's notice of institution in these reviews, domestic producers provided a list of 16 known and currently operating U.S. importers of MCBs from China and Mexico.[47]

U.S. imports

In its original investigations, the Commission's report based its presentation of imports on the responses to Commission questionnaires. It explained that MCBs were classified in the HTS under subheadings 6815.91.00, 6815.99.00, 6902.10.10, and 6902.10.50, which are residual or "basket" subheadings covering MCBs, as well as other products.[48]

The HTS continues to classify MCBs under various different "basket" subheadings that cover the subject merchandise, as well as other refractory products.[49] Within the relevant HTS statistical reporting number, very few import duties have been paid since the imposition of the orders. From 2009 through 2014, *** short tons (out of 188,865 total short tons imported from China and Mexico) were dutied imports. Drawing only on the aggregate import data for HTS statistical reporting number 6902.10.1000, it is difficult to reach conclusions regarding subject MCB imports separate from the larger group of nonsubject imports. In general, imports from China and Mexico appear to have decreased within this larger group of imports.

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[45] *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, p. IV-1 and table IV-1.

[46] Ibid., table IV-1.

[47] *Domestic Interested Parties' Response to the Notice of Institution*, September 2, 2015, exh. 21.

[48] *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, p. IV-3.

[49] As indicated in the section of this report titled "U.S. tariff treatment," MCBs can be classified under HTS statistical reporting numbers 6810.11.0010, 6810.19.5000, 6810.99.0080, 6815.91.0010, 6815.99.4010, 6902.10.1000, and 6902.10.5000. Although all of the numbers are considered basket categories in that they contain both subject and nonsubject merchandise, the most relevant number for purposes of presentation of imports in this report is 6902.10.1000.

Table I-3 presents the quantity, value, and unit value for imports from China (subject), Mexico (subject), as well as the top nonsubject sources for select U.S. imports entering under HTS statistical reporting number 6902.10.1000 during 2010-14.[50] These data show that U.S. imports from China fell from *** short tons (***) in 2010 to *** short tons (***) in 2013, before increasing to *** short tons (***) in 2014. U.S. imports from Mexico likewise fell from *** in 2010 to *** in 2014. China accounted for the largest share of total imports during 2010-14. During 2014, China accounted for *** percent of total imports. Mexico accounted for a much smaller share of total imports, accounting for only *** percent of total imports during 2014. Nonsubject imports, which accounted for *** percent of total imports during 2014, fell from 2010 to 2014.

[50] The U.S. import data for subject countries presented in this report are compiled using *** filtered to include only companies identified as importers of MCBs by the domestic interested parties in their response to the Commission's notice of institution for HTS statistical reporting number 6902.10.1000. Named importers of MCBs had no recorded imports from subject or nonsubject countries under HTS statistical reporting number 6815.91.0010 (the next most relevant HTS number). The domestic producers named the following firms as importers: Anker Industries, ArcelorMittal USA Inc., Fedmet Resources Corp., Gerdau Ameristeel Corp., Krosaki USA Inc., Mayerton Refractories (USA) LLC, McKeown International Inc., Nucor Corp., ORIND, USA Inc., Refratechnik North America, Inc., SS Intersource, LLC, Steel Flow Corp., U.S. Steel, Veitsch Radex America, Vesuvius USA, and Y.A.S., Inc.

Table I-3
MCBs: U.S. imports, 2010-14

Item	2010	2011	2012	2013	2014
	Quantity (short tons)				
China (subject)	***	***	***	***	***
Mexico (subject)	***	***	***	***	***
Subtotal, subject	38,760	16,105	12,300	9,888	11,276
Austria	***	***	***	***	***
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
Germany	***	***	***	***	***
All other nonsubject imports	***	***	***	***	***
Subtotal, nonsubject	13,025	8,216	9,144	9,027	8,573
Total imports	51,785	24,321	21,444	18,915	19,849
	Landed, duty-paid value ($1,000)[1]				
China (subject)	***	***	***	***	***
Mexico (subject)	***	***	***	***	***
Subtotal, subject	32,064	15,324	12,039	9,104	10,940
Austria	***	***	***	***	***
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
Germany	***	***	***	***	***
All other nonsubject imports	***	***	***	***	***
Subtotal, nonsubject	16,392	10,707	11,143	10,485	9,427
Total imports	48,456	26,031	23,182	19,569	20,366
	Unit value (dollars per short ton)				
China (subject)	***	***	***	***	***
Mexico (subject)	***	***	***	***	***
Subtotal, subject	827	952	979	921	970
Austria	***	***	***	***	***
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
Germany	***	***	***	***	***
All other nonsubject imports	***	***	***	***	***
Subtotal, nonsubject	1,259	1,303	1,219	1,162	1,100
Total imports	936	1,070	1,081	1,035	1,026

Table continued on following page.

Table I-3--*Continued*
MCBs: U.S. imports, 2010-14

Item	2010	2011	2012	2013	2014
	Share of quantity (percent)				
China (subject)	***	***	***	***	***
Mexico (subject)	***	***	***	***	***
Subtotal, subject	74.8	66.2	54.4	52.3	56.8
Austria	***	***	***	***	***
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
Germany	***	***	***	***	***
All other nonsubject imports	***	***	***	***	***
Subtotal, nonsubject	25.2	33.8	42.6	47.7	43.2
Total imports	100.0	100.0	100.0	100.0	100.0
	Share of value (percent)				
China (subject)	***	***	***	***	***
Mexico (subject)	***	***	***	***	***
Subtotal, subject	66.2	58.9	51.9	46.5	53.7
Austria	***	***	***	***	***
Brazil	***	***	***	***	***
Canada	***	***	***	***	***
Germany	***	***	***	***	***
All other nonsubject imports	***	***	***	***	***
Subtotal, nonsubject	33.8	41.1	48.1	53.6	46.3
Total imports	100.0	100.0	100.0	100.0	100.0

[1] Landed, duty-paid values include all normal duties paid and customs fees but do not include any antidumping duties paid.
[2] ***.

Note.--Because of rounding, figures may not add to totals shown.

Source: U.S. imports are compiled *** filtered to include companies identified as importers of MCBs by the domestic interested parties in their response to the Commission's notice of institution for HTS statistical reporting number 6902.10.1000. Named importers of MCBs had no recorded imports from subject or nonsubject countries under HTS statistical reporting number 6815.91.0010. Nevertheless, U.S. import data based on *** may be overstated by the amount of nonsubject merchandise included in the imports by the named importers.

Apparent U.S. consumption and market shares

Table I-4 presents data on U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, while table I-5 presents data on U.S. market shares of U.S. apparent consumption. U.S. producers' U.S. shipments have risen markedly since 2009, nearly doubling in quantity output and more than doubling in value. Over the same time, imports from China have fallen by *** percent in quantity and *** percent in value. Imports from Mexico have dropped *** percent in quantity and *** percent in value.

Table I-4
MCBs: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 2007-09, and 2014

Item	2007	2008	2009	2014
	Quantity (short tons)			
U.S. producers' U.S. shipments	59,403	63,789	42,243	80,184
U.S. imports from—				
China (subject)	***	***	***	***
Mexico (subject)	***	***	***	***
Subtotal, subject	***	***	***	11,276
All other	***	***	***	8,573
Total imports	***	***	***	19,849
Apparent U.S. consumption	***	***	***	100,033
	Value (1,000 dollars)			
U.S. producers' U.S. shipments	62,611	76,612	53,933	114,284
U.S. imports from—				
China (subject)	***	***	***	***
Mexico (subject)	***	***	***	***
Subtotal, subject	***	***	***	10,940
All other	***	***	***	9,427
Total imports	***	***	***	20,366
Apparent U.S. consumption	***	***	***	134,650

Source: For the years 2007-09, data presented are compiled using U.S. shipments of imports and U.S. producers' U.S. shipments from questionnaire data submitted in the Commission's original investigations. *See app. C*. For the year 2014, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution. U.S. imports are compiled using *** filtered to include companies identified as importers of MCBs by the domestic interested parties in their response to the Commission's notice of institution for HTS statistical reporting number 6902.10.1000. Nevertheless, apparent U.S. consumption data based on *** for the year 2014 may be overstated by the amount of nonsubject merchandise included in the imports by the named importers.

Table I-5
MCBs: Apparent U.S. consumption and U.S. market shares, 2007-09, and 2014

Item	2007	2008	2009	2014
	Quantity (short tons)			
Apparent U.S. consumption	***	***	***	100,033
	Value (1,000 dollars)			
Apparent U.S. consumption	***	***	***	134,650
	Share of consumption based on quantity (*percent*)			
U.S. producer's share	***	***	***	80.2
U.S. imports from--				
China (subject)	***	***	***	***
Mexico (subject)	***	***	***	***
Subtotal, subject	***	***	***	11.3
All other sources	***	***	***	8.6
Total imports	***	***	***	19.8
	Share of consumption based on value (*percent*)			
U.S. producer's share	***	***	***	84.9
U.S. imports from--				
China (subject)	***	***	***	***
Mexico (subject)	***	***	***	***
Subtotal, subject	***	***	***	8.1
All other sources	***	***	***	7.0
Total imports	***	***	***	15.1

Source: For the years 2007-09, data presented are compiled using U.S. shipments of imports and U.S. producers' U.S. shipments from questionnaire data submitted in the Commission's original investigations. *See app. C*. For the year 2014, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution. U.S. imports are compiled using *** filtered to include companies identified as importers of MCBs by the domestic interested parties in their response to the Commission's notice of institution for HTS statistical reporting number 6902.10.1000. Nevertheless, apparent U.S. consumption data based on *** for the year 2014 may be overstated by the amount of nonsubject merchandise included in the imports by the named importers.

CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical markets, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Additional information concerning geographical markets and simultaneous presence in the market is presented below.[51]

Presence in the market

Table I-7 presents data on the number of monthly entries of U.S. imports of MCBs, by source, during 2010-14. As the table shows, MCBs were imported from China during every month from January 2010 to December 2014. MCBs produced in Mexico entered the United States during *** from January 2010 to 2012, but were imported into the United States in *** of 2013 and *** of 2014.

Table I-7
MCBs: U.S. imports, monthly entries into the United States, by sources, 2010-14

Country	Calendar year				
	2010	2011	2012	2013	2014
China	12	12	12	12	12
Mexico	***	***	***	***	***

Source: Compiled from ***for companies identified as importers of MCBs by the domestic interested parties in their response to the Commission's notice of institution for HTS statistical reporting number 6902.10.1000.

[51] In addition, available information concerning subject country producers and the global market is presented in the next section of this report.

Geographical markets

MCBs produced in the United States are shipped nationwide. Information summarizing the geographic areas to which imported MCBs enter the United States is presented in table I-6.

Table I-6
MCBs: U.S. imports from subject countries, by Customs district, January 2010-December 2014

* * * * * * *

Source: Compiled from ******* for companies identified as importers of MCBs by the domestic interested parties in their response to the Commission's notice of institution for HTS statistical reporting number 6902.10.1000.

THE INDUSTRY IN CHINA

During the final phase of the original investigations, the Commission issued foreign producer/exporter questionnaires to 35 Chinese firms that were listed in the petition as producing MCBs in China. The Commission received a response from seven firms. The responding firms reported that they accounted for *** percent of Chinese export shipments to the United States in 2009, and *** percent of China's 2008 MCB capacity. They responded that at the time, the majority of the Chinese MCB industry was not export-oriented due to China's large and growing steel industry.[52]

The Commission did not receive any responses to the notice of institution in these first five-year reviews from foreign producers or exporters of MCBs. The domestic producers of MCBs provided a list of 36 firms that they believe currently produce MCBs in China.[53] In their response to the notice of institution, domestic interested parties presented a prospectus from the website of the Association of China Refractories Industry claiming that Chinese refractory producers are "very severely over-capacitated" and export to more than 150 countries throughout the world.[54] Domestic interested parties claim that this over capacity, along with the undervaluation of its currency, has led to a highly export-oriented refractory materials production sector in China.[55] There have also been a number of Chinese firms that have expanded their capacity since the orders were imposed.[56]

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[52] *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, p. VII-3.

[53] *Domestic Interested Parties' Response to the Notice of Institution*, September 2, 2015, exh. 22.

[54] Ibid., p. 12.

[55] Ibid., p. 13.

[56] Ibid., p. 16.

THE INDUSTRY IN MEXICO

There is reportedly only one producer of MCBs in Mexico: RHI-Refmex S.A. de D. V. ("Refmex"). In the original investigations, the Commission received a response from Refmex, which accounted for 100 percent of Mexican production and approximately 100 percent of Mexican exports during 2009.[57] In their response to the Commission's notice of institution in these first five-year reviews, the domestic interested parties claim that Refmex has underutilized capacity as well as the ability to divert shipments from third countries to the United States if the order is lifted. They also claim that Refmex is able to quickly shift production from nonsubject merchandise to subject merchandise, leading to the possibility of an increase in volume of MCB exports to the United States.[58]

ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

During the original investigations, Chinese MCBs were subject to existing antidumping duty orders in the European Union and Turkey.[59] The European Union allowed its antidumping duty order against MCBs from China to lapse in 2011 and returned duties collected from October 2010 forward. In their response to the Commission's notice of institution in these first five-year review of the orders, the domestic interested parties report current antidumping measures in place in Brazil and Turkey for refractory bricks (including MCBs) imported from China and antidumping measures in place in Brazil for refractory bricks (including MCBs) imported from Mexico.[60]

THE GLOBAL MARKET[61]

In addition to the United States, China, and Mexico, MCBs are produced in Europe and Brazil. RHI AG, the world's second largest manufacturer of heat-resistant refractory products,[62] currently operates two MCB production plants in Austria at Veitsch and Carinthia. In 2013, RHI announced that it would close a third MCB plant in Duisburg, Germany due to anticipated low

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[57] *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, p. VII-7.

[58] *Domestic Interested Parties' Response to the Notice of Institution*, September 2, 2015, pp. 16-17.

[59] *Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico—Staff Report*, INV-HH-080, August 13, 2010, p. VII-12.

[60] *Domestic Interested Parties' Response to the Notice of Institution*, September 2, 2015, exhs. 15-17.

[61] Unless otherwise noted, this information is based on *Certain Magnesia Carbon Bricks From China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final)*, USITC Publication 4182, September 2010, p. VII-8.

[62] RHI AG, "A World Leader in Refractories Technology," powerpoint presentation, p. 3.

European growth rates and steel market declines.[63] A second company, Refratechnik Cement GmbH produces MCBs in Gottingen, Germany and lastly, Magnesita produces MCBs in both Germany and Brazil.

Table I-8 presents the largest global export sources of certain refractory products (6902.10) during 2010-14. HS 6902.10, refractory bricks containing by weight more than 50 percent of the elements magnesium, calcium, or chromium, is significantly broader than the subject HTS codes, which are themselves basket categories, and therefore contains many nonsubject articles. However, China is by far the largest global exporter of these products in terms of volume, exporting nearly five times more than the second largest exporter, Germany, in every year from 2010 to 2014.

[63] RHI AG, "RHI Adapts European Plant Structure to Long-Term Demand Situation," May 3, 2013. http://www.rhi-ag.com/internet_en/investor_relations_en/22432/03.05.13_-_Duisburg.html (Accessed October 9, 2015).

Table I-8

Certain refractory products: Global exports by major sources, 2010-14[1]

Country	2010	2011	2012	2013	2014
	Quantity (short tons)				
China	1,062,740	1,155,463	1,186,428	1,134,163	1,100,897
Germany	204,849	269,289	240,370	259,404	258,172
Austria	198,081	205,769	183,621	173,074	172,505
France	101,879	111,573	91,493	99,664	90,008
Turkey	53,469	76,848	67,973	63,707	62,384
USA[2]	39,057	46,050	54,058	59,556	57,150
Poland	43,805	47,635	46,592	53,317	52,306
Russia	41,818	23,075	21,920	42,779	45,724
Brazil	35,676	31,659	32,993	33,349	38,896
India	61,542	42,863	31,211	21,440	30,288
All other	218,404	208,876	204,240	186,923	190,531
Total[2]	2,105,379	2,219,100	2,160,900	2,127,377	2,098,861

[1] Exports are of HS 6902.10 (fired refractory bricks, blocks and tiles containing by weight more than 50 percent magnesium, calcium, or chromium). Consequently, the volume of exports presented is overstated for subject MCBs.

[2] Sums do not include items reported in quantities that could not be converted to weight.

Note.--Because of rounding, figures may not add to total shown.

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 6902.10 (accessed October 21, 2015).

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
80 FR 45945 August 3, 2015	*Magnesia Carbon Bricks from China and Mexico; Initiation of a Five-Year Review*	http://www.gpo.gov/fdsys/pkg/FR-2015-08-03/pdf/2015-18977.pdf
80 FR 46050 August 3, 2015	*Magnesia Carbon Bricks from China and Mexico: Institution of Five-Year Reviews*	http://www.gpo.gov/fdsys/pkg/FR-2015-08-03/pdf/2015-18818.pdf
80 FR 49267 August 17, 2015	*Certain Magnesia Carbon Bricks from China and Mexico; Correction to Notice of Institution of Five-Year Review*	http://www.gpo.gov/fdsys/pkg/FR-2015-08-17/pdf/2015-20216.pdf

APPENDIX B

COMPANY-SPECIFIC DATA

RESPONSE CHECKLIST FOR U.S. PRODUCERS

Item	HarbisonWalker	Magnesita Refractories	Resco Products	Total (Magnesia Carbon Bricks Fair Trade Committee)
	Quantity=short tons; value=1,000 dollars; Unit values, unit labor costs, and unit financial data are per pound			
Nature of operation	***	***	***	✓
Statement of intent to participate	***	***	***	✓
Statement of likely effects of revoking the order	***	***	***	✓
U.S. producer list	***	***	***	✓
U.S. importer/foreign producer list	***	***	***	✓
List of 3-5 leading purchasers	***	***	***	✓
List of sources for national/regional prices	***	***	***	✓
Production:				
Quantity	***	***	***	86,553
Percent of total reported	***	***	***	100.0
Capacity	***	***	***	134,529
Commercial shipments:				
Quantity	***	***	***	80,183
Value	***	***	***	114,284
Internal consumption:				
Quantity	***	***	***	0
Value	***	***	***	0
Net sales	***	***	***	***
COGS	***	***	***	***
Gross profit or (loss)	***	***	***	***
SG&A expenses (loss)	***	***	***	***
Operating income/(loss)	***	***	***	***
Changes in supply/demand	***	***	***	***

Note.—The production, capacity, and shipment data presented are for calendar year 2014. The financial data are for fiscal year ended 2014.

✓ = response provided.

APPENDIX C

SUMMARY DATA COMPILED IN ORIGINAL INVESTIGATIONS

Table C-1
MCB: Summary data concerning the U.S. market, 2007-09, January-March 2009, and January-March 2010

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

	Reported data					Period changes			
				January-March					Jan.-March
Item	2007	2008	2009	2009	2010	2007-09	2007-08	2008-09	2009-10
U.S. consumption quantity:									
Amount	96,184	105,354	80,775	17,745	26,541	-16.0	9.5	-23.3	49.6
Producers' share (1)	61.8	60.5	52.3	50.7	57.3	-9.5	-1.2	-8.3	6.6
Importers' share (1):									
China	32.6	36.2	41.0	45.2	38.4	8.3	3.5	4.8	-6.7
Mexico	1.8	1.7	4.3	3.5	3.6	2.5	-0.2	2.6	0.1
Subtotal	34.5	37.8	45.3	48.6	42.0	10.8	3.4	7.4	-6.6
All other sources	3.8	1.6	2.5	0.7	0.7	-1.3	-2.2	0.8	-0.0
Total imports	38.2	39.5	47.7	49.3	42.7	9.5	1.2	8.3	-6.6
U.S. consumption value:									
Amount	94,995	115,592	93,665	20,391	30,722	-1.4	21.7	-19.0	50.7
Producers' share (1)	65.9	66.3	57.6	56.7	60.1	-8.3	0.4	-8.7	3.4
Importers' share (1):									
China	28.6	30.7	36.0	39.4	36.1	7.4	2.2	5.2	-3.3
Mexico	1.6	1.5	4.0	3.3	3.1	2.3	-0.1	2.5	-0.2
Subtotal	30.2	32.2	39.9	42.7	39.2	9.7	2.0	7.7	-3.4
All other sources	3.9	1.5	2.5	0.7	0.7	-1.4	-2.4	1.0	0.1
Total imports	34.1	33.7	42.4	43.3	39.9	8.3	-0.4	8.7	-3.4
U.S. shipments of imports from:									
China:									
Quantity	31,387	38,103	33,090	8,013	10,198	5.4	21.4	-13.2	27.3
Value	27,155	35,542	33,676	8,028	11,092	24.0	30.9	-5.3	38.2
Unit value	$865	$933	$1,018	$1,002	$1,088	17.6	7.8	9.1	8.6
Ending inventory quantity	20,677	21,958	21,137	19,353	17,008	2.2	6.2	-3.7	-12.1
Mexico:									
Quantity	1,760	1,750	3,462	613	955	96.7	-0.6	97.8	55.8
Value	1,529	1,702	3,706	671	958	142.4	11.3	117.7	42.8
Unit value	$869	$973	$1,070	$1,095	$1,003	23.2	12.0	10.1	-8.4
Ending inventory quantity	1,280	1,470	1,358	1,905	1,561	6.1	14.8	-7.6	-18.1
Subtotal:									
Quantity	33,147	39,853	36,552	8,626	11,153	10.3	20.2	-8.3	29.3
Value	28,684	37,244	37,382	8,699	12,050	30.3	29.8	0.4	38.5
Unit value	$865	$935	$1,023	$1,008	$1,080	18.2	8.0	9.4	7.1
Ending inventory quantity	21,957	23,428	22,495	21,258	18,569	2.4	6.7	-4.0	-12.6
All other sources:									
Quantity	3,634	1,712	1,980	130	190	-45.5	-52.9	15.7	46.2
Value	3,700	1,736	2,350	134	223	-36.5	-53.1	35.4	66.4
Unit value	$1,018	$1,014	$1,187	$1,031	$1,174	16.6	-0.4	17.0	13.9
Ending inventory quantity	1,816	1,251	665	1,193	2,126	-63.4	-31.1	-46.8	78.2
All sources:									
Quantity	36,781	41,565	38,532	8,756	11,343	4.8	13.0	-7.3	29.5
Value	32,384	38,980	39,732	8,833	12,273	22.7	20.4	1.9	38.9
Unit value	$880	$938	$1,031	$1,009	$1,082	17.1	6.5	10.0	7.3
Ending inventory quantity	23,773	24,679	23,160	22,451	20,695	-2.6	3.8	-6.2	-7.8

Table continued on next page.

Table C-1--Continued
MCB: Summary data concerning the U.S. market, 2007-09, January-March 2009, and January-March 2010

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

	Reported data					Period changes			
				January-March					Jan.-March
Item	2007	2008	2009	2009	2010	2007-09	2007-08	2008-09	2009-10
U.S. producers':									
Average capacity quantity	114,241	114,241	114,241	28,585	28,585	0.0	0.0	0.0	0.0
Production quantity	73,552	72,258	49,997	9,485	17,286	-32.0	-1.8	-30.8	82.2
Capacity utilization (1)	64.4	63.3	43.8	33.2	60.5	-20.6	-1.1	-19.5	27.3
U.S. shipments:									
Quantity	59,403	63,789	42,243	8,989	15,198	-28.9	7.4	-33.8	69.1
Value	62,611	76,612	53,933	11,558	18,449	-13.9	22.4	-29.6	59.6
Unit value	$1,054	$1,201	$1,277	$1,286	$1,214	21.1	13.9	6.3	-5.6
Export shipments:									
Quantity	15,101	9,178	6,503	990	2,211	-56.9	-39.2	-29.1	123.4
Value	14,549	10,340	7,331	1,234	2,713	-49.6	-28.9	-29.1	119.9
Unit value	$963	$1,127	$1,127	$1,247	$1,227	17.0	16.9	0.1	-1.6
Ending inventory quantity	8,042	7,334	8,585	6,840	8,461	6.7	-8.8	17.1	23.7
Inventories/total shipments (1)	10.8	10.1	17.6	17.1	12.1	6.8	-0.7	7.6	-5.0
Production workers	110	102	92	83	112	-16.2	-7.2	-9.8	35.3
Hours worked (1,000s)	239	227	179	39	62	-25.1	-5.0	-21.1	59.0
Wages paid ($1,000s)	6,441	6,420	5,200	1,102	1,823	-19.3	-0.3	-19.0	65.4
Hourly wages	$26.95	$28.28	$29.05	$28.26	$29.40	7.8	4.9	2.7	4.1
Productivity (tons/1,000 hours)	307.7	318.3	279.3	243.2	278.8	-9.2	3.4	-12.3	14.6
Unit labor costs	$87.57	$88.85	$104.01	$116.18	$105.46	18.8	1.5	17.1	-9.2
Net sales:									
Quantity	74,504	72,968	48,746	9,979	17,410	-34.6	-2.1	-33.2	74.5
Value	77,163	86,952	61,264	12,793	21,162	-20.6	12.7	-29.5	65.4
Unit value	$1,036	$1,192	$1,257	$1,282	$1,216	21.4	15.1	5.5	-5.2
Cost of goods sold (COGS)	60,290	71,816	50,057	10,213	16,267	-17.0	19.1	-30.3	59.3
Gross profit or (loss)	16,873	15,136	11,207	2,580	4,895	-33.6	-10.3	-26.0	89.7
SG&A expenses	11,644	12,496	9,191	2,265	2,601	-21.1	7.3	-26.4	14.8
Operating income or (loss)	5,229	2,640	2,016	315	2,294	-61.4	-49.5	-23.6	628.3
Capital expenditures	1,138	333	344	48	362	-69.8	-70.7	3.2	654.2
Unit COGS	$809	$984	$1,027	$1,024	$934	26.9	21.6	4.3	-8.7
Unit SG&A expenses	$156	$171	$189	$227	$149	20.6	9.6	10.1	-34.2
Unit operating income or (loss)	$70	$36	$41	$32	$132	-41.1	-48.4	14.3	317.4
COGS/sales (1)	78.1	82.6	81.7	79.8	76.9	3.6	4.5	-0.9	-3.0
Operating income or (loss)/ sales (1)	6.8	3.0	3.3	2.5	10.8	-3.5	-3.7	0.3	8.4

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX D

PURCHASER QUESTIONNAIRE RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following three firms as the top purchasers of magnesia carbon bricks: ***. Purchaser questionnaires were sent to these three firms and two firms (***) provided responses which are presented below.

1. a.) Have any changes occurred in technology; production methods; or development efforts to produce magnesia carbon bricks that affected the availability of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico since 2010?

   b.) Do you anticipate any changes in technology; production methods; or development efforts to produce magnesia carbon bricks that will affect the availability of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.

2. a.) Have any changes occurred in the ability to increase production of magnesia carbon bricks (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico since 2010?

   b.) Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Additional *** brick production capacity out of Vietnam (Samwha and PRC) started in 2012.	Additional *** brick production capacity out of Vietnam (Samwha and PRC) started in 2012.
***	No.	No.

3. a.) Have any changes occurred in factors related to the ability to shift supply of magnesia carbon bricks among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico since 2010?

   b.) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Due to currency exchange rate factors, we are shifting much of our *** brick supply to product from Brazil. In addition, we're getting highly competitive offers from Russia manufactured products - starting in the 2nd Half of 2014 and continuing.	Currency exchange rate factors are having a significant influence on making imported bricks from countries other than China and/or Mexico more competitive than USA manufactured products.
***	No.	No.

4. a.) Have there been any changes in the end uses and applications of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico since 2010?

   b.) Do you anticipate any changes in the end uses and applications of magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.

5. a.) Have there been any changes in the existence and availability of substitute products for magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico since 2010?

   b.) Do you anticipate any changes in the existence and availability of substitute products for magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.

6. a.) Have there been any changes in the level of competition between magnesia carbon bricks produced in the United States, magnesia carbon bricks produced in China and Mexico, and such merchandise from other countries in the U.S. market or in the market for magnesia carbon bricks in China and Mexico since 2010?

   b.) Do you anticipate any changes in the level of competition between magnesia carbon bricks produced in the United States, magnesia carbon bricks produced in China and Mexico, and such merchandise from other countries in the U.S. market or in the market for magnesia carbon bricks in China and Mexico within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Availability of *** bricks from low cost country (LCC) source (Vietnam) plus increased use of brick from Brazil due to currency exchange rate changes.	Availability of *** bricks from low cost country (LCC) source (Vietnam) plus increased use of brick from Brazil due to currency exchange rate changes.
***	Since the U.S. International Trade	No.

	Commission imposed the orders under consideration, *** has shifted some of its purchase of the subject product to producers outside of China and Mexico, including the U.S. and Japanese producers.	

7. a.) Have there been any changes in the business cycle for magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico since 2010?

   b.) Do you anticipate any changes in the business cycle for magnesia carbon bricks in the U.S. market or in the market for magnesia carbon bricks in China and Mexico within a reasonably foreseeable time?

Purchaser	**Changes that have occurred**	**Anticipated changes**
***	Imports of steel products over the last two years have reduced our USA steel making operating rates and, in conjunction, reduced the level of consumption of *** bricks in the USA.	Potential anti-dumping duties on finished steel products that may result from the USA claims currently being filed and investigated. Duties could begin in the 4th Quarter of 2015, which would increase USA steel making operating rates and *** brick consumption.
***	No.	No.