Certain Magnesia Carbon Bricks from China and Mexico

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

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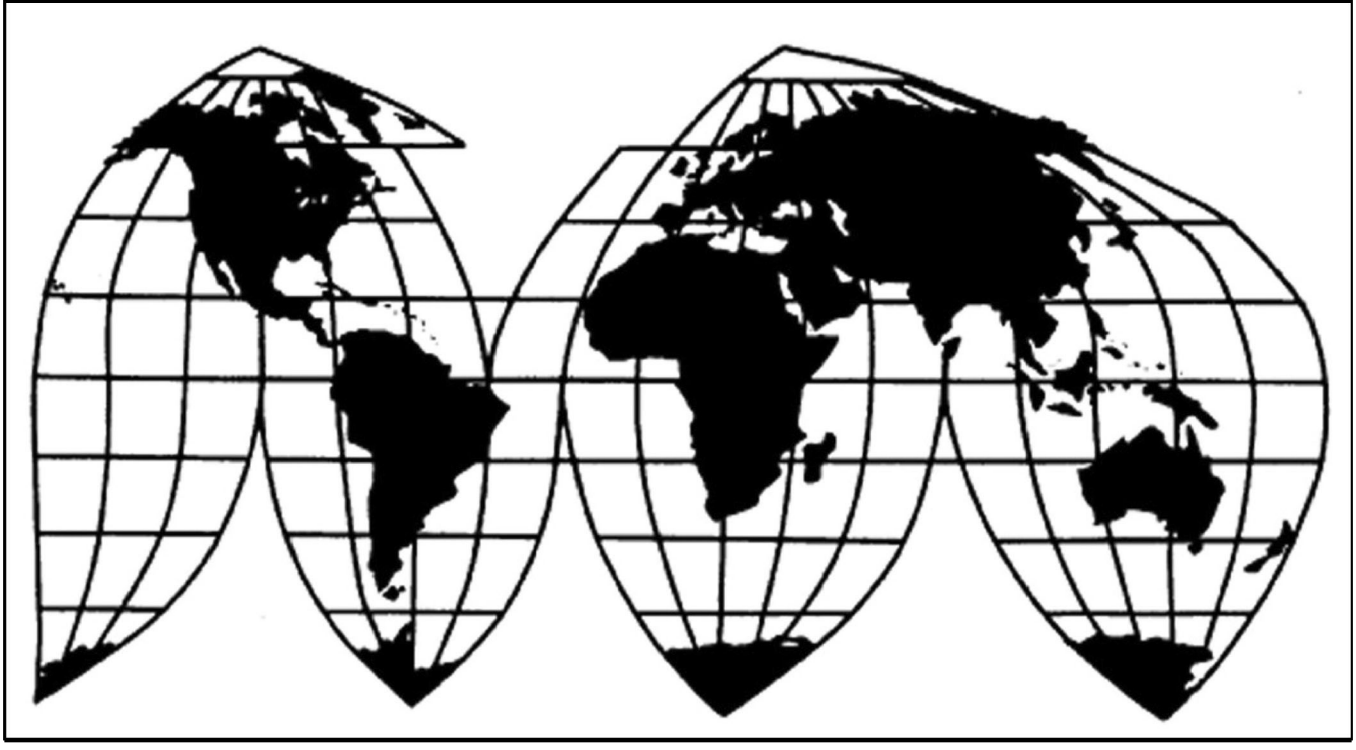

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Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

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Note: Information that would reveal confidential operations of individual concerns may not be published. Such information is identified by brackets or by headings in confidential reports and is deleted and replaced with asterisks in public reports.

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

Certain Magnesia Carbon Bricks from China and Mexico

DETERMINATION

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 ("the Act"), 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 instituted these reviews on January 4, 2021 (86 FR 126) and determined on April 9, 2021 that it would conduct expedited reviews (86 FR 36770, July 13, 2021).

[1] The record is defined in § 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 certain magnesia carbon bricks ("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.

I. Background

Original Investigations. The Commission instituted the original investigations on July 29, 2009, based on petitions filed 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] The U.S. Department of Commerce ("Commerce") issued antidumping duty orders on MCBs from China and Mexico and a countervailing duty order on imports of MCBs from China in September 2010.[3]

First Reviews. The Commission instituted the first reviews on August 3, 2015.[4] After conducting expedited reviews,[5] in January 2016 the Commission determined that revocation of the antidumping duty orders on China and Mexico and the countervailing duty order on China would be likely to lead to the continuation or recurrence of material injury to an industry in the

[1] *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*") at 1.

[2] *Original Determinations*, USITC Pub. 4182 at 3. In the original investigations, Commissioners Lane, Pinkert, and Williamson made an affirmative present material injury determination with respect to cumulated imports from China and Mexico while 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 3 nn.1 and 2, 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); *Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order*, 75 Fed. Reg. 57442 (Sept. 21, 2010).

[4] *Certain Magnesia Carbon Bricks from China and Mexico*, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Review), USITC Pub. 4589 (Jan. 2016) ("*First Reviews*") at 3.

[5] *First Reviews*, USITC Pub. 4589 at 3–4.

United States within a reasonably foreseeable time.[6] Commerce subsequently published continuations of the orders in February 2016.[7]

Current Reviews. The Commission instituted these second reviews on January 4, 2021.[8] The sole response to the Commission's notice of institution was filed on behalf of the Magnesia Carbon Bricks Fair Trade Committee ("the Committee"), an ad hoc association comprising three domestic producers of MCBs: Resco, Magnesita Refractories Company ("Magnesita"), and Harbison Walker International, Inc. ("Harbison").[9] On April 9, 2021, the Commission determined that the domestic interested party group response to its notice of institution was adequate and that the respondent interested party group response was inadequate.[10] Finding that no other circumstances warranted conducting full reviews, the Commission determined to conduct expedited reviews of the orders.[11] The Committee submitted comments concerning the Commission's final determinations in these reviews.[12]

U.S. industry data in these reviews are based on the information the Committee provided in response to the notice of institution, and information from the original investigations and first reviews. Resco, Magnesita, and Harbison are believed to have accounted for *** percent of U.S. production of MCBs in 2020.[13] U.S. import data and related information are based on Commerce's official import statistics and information from the original investigations (in which the Commission obtained data from importer questionnaire

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[6] *First Reviews*, USITC Pub. 4589 at 3.

[7] *Certain Magnesia Carbon Bricks From Mexico and the People's Republic of China: Continuation of Antidumping Duty Orders and Countervailing Duty Order*, 81 Fed. Reg. 7502 (Feb. 12, 2016).

[8] *Magnesia Carbon Bricks from China and Mexico; Institution of Five-Year Review*, 86 Fed. Reg. 126 (Jan. 4, 2021).

[9] Committee's Confidential Response to the Notice of Institution, Part 1A, EDIS Doc. 732883 (Feb. 3, 2021) ("Response") at 1; Committee's Confidential Supplemental Response to the Notice of Institution, EDIS Doc. 735940 (March 4, 2021) ("Supplemental Response") at 1.

[10] *Scheduling of Expedited Five-Year Reviews; Certain Magnesia Carbon Bricks From China and Mexico*, 86 Fed. Reg. 36770 (July 13, 2021).

[11] *Scheduling of Expedited Five-Year Reviews; Certain Magnesia Carbon Bricks From China and Mexico*, 86 Fed. Reg. 36770 (July 13, 2021). Commissioner Johanson voted to conduct full reviews of the orders. Commissioners' Adequacy Votes, EDIS Doc. 749319.

[12] Confidential Written Comments of the Committee, EDIS Doc. 747033 (July 16, 2020) ("Final Comments").

[13] Confidential Report ("CR"), Memorandum INV-TT-045 at Table I-1 (March 29, 2021); *Certain Magnesia Carbon Bricks from China and Mexico*, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Second Review), USITC Pub. 5223 (Aug. 2021), Public Report ("PR") at Table I-1. A fourth domestic producer, TYK America, Inc. ("TYK"), did not participate in the original investigations or first reviews but *** the continuation of the orders. CR/PR at I-12 n.44; Response at 31, Exh. 2.

responses) and prior reviews (in which the Commission ***).[14] Foreign industry data and related information are based on information furnished by the Committee in these reviews and the prior proceedings, foreign producer questionnaire responses from the original investigations, and publicly available information gathered by Commission staff.[15] Three U.S. purchasers responded to the Commission's adequacy phase questionnaire.[16]

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."[17] 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."[18] 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.[19]

1. The Subject Merchandise

Commerce has defined the imported merchandise within the scope of the orders under review as follows:

> {C}ertain chemically-bonded (resin or pitch), magnesia carbon bricks with a magnesia component of at least 70 percent magnesia (MgO) by weight, regardless of the

[14] CR/PR at Table I-4, note. No U.S. importer participated in these expedited reviews. CR/PR at I-16.

[15] *See* CR/PR at Tables I-6–10. As noted, no foreign producer or exporter of MCBs participated in these expedited reviews. CR/PR at I-21 and I-24.

[16] CR/PR at D-3.

[17] 19 U.S.C. § 1677(4)(A).

[18] 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. 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).

[19] *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).

> source of raw materials for the MgO, with carbon levels ranging from trace amounts to 30 percent by weight, regardless of enhancements, (for example, magnesia carbon bricks can be enhanced with coating, grinding, tar impregnation or coking, high temperature heat treatments, anti-slip treatments or metal casing) and regardless of whether or not antioxidants are present (for example, antioxidants can be added to the mix from trace amounts to 15 percent by weight as various metals, metal alloys, and metal carbides).[20]

The scope definition set out above is unchanged since the original investigations.[21]

MCBs are a refractory product consisting primarily of a combination of magnesia and carbon.[22] MCBs provide thermal, corrosion, and abrasion resistance for applications involving high temperatures and harsh operating conditions.[23] MCBs are considered the most durable refractory brick on the market for furnaces and ladle linings used in steel and iron production; they 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 metal and molten slag.[24] MCBs also are used to line basic oxygen furnaces and for electric arc furnaces.[25]

MCBs are produced in a large number of grades with different levels of magnesia, carbon, and various other additives depending upon the intended applications.[26] The high carbon content of MCBs is achieved by adding graphite flakes during production, which provides high thermal conductivity to promote resistance to fragmentation or shattering and

[20] *Certain Magnesia Carbon Bricks From Mexico and the People's Republic of China: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 86 Fed. Reg. 24847 (May 10, 2021); *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Results of the Expedited Second Five-Year Sunset Review of the Countervailing Duty Order*, 86 Fed. Reg. 24848 (May 10, 2021).

[21] *See Original Determinations*, USITC Pub. 4182 at 5; *First Reviews*, USITC Pub. 4589 at 4.

[22] CR/PR at I-7.

[23] CR/PR at I-7.

[24] CR/PR at I-7–9.

[25] CR/PR at I-9.

[26] CR/PR at I-8.

imparts low surface adherence to increase the product's resistance to penetration and corrosion by liquid slag.[27]

2. Domestic Like Product Definition in the Prior Proceedings

In the prior proceedings, the Commission defined a single domestic like product consisting of MCBs, coextensive with the scope.[28] In the original investigations, the Commission found that MCBs were not used interchangeably with other refractory bricks because MCBs have certain physical and chemical properties that are required for more demanding applications.[29] The Commission also found that, compared with other refractory products, MCBs had distinct uses, distinct physical characteristics, higher prices, and generally distinct production processes.[30] In the first reviews, the Commission found that the record contained no new information that would suggest any reason to revisit the Commission's domestic like product definition from the original investigations.[31]

3. Analysis and Conclusion

In the current reviews, the Committee indicates that it agrees with the Commission's domestic like product definition from the original investigations and first reviews.[32] The record of these reviews contains no new information that would suggest any reason to revisit the Commission's domestic like product definition from the prior proceedings.[33] We therefore define a single domestic like product consisting of all MCBs, coextensive with the scope of the orders.

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

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[27] CR/PR at I-8–9.

[28] *Original Determinations*, USITC Pub. 4182 at 6–7; *First Reviews*, USITC Pub. 4589 at 5–6. The domestic like product definition was not disputed in either of the prior proceedings. *Original Determinations*, USITC Pub. 4182 at 6; *First Reviews*, USITC Pub. 4589 at 5.

[29] *Original Determinations*, USITC Pub. 4182 at 6.

[30] *Original Determinations*, USITC Pub. 4182 at 6–7.

[31] *First Reviews*, USITC Pub. 4589 at 5–6.

[32] Response at 33.

[33] *See generally* CR/PR at I-5–11.

the product."[34] 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.

1. Domestic Industry in the Prior Proceedings

In the prior proceedings, the Commission defined the domestic industry as consisting of all domestic producers of MCBs.[35]

Original Investigations. In the original investigations, two domestic producers imported subject merchandise during the period of investigation ("POI") and were therefore related parties as defined in 19 U.S.C. § 1677(4)(b).[36] Accordingly, the Commission assessed whether those producers of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[37] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[38] The Commission found that their primary interest was in domestic production and that appropriate circumstances did not exist to exclude these domestic producers from the domestic industry.[39]

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[34] 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.

[35] *Original Determinations*, USITC Pub. 4182 at 8; *First Reviews*, USITC Pub. 4589 at 6.

[36] *Original Determinations*, USITC Pub. 4182 at 7.

[37] *See Torrington Co v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331–32 (Ct. Int'l Trade 1989), *aff'd mem.,* 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[38] 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

(1) the percentage of domestic production attributable to the importing producer;

(2) the reason the U.S. producer has decided to import the product subject to investigation (whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);

(3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;

(4) the ratio of import shipments to U.S. production for the imported product; and

(5) whether the primary interest of the importing producer lies in domestic production or importation. *See Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31 (Ct. Int'l. Trade 2015); *see also Torrington Co. v. United States*, 790 F. Supp. at 1168.

[39] *Original Determinations*, USITC Pub. 4182 at 8.

First Reviews. In the first reviews, the Commission found one domestic producer, *** and qualified as a related party.[40] Since ***, the Commission found that appropriate circumstances did not exist to exclude it from the domestic industry.[41]

2. Domestic Industry in the Current Reviews

In the current reviews,[42] the Committee supports defining the domestic industry to consist of all U.S. producers of MCBs.[43]

One domestic producer of MCBs, ***, imported subject merchandise from China and Mexico during the period of review.[44] Therefore, in these reviews, we must again determine whether this producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act.

Domestic producer *** reported that it imported ***.[45] Its subject imports in each of these years was equivalent to *** of MCBs in 2020.[46] In 2020, *** domestic producer of MCBs, accounting for *** percent of the reported U.S. production.[47] It supports continuation of the orders.[48] Because *** imports of subject merchandise ***, indicating that ***, we find that appropriate circumstances do not exist to exclude it from the domestic industry. Accordingly, and in the absence of any argument to contrary, we again define the domestic industry to consist of all domestic producers of MCBs: 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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[40] *First Reviews*, USITC Pub. 4589 at 6; *First Reviews Confidential Views*, EDIS Doc. 573977 (Jan. 15, 2016) ("*Confidential First Reviews*") at 8.

[41] *First Reviews*, USITC Pub. 4589 at 6; *Confidential First Reviews,* EDIS Doc. 573977 at 8.

[42] The current period of review is calendar years 2015–2020.

[43] Response at 33.

[44] ***. Response at 33.

[45] Supplemental Response at 3.

[46] *Calculated from* Supplemental Response at 3 and CR/PR at Appx. B. Due to the nature of expedited reviews, *** company-specific data is only available for 2020; its subject imports in the prior years ranged from only *** percent to *** percent of its domestic production in 2020. *Compare* CR/PR at Appx. B *with* Supplemental Response at 3.

[47] CR/PR at Appx. B.

[48] 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.[49]

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.[50] 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 Prior Proceedings

Original Investigations. In the original investigations, the Commission cumulated subject imports from China and Mexico for the purposes of evaluating the volume and price effects in determining material injury by reason of the subject imports.[51] The Commission

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[49] 19 U.S.C. § 1675a(a)(7).

[50] 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).

[51] *Original Determinations*, USITC Pub. 4182 at 8–11. In the original investigations, three Commissioners joined the cumulation analysis for purposes of their dissenting negative present material injury determination and then exercised their discretion not to cumulate subject imports from China and Mexico for the purposes of assessing the threat of material injury; they reached affirmative threat determinations for China, and a negative threat determination for Mexico. *Id*. at 34–42. They

found that MCBs from both of the subject sources had a reasonable degree of fungibility with each other and the domestic like product, served overlapping geographic markets, and were all simultaneously present in the U.S. market throughout the POI.[52] Additionally, because virtually all domestically produced and subject MCBs were sold to end users, it found an overlap in channels of distribution.[53] Accordingly, the Commission found a reasonable overlap of competition between the domestic like product and subject imports from China and Mexico existed and therefore cumulated subject imports from China and Mexico.[54]

First Reviews. In the first reviews, the Commission found that the subject imports from both Mexico (which accounted for *** percent of apparent U.S. consumption, by quantity, in 2014) and China (which accounted for *** percent of apparent U.S. consumption, by quantity, in 2014) would not likely have no discernible adverse impact on the domestic industry if the pertinent orders were revoked.[55] It found a likely reasonable overlap of competition between subject imports from China and Mexico.[56] Finally, it found that upon revocation, there would not likely be any significant difference in the conditions of competition among subject imports from each source.[57] Accordingly, the Commission exercised its discretion to cumulate subject imports from China and Mexico.[58]

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emphasized differing trends in import volumes, and distinctions in pricing strategies, geographic concentration of imports, industry size, and incentive to ship to the U.S. market as evidence that, in the absence of antidumping and countervailing duty orders, subject imports from China and Mexico would compete differently in the U.S. market. *Id*. at 36.

[52] *Original Determinations*, USITC Pub. 4182 at 10–11. The Commission observed that market participants generally reported that subject imports from each source and domestically produced MCBs were always or frequently interchangeable. *Id*. at 10.

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

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

[55] *First Reviews,* USITC Pub. 4589 at 8–9; *Confidential First Reviews,* EDIS Doc. 573977 at 11–13.

[56] *First Reviews,* USITC Pub. 4589 at 10–11. The Commission observed that the record in the first reviews contained no new information that indicated the channels of distribution and degree of fungibility for subject imports from each source and the domestic like product had changed since the original investigations. In addition, it found that domestically produced MCBs were shipped nationwide, that subject imports from each source entered into the United States through multiple regions in 2014, and that domestically produced and subject MCBs were all simultaneously present in the U.S. market during the POR. *Id*.

[57] *First Reviews,* USITC Pub. 4589 at 11.

[58] *First Reviews,* USITC Pub. 4589 at 11.

C. Analysis

In these reviews, the statutory threshold for cumulation is satisfied because all reviews were initiated on the same day: January 1, 2021.[59] 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. Likelihood of No 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.[60] Neither the statute nor the Uruguay Round Agreements Act, 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.[61] 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 and first reviews.

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

China. In the original investigations, the volume of subject imports from China was substantial at 34,613 short tons in 2007, 41,701 short tons in 2008, and 33,643 short tons in

[59] *See Initiation of Five-Year (Sunset) Reviews*, 86 Fed. Reg. 60 (Jan. 4, 2021).
[60] 19 U.S.C. § 1675a(a)(7).
[61] SAA, H.R. Rep. No. 103–316, vol. I at 887 (1994).

2009.[62] Subject imports from China accounted for *** percent of apparent U.S. consumption by volume in 2007, *** percent in 2008, and *** percent in 2009.[63]

In the first reviews, after issuance of the orders in 2010, subject imports from China remained in the U.S. market, but at lower volumes than in the original investigations: the volume of subject imports from China was 33,915 short tons in 2010, 14,424 short tons in 2011, 10,303 short tons in 2012, 8,989 short tons in 2013, and 10,804 short tons in 2014.[64] Subject imports from China accounted for 10.8 percent of apparent U.S. consumption, by volume, in 2014.[65]

In the current reviews, subject imports from China continue to be present in the U.S. market in lower volumes than in the original investigations: the volume of subject imports from China was 14,410 short tons in 2015, 13,016 short tons in 2016, 8,710 short tons in 2017, 10,725 short tons in 2018, 9,675 short tons in 2019, and 4,654 short tons in 2020.[66] Subject imports from China accounted for 4.8 percent of apparent U.S. consumption, by volume, in 2020.[67]

The Committee reports that there are currently 49 firms believed to produce or export MCBs from China.[68] The record of these reviews indicate that China's MCB industry continues to have substantial excess production capacity; in the original investigations its capacity utilization rates declined from 67.9 percent in 2007 to 46.7 percent in 2009.[69] Moreover, subject producers in China reportedly expanded their production capacity during the period of

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[62] Original Determinations Confidential Report, INV-HH-080 (Aug. 13, 2010) ("Original Determinations CR") at Table IV-2a (EDIS Doc. 431654). The volume of subject imports from China was 5,620 short tons in January-March 2009 ("interim 2009"), and 6,210 short tons in January-March 2010 ("interim 2010"). *Id*.

[63] Original Determinations CR, EDIS Doc. 431654 at Table IV-4a. Subject imports from China accounted for *** percent of apparent U.S. consumption by volume in interim 2009 and *** percent in interim 2010. *Id*.

[64] First Reviews Confidential Report, INV-NN-076 (Oct. 26, 2015) ("First Reviews CR") at Table I-3 (EDIS Doc. 567907).

[65] First Reviews CR, EDIS Doc. 567907 at Table I-5.

[66] CR/PR at Table I-4. Import statistics during the current five-year reviews are compiled using official Commerce import statistics which include out-of-scope product and thus are likely overstated. *Id*. at note.

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

[68] CR/PR at I-21.

[69] Original Determinations CR, EDIS Doc. 431654 at Table VII-1.

the first reviews and in 2019 and 2020.[70] According to Global Trade Atlas ("GTA") data, between 2015 and 2019,[71] China was the world's largest exporter of certain refractory products, exporting between 908,882 short tons and 1.1 million short tons.[72] We therefore find that subject imports from China would not likely have no discernible adverse impact on the domestic industry if the orders were revoked.

Mexico. In the original investigations, the volume of subject imports from Mexico was *** short tons in 2007, *** short tons in 2008, and *** short tons in 2009.[73] Subject imports from Mexico accounted for *** percent of apparent U.S. consumption by volume in 2007, *** percent in 2008, and *** percent in 2009.[74]

In the first reviews, the volume of subject imports from Mexico was *** short tons in 2010.[75] After issuance of the orders in 2010, subject imports from Mexico remained in the U.S. market, but at lower volumes: the volume of subject imports from Mexico was *** short tons in 2011, *** short tons in 2012, *** short tons in 2013, and *** short tons in 2014.[76] In 2014, subject imports from Mexico accounted for *** percent of apparent U.S. consumption by volume.[77]

In the current reviews, subject imports from Mexico remained in the U.S. market at lower volumes than in the original investigations and, during 2019 and 2020, there were no subject imports from Mexico: the volume of subject imports from Mexico was 2,115 short tons in 2015, 213 short tons in 2016, 330 short tons in 2017, and 1,046 short tons in 2018.[78] Subject

[70] First Reviews CR, EDIS Doc. 567907 at I-28; CR/PR at I-21; Response at 18. According to the ***, subject producers in China produced *** of MCBs in 2019. Response at 18.

[71] GTA data for 2020 was incomplete and was therefore not included in the CR.

[72] CR/PR at Table I-10. The GTA product category (HS subheading 6902.10: Refractory bricks, blocks and tiles containing by weight more than 50 percent magnesium, calcium, or chromium) includes out-of-scope merchandise and therefore may overstate MCB export volumes. *Id*. at note.

[73] Original Determinations CR, EDIS Doc. 431654 at Table IV-2a. The volume of subject imports from Mexico was *** short tons in interim 2009, and *** short tons in interim 2010. *Id*.

[74] Original Determinations CR, EDIS Doc. 431654 at Table IV-4a. Subject imports from Mexico accounted for *** percent of apparent U.S. consumption, by volume, in interim 2009 and *** percent in interim 2010. *Id*.

[75] First Reviews CR, EDIS Doc. 567907 at Table I-3.

[76] First Reviews CR, EDIS Doc. 567907 at Table I-3.

[77] First Reviews CR, EDIS Doc. 567907 at Table I-5.

[78] CR/PR at Table I-4. When the import volumes from Mexico were filtered ***, only ***. *Id*. at note.

imports from Mexico accounted for *** percent of apparent U.S. consumption by volume in 2020.[79]

The Committee reports that there is one firm believed to produce MCBs in Mexico and one firm believed to export MCBs from Mexico: RHI Mexico and RHI-REFMEX, S.A. de C.V., ***.[80] The MCB industry in Mexico had substantial unused capacity in the original investigations during which its capacity utilization rates ranged from *** percent to *** percent between 2007 and 2009.[81] In 2020, RHI Mexico had *** tons of capacity to produce MCBs and produced approximately *** tons, resulting in approximately *** tons of excess production capacity.[82] This excess capacity could enable Mexico to increase exports to the U.S. market in the reasonably foreseeable future if the antidumping order on MCBs from Mexico were revoked. Accordingly, we find that subject imports from Mexico would not likely have no discernible adverse impact on the domestic industry if the pertinent order were revoked.[83]

2. Likelihood of a 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

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

[80] CR/PR at I-24.

[81] Original Determinations CR, EDIS Doc. 431654 at Table VII-2.

[82] Response at 19; Final Comments at 19.

[83] Commissioner Johanson found during the adequacy phase of these reviews that the facts presented regarding the status of the Mexican producer merited conducting full reviews. These same facts now raise the question of whether subject imports from Mexico would likely have no discernible adverse impact on the domestic industry if the antidumping duty order on subject imports from Mexico were revoked. Based on information provided by the domestic interested party and contained in the CR, it appears that RHI Mexico, the only known producer of MCBs in Mexico, ***. CR/PR at I-24. A full review of this order would have provided an opportunity for further exploration of ***. Nevertheless, on the record of these reviews, Commissioner Johanson joins the majority in not finding that subject imports from Mexico would likely have no discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked.

product.[84] Only a "reasonable overlap" of competition is required.[85] 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.[86]

Fungibility. In the original investigations, the Commission found that subject imports from China and Mexico had a reasonable degree of fungibility with both the domestic like product and with each other.[87] In the first reviews, the Commission found that the record contained no new information indicating that the fungibility of subject imports and domestically produced MCBs had changed since the original investigations.[88] Similarly, in the current reviews, there is no new information suggesting that the fungibility of subject imports from Mexico and China and the domestic like product has changed since the prior proceedings.

Geographic Overlap. In the original investigations, the Commission found overlapping geographic markets for subject imports and the domestic like product.[89] In the first reviews, the Commission found that MCBs produced in the United States are shipped nationwide and that imports from each subject country entered the United States through multiple regions in 2014.[90] In the current reviews, imports of refractory products from China entered into the United States though the northern, southern, eastern, and western borders while imports of

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[84] 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).

[85] *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).

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

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

[88] *First Reviews*, USITC Pub. 4589 at 10.

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

[90] *First Reviews*, USITC Pub. 4589 at 10.

refractory product from Mexico entered into the United States through the southern border from 2015 through 2018, although a small quantity of imports from Mexico also entered into the United States through the northern border in 2018.[91]

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).[92] In the first reviews, the Commission found that the record contained no new information indicating that the channels of distribution for domestically produced and subject MCBs had changed since the original investigations.[93] In the current reviews, there is no new information suggesting that the channels of distribution of subject and domestically produced MCBs have changed since the prior proceedings.

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 in the U.S. market throughout the period of investigation.[94] In the first reviews, the Commission found that subject imports from China and Mexico were present in the U.S. market each year from 2010 to 2014.[95] In the current reviews, subject imports from China were present in the U.S. market in every month during the period of review, while subject imports from Mexico were present during 10 months of 2015, four months of 2016, three months of 2017, and eight months of 2018.[96]

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

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[91] CR/PR at I-20.

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

[93] *First Reviews*, USITC Pub. 4589 at 10.

[94] *Original Determinations*, USITC Pub. 4182 at 10–11.

[95] *First Reviews*, USITC Pub. 4589 at 11. MCBs from China were imported during every month from 2010 through 2014, while MCBs produced in Mexico entered the United States during *** from 2010 to through 2012 and were imported in *** of 2013 and in *** of 2014. *Id*. at n.61; *Confidential First Reviews*, EDIS Doc. 573977 at 15 n.61.

[96] CR/PR at I-20. As previously discussed, subject imports from Mexico were not present in the U.S. market during 2019–2020. *Id*.

3. Other Likely Conditions of Competition

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 in determining whether to exercise our discretion to cumulate the subject imports. 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 for our assessment of whether subject imports are likely to lead to a continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time if the pertinent orders were revoked.[97]

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."[98] The Uruguay Round Agreements Act Statement of Administrative Action ("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

[97] Commissioner Johanson found during the adequacy phase of these reviews that the facts presented regarding the status of the Mexican producer merited conducting full reviews. These same facts now raise the question of whether subject imports from Mexico would likely compete under similar or different conditions in the United States if the antidumping duty order on subject imports from Mexico were revoked. Based on information provided by the domestic interested party and contained in the CR, it appears that RHI, the only known producer of MCBs in Mexico, ***. CR/PR at I-24. A full review of this order would have provided an opportunity for further exploration of ***. Nevertheless, on the record of these reviews, Commissioner Johanson joins the majority in finding that subject imports from Mexico would likely compete under similar conditions in the U.S. market if the antidumping duty order covering these imports were revoked.

[98] 19 U.S.C. § 1675a(a).

effects on volumes and prices of imports."[99] Thus, the likelihood standard is prospective in nature.[100] The U.S. Court of International Trade has found that "likely," as used in the five-year review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[101]

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."[102] 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."[103]

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."[104] 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

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[99] 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.

[100] 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.

[101] *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. App. 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'").

[102] 19 U.S.C. § 1675a(a)(5).

[103] 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*.

[104] 19 U.S.C. § 1675a(a)(1).

the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[105] The statute further 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.[106]

In evaluating the likely volume of imports of subject merchandise if an order under review is 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.[107] 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.[108]

In evaluating the likely price effects of subject imports if an order under review is 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.[109]

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed

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[105] 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings in its expedited reviews of the orders. *See Issues and Decision Memorandum for the Expedited Second Sunset Review of the Countervailing Duty Order on Certain Magnesia Carbon Bricks from the People's Republic of China*, (May 3, 2021); *see also Issues and Decision Memorandum for the Expedited Second Sunset Reviews of the Antidumping Duty Orders on Certain Magnesia Carbon Bricks from Mexico and the People's Republic of China*, (May 3, 2021).

[106] 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[107] 19 U.S.C. § 1675a(a)(2).

[108] 19 U.S.C. § 1675a(a)(2)(A–D).

[109] *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.

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.[110] 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 order under review and whether the industry is vulnerable to material injury upon revocation.[111]

No respondent interested party participated in these expedited reviews. The record, therefore, contains limited new information with respect to the MCB industries in China and Mexico. There also is limited new information on the domestic MCB market during the period of review. Accordingly, for our determinations, we rely as appropriate on the facts available from the original investigations and first reviews, and the limited new information on the record in these second reviews.

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."[112] The following conditions of competition inform our determinations.

1. Demand Conditions

Original Investigations. In the original investigations, the Commission found that demand for MCBs was driven primarily by the level of steel production as MCBs were predominantly used in the production of steel.[113] It observed that raw steel production

[110] 19 U.S.C. § 1675a(a)(4).

[111] 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 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.

[112] 19 U.S.C. § 1675a(a)(4).

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

fluctuated over the POI, ending at a lower level than prior to the 2008 recession.[114] Apparent U.S. consumption of MCBs tracked the level 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.[115] The Commission 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.[116]

First Reviews. In the first reviews, the Commission observed that the factors affecting demand for MCBs in the U.S. market had largely remained unchanged since the original investigations [117] Apparent U.S. consumption of MCBs was higher in 2014 than in 2009, the final full year of the original investigations.[118] The Commission projected that declining U.S. steel production would likely lead to challenging demand conditions in the reasonably foreseeable future.[119]

Current Reviews. In these reviews, the record indicates that U.S. demand for MCBs continues to be driven by the level of steel production.[120] Apparent U.S. consumption of MCBs, as measured by quantity, was 96,278 short tons in 2020, lower than the 100,033 short tons in 2014 (the final year of the first reviews), but higher than the *** short tons in 2009 (the final year of the original investigations).[121] The domestic interested parties report that U.S. demand for MCBs is lower in 2020, at least in part, due to the economic slowdown associated with the COVID-19 pandemic.[122]

2. Supply Conditions

Original Investigations. In the original investigations, the Commission found that although the domestic industry's market share declined, the domestic industry was nevertheless the largest source of supply for the U.S. market during the POI.[123] The domestic

[114] *Original Determinations*, USITC Pub. 4182 at 14.
[115] *Original Determinations*, USITC Pub. 4182 at 14–15.
[116] *Original Determinations*, USITC Pub. 4182 at 15.
[117] *First Reviews*, USITC Pub. 4589 at 14.
[118] *First Reviews*, USITC Pub. 4589 at 14; *Confidential First Reviews*, EDIS Doc. 573977 at 21.
[119] *First Reviews*, USITC Pub. 4589 at 14.
[120] Response at 8–9; Final Comments at 7–8; CR/PR at Appx. D. Responding U.S. purchasers reported no changes to the conditions of competition affecting U.S. demand for MCBs since 2015 except for *** which reported that ***. CR/PR at D-3.
[121] CR/PR at Table I-5. Import data in the current reviews are calculated using official Commerce import statistics for HTS statistical reporting number 6902.10.1000, which contains out-of-scope merchandise and therefore may overstate to volume of subject imports. *Id*. at Table I-4, source.
[122] CR/PR at I-8 n.29, D-4; Response at 9; Final Comments at 7–8.
[123] *Original Determinations*, USITC Pub. 4182 at 15.

industry's share of apparent U.S. consumption declined between 2007 and 2009 while cumulated subject imports' share increased, overall, during the same period.[124] Nonsubject imports generally declined and served a relatively small portion of the market throughout the POI.[125] During the POI, China and Mexico were the largest foreign sources of MCBs to the United States, and domestic producers and importers primarily sold MCBs to end users.[126]

First Reviews. In the first reviews, the Commission found that the domestic industry accounted for a greater portion of apparent U.S. consumption in 2014 than in 2009, the final year of the original investigations.[127] It observed that cumulated subject imports accounted for a smaller portion of apparent U.S. consumption in 2014 than in 2009, while nonsubject imports increased their share of apparent U.S. consumption.[128]

Current Reviews. In the current reviews, as discussed in Section II.B., there are four known domestic producers of MCBs: Resco, Magnesita, Harbison, and TYK.[129] The domestic industry was the largest source MCBs for the U.S. market in 2020; it accounted for 77.1 percent of apparent U.S. consumption by quantity, which is lower than its 80.2 percent share of apparent U.S. consumption in 2014 but higher than its *** percent share of apparent U.S. consumption in 2009.[130] Members of the domestic industry reported production process upgrades and capacity expansions from 2016 through 2020.[131]

Cumulated subject imports were the smallest source of supply of MCBs for the U.S. market in 2020; their share of apparent U.S. consumption was 4.8 percent, by quantity, which is lower than their 11.3 percent share of apparent U.S. consumption in 2014 and their *** percent share of apparent U.S. consumption in 2009.[132] Nonsubject imports accounted for 18.1 percent of apparent U.S. consumption by quantity in 2020, which is higher than their 8.6 percent share of apparent U.S. consumption in 2014 and their *** percent share of apparent U.S. consumption in 2009.[133]

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[124] *Original Determinations*, USITC Pub. 4182 at 15.
[125] *Original Determinations*, USITC Pub. 4182 at 15.
[126] *Original Determinations*, USITC Pub. 4182 at 15.
[127] *First Reviews*, USITC Pub. 4589 at 15.
[128] *First Reviews*, USITC Pub. 4589 at 15.
[129] CR/PR at Table I-1, I-12 n.44.
[130] CR/PR at Table I-5. The domestic industry's apparent U.S. consumption figures do not include data from ***, which reportedly accounted for *** percent of domestic production of MCBs in 2020. *See* CR/PR at Table I-1.
[131] *See* Table I-2.
[132] CR/PR at Table I-5.
[133] CR/PR at Table I-5.

3. Substitutability and Other Conditions

Original Investigations. In the original investigations, although the parties disagreed as to whether MCBs were a commodity product and whether price alone was the primary factor in purchasing decisions, the Commission nonetheless found that there was a relatively high degree of substitutability between the domestic like product and subject imports from China and Mexico for products of the same type.[134] A majority of responding purchasers indicated that subject imports from each source were always or frequently interchangeable with each other and with domestically produced MCBs.[135] Purchasers ranked price second to quality as the most important purchasing factor and the Commission found that price was an important consideration in purchasing MCBs.[136] The Commission found that MCBs represented a small cost share of downstream steel products and that MCBs had relatively few commercially viable substitutes.[137] It observed that magnesia was the primary raw material used in the production of MCBs and that raw material costs for MCBs fluctuated during the POI but had declined after 2008.[138]

First Reviews. In the first reviews, the Commission stated that the record contained no new information to indicate that the substitutability of MCBs from different sources or the importance of price had changed since the original investigations.[139] Accordingly, the Commission found that subject imports and the domestic like product were highly interchangeable and that price was an important factor in purchasing decisions.[140]

Current Reviews. The record in these expedited reviews contains no new information 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.

Subject imports from China are currently subject to additional 25 percent *ad valorem* duties under Section 301 of the Trade Act of 1974 ("Section 301 tariffs").[141]

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[134] *Original Determinations*, USITC Pub. 4182 at 15–16.
[135] *Original Determinations*, USITC Pub. 4182 at 16.
[136] *Original Determinations*, USITC Pub. 4182 at 16.
[137] *Original Determinations*, USITC Pub. 4182 at 16.
[138] *Original Determinations*, USITC Pub. 4182 at 16.
[139] *First Reviews*, USITC Pub. 4589 at 15.
[140] *First Reviews*, USITC Pub. 4589 at 15.
[141] 19 U.S.C. § 2411. *See Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 20459 (May

C. Likely Volume of Subject Imports

1. The Prior Proceedings

Original Investigations. In the original investigations, the volume of cumulated subject imports increased from 2007 to 2008 before falling in 2009; it was higher in interim 2010 than in interim 2009.[142] The Commission found that the significant increase in cumulated subject imports' market share during the POI came almost entirely at the expense of the domestic industry.[143] It observed the ratio of subject imports to domestic production increased between 2007 and 2009.[144] Accordingly, the Commission found that the volume of cumulated subject imports and the increase in that volume during the POI were significant, both in absolute terms and relative to production and consumption in the United States.[145]

First Reviews. In the first reviews, the Commission found that the orders had a restraining effect on the volume of subject imports which was lower in 2014 than in 2010, the year the orders were imposed.[146] It found that the MCB industry in China continued to increase its production capacity since the original investigations and that the MCB industry in Mexico continued to have excess capacity.[147] Moreover, it observed that the subject industry in China remained export oriented and that the subject industry in Mexico continued to export MCBs to markets including the United States.[148] Due to cumulated subject imports' presence in the U.S. market during the period of review, albeit in reduced volumes, the presence of antidumping

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9, 2019). Section 301 duties initially applied to the subject merchandise at a rate of 10 percent *ad valorem* on September 24, 2018, and increased to 25 *percent ad valorem* on May 10, 2019. *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 47974 (Sept. 21, 2018); *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 20459 (May 9, 2019).

[142] *Original Determinations*, USITC Pub. 4182 at 16.

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

[144] *Original Determinations*, USITC Pub. 4182 at 17. The three Commissioners who made affirmative threat determinations for subject imports from China found that factors such as subject producers' substantial excess capacity and inventories, export orientation, and their ability to shift production from out-of-scope merchandise to production of MCBs indicated the likelihood of substantially increased subject imports from China absent relief. They also indicated the presence of barriers to Chinese exports in the European Union and Turkey would make the U.S. market an attractive alternative export market for MCBs from China. *Id*. at 38.

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

[146] *First Reviews*, USITC Pub. 4589 at 16.

[147] *First Reviews*, USITC Pub. 4589 at 16.

[148] *First Reviews*, USITC Pub. 4589 at 16.

duty orders in third-country markets,[149] and the large size of the U.S. MCB market, the Commission found that the United States remained an attractive market to subject producers.[150] On these bases, the Commission found 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 if the orders were revoked.[151]

2. The Current Reviews

In the current reviews, available information indicates that the orders have continued to have a restraining effect on the volume of cumulated subject imports. Cumulated subject imports maintained a presence in the U.S. market throughout the period of review; the volume of cumulated subject imports declined from 16,525 short tons in 2015 to 9,040 short tons in 2017, increased to 11,771 short tons in 2018, before declining to a period low of 4,654 short tons in 2020.[152] The volume of cumulated subject imports was lower in 2020 than both the 11,276 short tons in 2014 and the *** short tons in 2009.[153]

In the original investigations, as discussed above in Section IV.C.1., the MCB industries in China and Mexico had substantial unused capacity, which on a cumulated basis exceeded apparent U.S. consumption.[154] In the first reviews, the MCB industry in China continued to increase its production capacity since the original investigations and the MCB industry in Mexico continued to have excess capacity.[155] As no producer or exporter of subject merchandise participated in these expedited reviews, the record contains limited information concerning the MCB industries in China and Mexico. Nevertheless, the record in these reviews continues to support a finding that the producers of the subject merchandise collectively have the ability to increase exports to the United States if the orders were revoked.[156] The MCB industry in China pursued plans to implement four production capacity expansions during 2019 and 2020, produced *** metric tons of MCBs in 2019, and had a new producer enter the

[149] The Commission noted that MCBs, as well as other refractory bricks, from China were subject to antidumping duties in Brazil and Turkey and that MCBs, as well as other refractory bricks, from Mexico were subject to antidumping duties in Brazil. *First Reviews*, USITC Pub. 4589 at 17 n.107.

[150] *First Reviews*, USITC Pub. 4589 at 16–17.

[151] *First Reviews*, USITC Pub. 4589 at 17.

[152] CR/PR at Table I-4.

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

[154] Original Determinations CR, EDIS Doc. 431654 at Tables VII-1, VII-2, IV-4a.

[155] *First Reviews*, USITC Pub. 4589 at 16.

[156] *See* CR/PR at I-21 and Table I-6.

market in 2020.[157] Additionally, the sole producer of MCBs in Mexico had approximately *** tons of excess production capacity in 2020.[158] Moreover, available information indicates that subject producers maintain the ability to shift production from out-of-scope merchandise to MCBs.[159]

Available information indicates that the MCB industries in China and Mexico exhibited some degree of export orientation during the current period of review, view the United States as an attractive export market, and that the industry in China has incentives to increase exports to the United States if the orders were revoked. Cumulated subject imports maintained a presence in the U.S. market, notwithstanding the imposition of the orders, indicating that producers of subject merchandise view the United States as an attractive export market.[160] While subject imports from Mexico were present in the U.S. market for only three years of the current POR, this to some extent reflects the restraining effects of the order; in the original investigations Mexico was the second largest source of imported MCBs to the U.S. market and no record evidence indicates that this import behavior would not resume if the order were revoked.[161] GTA data shows that the United States accounted for 62.7 percent of Mexico's total annual exports of certain refractory products, by quantity, in 2019.[162] GTA data also indicates that the MCB industry in China was the largest exporter of certain refractory products during each year from 2015 to 2019 and that it exported these products to countries around the globe.[163] Finally, MCBs from China are subject to an antidumping duty order in Turkey, limiting

[157] CR/PR at Table I-6; Response at 18, Exhs. 6 (***) and 10.

[158] Response at 19; Final Comments at 20.

[159] Response at 19–20; Final Comments at 19–20. In the original investigations six of seven responding producers in China and the sole producer in Mexico reported that they produced, or had the capability of producing, other products on the same equipment and machinery used to produce MCBs. *Original Determinations*, USITC Pub. 4182 at 38, 41.

[160] CR/PR at Table I-4. The Committee avers that the continuing interest in the U.S. market by Chinese producers is demonstrated by a December 2020 ruling by Customs and Border Protection ("CBP"). Specifically, the Committee reports that on December 3, 2020, CBP entered a final determination of evasion against an importer named Fedmet Resources Corporation, LLC, finding that the company evaded the antidumping and countervailing duties on MCBs from China by mislabeling its imports of magnesia carbon bricks as non-subject magnesia alumina carbon brick. The Committee argues that "Customs' finding that Fedmet intentionally evaded the antidumping and countervailing duties on MCB's provides clear additional evidence of the strong motivation of Chinese MCB exporters to supply the U.S. market should the orders be revoked." Response at 21.

[161] Original Determinations CR, EDIS Doc. 431654 at IV-3.

[162] *Calculated from* CR/PR at Table I-9. The GTA product category, certain refractory products, includes out-of-scope merchandise and therefore may overstate MCB export volumes. *Id*. at note.

[163] CR/PR at Tables I-7 and I-10.

to some degree the industry's alternative export markets to which MCBs could be shipped and incentivizing increased exports to the United States if the orders were revoked.[164]

Based on the demonstrated ability of the producers of the subject merchandise to ship substantial quantities of MCBs to the U.S. market, their substantial collective excess production capacity and their ability to shift production from out-of-scope merchandise to MCBs, their export orientation, the attractiveness of the U.S. market, and the existence of a trade barrier in a third-country market, we find that the likely volume of cumulated subject imports, both in absolute terms and as a share of the apparent U.S. consumption, would likely be significant in the event of revocation of the orders.[165]

D. Likely Price Effects

1. The Prior Proceedings[166]

Original Investigations. In the original investigations, cumulated subject imports undersold the domestic like product in 77 of 91 quarterly weighted-average price comparisons by an average margin of 15.6 percent.[167] Accordingly, the Commission found that subject imports significantly undersold the domestic like product.[168] While it did not find significant price depression due to generally increasing prices for domestically-produced MCBs, the Commission found that cumulated subject imports had significant price-suppressing effects as demonstrated by the domestic industry's increasing cost-of-goods-sold to net sales ratio from 2007 to 2009.[169] Moreover, it found that purchaser responses confirming lost sales corroborated the significant underselling and price suppression by cumulated subject

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[164] CR/PR at I-26 and n. 64. Antidumping duty orders imposed on MCBs from China by Brazil's Secretary for Foreign Trade of the Ministry of Development, Industry and Foreign Trade were suspended in June 2018 and were terminated in December 2018. *Id*. at I-27.

[165] While Section 301 tariffs currently impose a 25 percent *ad valorem* duty on subject imports from China, no responding U.S. purchaser reported that these tariffs have had an effect on either the supply of subject imports or that they anticipated such effects in the reasonably foreseeable future. CR/PR at Appx. D.

We observe that the record in these expedited reviews contains no information concerning inventories of the subject merchandise.

[166] In both the original investigations and first reviews, the Commission reiterated that the domestic like product and subject imports were substitutable and that price was an important factor in purchasing decisions. *Original Determinations*, USITC Pub. 4182 at 18; *First Reviews*, USITC Pub. 4589 at 17.

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

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

[169] *Original Determinations*, USITC Pub. 4182 at 18–19.

imports.[170] Given cumulated subject imports' significant underselling and domestic producers' inability to raise prices commensurately with increasing costs, the Commission found that cumulated subject imports had significant adverse price effects.[171]

First Reviews. In the first reviews, the record did not contain new price comparison data due to the nature of expedited reviews.[172] Based on available information, the Commission found that if the pertinent orders were revoked, cumulated subject imports would likely significantly undersell the domestic like product in order to gain market share, as they did in the original investigations.[173] Significant underselling by cumulated subject imports would, in turn, likely have significant depressing and/or suppressing effects on prices for the domestic like product.[174] Accordingly, the Commission concluded that cumulated subject imports would likely have significant price effects if the orders were revoked.[175]

2. The Current Reviews

As discussed in Section IV.B.3., the domestic like product and subject imports from each source are substitutable and price is an important factor in purchasing decisions. In the original investigation subject imports engaged in significant underselling and had significant price-suppressing effects. Due to the expedited nature of these reviews, the record does not contain new product-specific pricing information. In light of this, we find that if the orders were revoked, cumulated subject imports would likely again significantly undersell the domestic like product as they did in the original investigations. Given the likely significant volume of subject imports, this, in turn, would likely cause the domestic industry either to lose sales and market

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

[171] *Original Determinations*, USITC Pub. 4182 at 19. The three Commissioners who reached affirmative threat determinations for subject imports from China found that, in light of consistent underselling and the price sensitivity of the domestic like product, subject imports from China were entering the U.S. market at prices that were likely imminently to have a significant depressing or suppressing effect on domestic prices in a market where U.S. demand was beginning to recover, and that such prices were likely to increase demand for subject imports from China. *Id*. at 39. They explained that U.S. purchasers would likely purchase subject imports from China in lieu of the domestic like product and that this purchasing pattern would likely result in significant price depression and/or price suppression particularly given: (1) MCBs from China were consistently priced below the domestic like product, (2) price was an important factor in purchasing decisions, and (3) underselling margins generally increased toward the end of the POI. *Id*.

[172] *First Reviews*, USITC Pub. 4589 at 17.

[173] *First Reviews*, USITC Pub. 4589 at 17–18.

[174] *First Reviews*, USITC Pub. 4589 at 18.

[175] *First Reviews*, USITC Pub. 4589 at 18.

share or to reduce prices, or forgo price increases, in order to compete with subject imports. In light of the above, we find that subject imports are likely to have significant price effects if the orders were revoked.

E. Likely Impact

1. The Prior Proceedings

Original Investigations. In the original investigations, while the domestic industry's production capacity was unchanged during the POI, it nonetheless experienced overall decreases in its capacity utilization, production, and shipments from 2007 through 2009.[176] Similarly, the domestic industry experienced overall declines in its number of production-related workers, wages paid, and hours worked, and productivity during the same period.[177] Its net sales as measured by quantity, operating income and operating income margin, and capital expenditures also declined overall between 2007 and 2009.[178] The Commission found that the domestic industry's reduced profitability was primarily attributable to the cost-price squeeze that occurred due to competition from low-priced cumulated subject imports.[179] Accordingly, the Commission found that cumulated subject imports materially and adversely affected the domestic industry.[180]

In its non-attribution analysis, the Commission considered whether nonsubject imports, the 2008 recession, and domestic producers' declining export shipments may have adversely affected the domestic industry but found that they could not explain the adverse effects it had attributed to cumulated subject imports.[181] Therefore, the Commission concluded there was a causal nexus between the subject imports and material injury to the domestic industry.[182]

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[176] *Original Determinations*, USTC Pub. 4182 at 20–21.
[177] *Original Determinations*, USITC Pub. 4182 at 21.
[178] *Original Determinations*, USITC Pub. 4182 at 21–22.
[179] *Original Determinations*, USITC Pub. 4182 at 22.
[180] *Original Determinations*, USITC Pub. 4182 at 20.
[181] *Original Determinations*, USITC Pub. 4182 at 22–23.
[182] *Original Determinations*, USITC Pub. 4182 at 23. The three Commissioners who reached affirmative threat determinations for subject imports from China found that likely increased volumes of low-priced subject imports from China were likely to have a significant adverse impact on the domestic industry in the imminent future. *Id*. at 39–40. They emphasized that the fortunes of the domestic MCB industry was closely linked to the health of the U.S. steel industry and that raw steel production had not reached the levels of 2007 and 2008. *Id*. at 40. They observed that U.S. importers' end-of-period inventories of subject imports from China were significant during the POI and found that potential further improvements in U.S. demand would likely provide further incentive for Chinese exporters to

First Reviews. In the first reviews, the record contained limited new information with respect to the domestic industry's performance.[183] Accordingly, the Commission indicated the limited record was insufficient to make a finding on whether the domestic industry was vulnerable to the continuation or recurrence of material injury in the event of revocation of the orders.[184] The Commission observed that the domestic industry's capacity, production, net sales values, operating income, and operating margin were all higher in 2014 than in any full year of the original investigations, while its capacity utilization was higher in 2014 than in 2008 or 2009.[185] Due to the likely significant volumes of cumulated subject imports that would enter into the U.S. market and the underselling and associated price depression and/or suppression that would likely result, the Commission found that cumulated subject imports would likely have a significant impact on the domestic industry if the orders were revoked.[186]

In its nonattribution analysis, the Commission found that there was no indication that the increased presence of nonsubject imports would prevent cumulated subject imports from entering the U.S. market in significant quantities if the orders were revoked and had not prevented the domestic industry from improving its performance since the original investigations.[187] The Commission found that, because the domestic industry was by far the largest source of supply to the U.S. market, any increase in cumulated subject imports' market share would come, at least in substantial portion, from the domestic industry.[188] Accordingly, the Commission concluded that if the orders were revoked, cumulated subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.[189]

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increase their shipments of MCBs to the U.S. market and continue to undersell the domestic like product to a significant degree absent relief. *Id*. As a result, the domestic industry would likely experience reduced profitability due to significantly depressed or suppressed prices as well as reduced production, shipments, market share, and employment. *Id*. Accordingly, they found that there was a causal nexus between subject imports from China and a likely imminent adverse impact on the domestic industry, demonstrating that the domestic MCB industry was threatened with material injury by reason of subject imports from China. *Id.*

[183] *First Reviews*, USITC Pub. 4589 at 19.
[184] *First Reviews*, USITC Pub. 4589 at 19.
[185] *First Reviews*, USITC Pub. 4589 at 19.
[186] *First Reviews*, USITC Pub. 4589 at 19.
[187] *First Reviews*, USITC Pub. 4589 at 19.
[188] *First Reviews*, USITC Pub. 4589 at 19.
[189] *First Reviews*, USITC Pub. 4589 at 20.

2. The Current Reviews[190]

Due to the expedited nature of these reviews, the record contains limited information on the domestic industry's financial performance since the original investigations and first reviews. The available information concerning the domestic industry's condition in these reviews consists of the data the Committee provided in response to the notice of institution.

These data indicate that, in 2020, the domestic industry's production capacity was 123,584 short tons, its production was 77,507 short tons, and its capacity utilization rate was 62.7 percent.[191] In 2020, the domestic industry's U.S. shipments totaled 74,234 short tons and were valued at $143.2 million.[192] It reported total net sales of $***, a total cost of goods sold of $***, and an operating income of $***, resulting in an operating income margin of *** percent.[193] This limited information is insufficient to determine whether the domestic industry is vulnerable to the continuation or recurrence of material injury if the orders were revoked.

Based on the limited information on the record of these reviews, we find, as we did in the first reviews, 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 to a significant degree and have significant price effects. The likely significant underselling and price effects, 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.

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[190] The statute requires that "{i}f a countervailable subsidy is involved the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement." 19 U.S.C. § 1675a(6). In its issues and decisions memorandum accompanying its expedited sunset review of the countervailing duty order on MCBs from China, Commerce identified no programs that fall within the definition of an export subsidy under Article 3.1 of the WTO Subsidies Agreement. Commerce found, however, 21 programs that could be subsidies described in Article 6.1 of the Subsidies Agreement. *Issues and Decision Memorandum for the Expedited Second Sunset Review of the Countervailing Duty Order on Certain Magnesia Carbon Bricks from the People's Republic of China*, (May 3, 2021) at 7–8. We have considered this information and found it does not alter our analysis.

[191] CR/PR at Table I-3.

[192] CR/PR at Table I-3.

[193] CR/PR at Table I-3. The domestic industry's capacity, production, capacity utilization, and U.S. shipments by quantity, were lower in 2020 than in 2014, but its U.S. shipments by value, net sales value, operating income, and operating income margin were higher. *Id*.

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, and 18.1 percent in 2020,[194] would prevent cumulated subject imports from entering the U.S. market in significant volumes upon revocation of the orders. If the orders were revoked, cumulated subject imports would likely compete with the domestic like product, which accounted for a large majority of apparent U.S. consumption in 2020, given the substitutability between the products. Accordingly, any increase in the volume of cumulated subject imports would likely come, at least in part, at the expense of the domestic industry. Furthermore, the increase in nonsubject imports' presence in the U.S. market since the original investigations did not prevent the domestic industry from improving its capacity, production, capacity utilization, U.S. shipment quantity and value, net sales value, operating income, or operating income margin.[195]

Accordingly, we conclude that if the orders were revoked, cumulated subject imports would likely have a significant adverse 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.

[194] CR/PR at Table I-5.
[195] CR/PR at Table I-3.

Information obtained in these reviews

Background

On January 4, 2021, 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 the countervailing duty order on certain magnesia carbon bricks ("MCBs") from China and the antidumping duty orders on MCBs from China and Mexico would be likely to lead to continuation or recurrence of material injury.[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 date	Action
January 1, 2021	Notice of initiation by Commerce (86 FR 60, January 4, 2021)
January 4, 2021	Notice of institution by Commission (86 FR 126, January 4, 2021)
April 9, 2021	Commission's vote on adequacy
May 4, 2021	Commerce's results of its expedited reviews
August 17, 2021	Commission's determinations and views

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

[2] 86 FR 126, January 4, 2021. 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. 86 FR 60, January 4, 2021. 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 the original investigations are 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 transmitted to the purchasers identified in this proceeding.

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 ("the Committee"), an ad hoc association comprised of: Resco Products, Inc. ("Resco"), Magnesita Refractories Company ("Magnesita"), and Harbison Walker International, Inc. ("Harbison Walker"), domestic producers of MCBs (collectively referred to herein as "domestic interested parties").

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 of firms	Coverage
Domestic:		
U.S. producer association	3	***%

Note: The U.S. producer association coverage figure is the estimated share of total U.S. production of MCBs in 2020 accounted for by its three members. The estimate was calculated as the quantity of reported production for Resco, Magnesita, and Harbison Walker (77,507 short tons) divided by total U.S. production derived from the domestic interested parties' estimates (*** short tons). Domestic interested parties' response to the notice of institution, February 3, 2021, exh. 1-2; and domestic interested parties' supplemental response to the notice of institution, March 4, 2021, exh. 1.

Party comments on adequacy

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews from the domestic interested parties. The domestic interested parties request that the Commission conduct expedited reviews of the antidumping and countervailing duty orders on MCBs.[5]

[5] Domestic interested parties' comments on adequacy, March 18, 2021, pp. 2-3.

The original investigations and subsequent reviews

The original investigations

The original investigations resulted from petitions filed on July 29, 2009 with Commerce and the Commission by Resco Products, Inc., Pittsburgh, Pennsylvania.[6] On August 2, 2010, Commerce determined that imports of MCBs from China and Mexico were being sold at less than fair value ("LTFV") and subsidized by the Government of China.[7] The Commission determined on September 8, 2010 that the domestic industry was materially injured by reason of LTFV imports of MCBs from China and Mexico and subsidized imports of MCBs from China.[8] On September 21, 2010, Commerce issued its antidumping and countervailing duty orders with the final weighted-average dumping margins ranging from 128.10 to 236.00 percent (China) and 57.90 percent (Mexico) and net subsidy rates ranging from 24.24 to 253.87 percent (China).[9]

The first five-year reviews

On November 6, 2015, the Commission determined that it would conduct expedited reviews of the antidumping and countervailing duty orders on MCBs from China and Mexico.[10] On December 9, 2015, Commerce determined that revocation of the antidumping and countervailing duty orders on MCBs from China and Mexico would be likely to lead to continuation or recurrence of dumping and subsidization.[11] On January 15, 2016, the

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[6] Certain Magnesia Carbon Bricks from China and Mexico, Inv. Nos. 701-TA-468 and 731-TA-1166-1167 (Final), USITC Publication 4182, September 2010 ("Original publication"), p. I-1.

[7] 75 FR 45467, August 2, 2010; 75 FR 45097, August 2, 2010; and 75 FR 45472, August 2, 2010.

[8] 75 FR 56556, September 16, 2010. Commissioner Lane, Commissioner Williamson, and Commissioner Pinkert determined that a domestic industry is materially injured by reason of subject imports of MCBs from China and Mexico. Chairman Okun, Commissioner Pearson, and Commissioner 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 materially retarded, by reason of imports from Mexico of MCBs.

[9] 75 FR 57257, September 20, 2010 and 75 FR 57442, September 21, 2010. On July 20, 2015, the U.S. Trade Representative instructed Commerce to implement its determinations under section 129 of the Uruguay Round Agreements Act 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. 80 FR 45184, July 29, 2015.

[10] 80 FR 74799, November 30, 2015.

[11] 80 FR 76447, December 9, 2015.

Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.[12] Following affirmative determinations in the five-year reviews by Commerce and the Commission, effective February 12, 2016, Commerce issued a continuation of the antidumping and countervailing duty orders on imports of MCBs from China and Mexico.[13]

Previous and related investigations

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

Commerce's five-year reviews

Commerce is conducting expedited 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 May 4, 2021.[14] Commerce's Issues and Decision Memoranda, published concurrently with Commerce's final results, will contain complete and up-to-date information regarding the background and history of the orders, including scope rulings, duty absorption, changed circumstances reviews, and anti-circumvention. Upon publication, a complete version of the Issues and Decision Memoranda can be accessed at http://enforcement.trade.gov/frn/. The Issues and Decision Memoranda will also include any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping and countervailing duty orders on imports of MCBs from China and Mexico are noted in the sections titled "The original investigations" and "U.S. imports," if applicable.

[12] 81 FR 5484, February 2, 2016.
[13] 81 FR 7502, February 12, 2016.
[14] Letter from Melissa G. Skinner, Senior Director, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, February 22, 2021.

The product

Commerce's scope

Commerce has defined the scope as follows:

> *Imports covered by the orders consist of 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).* [15]

U.S. tariff treatment[16]

MCBs have been imported under various provisions of the Harmonized Tariff Schedule of the United States (''HTSUS'' or "HTS"), depending upon mineralogical and chemical compositions and types and extents of processing. HTS subheading 6902.10.10 includes magnesite refractory bricks, blocks, tiles, and similar ceramic articles. The provision's article description and superior text suggest that magnesite is the constituent that determines the good's essential character in order for a good to be included within this subheading; it must also contain by weight, either together or separately, more than 50 percent oxides of magnesium, calcium, or chromium, due to the superior text above this subheading. HTS subheading 6902.10.50 includes refractory products not containing magnesite, but otherwise having the same specified chemical contents.[17] Pursuant to note 1 to the chapter (which is an international requirement), these two HTS subheadings include only refractories that are fired

[15] 81 FR 7502, February 12, 2016.

[16] Unless otherwise noted, this information is based on Magnesia Carbon Bricks from China and Mexico, Investigation Nos. 701-TA-468 and 731-TA-1166-1167 (Review), USITC Publication 4589, January 2016 ("First review publication"), pp. I-4 – I-5; and 81 FR 7502, February 12, 2016.

[17] See also: U.S. Customs and Border Protection ("CBP"), "Tariff Classification of Ceramic Refractory Bricks from China," Customs Rulings Online Search System ("CROSS") Ruling N144946, August 19, 2011; "Tariff Classification of Ceramic Refractory Bricks from China," CROSS Ruling N137857, August 19, 2011.

after shaping. Two more specific statistical reporting numbers in chapter 68 cover refractories (including MCBs) that are chemically bonded rather than fired. There are two more specific statistical reporting numbers for refractories (including MCBs) that are chemically bonded rather than fired. HTS 6815.91.0010 includes articles of magnesite (magnesium carbonate), dolomite (calcium-magnesium carbonate), or chromite (iron-chromium oxide), containing by weight more than 70 percent magnesia, less than 30 percent carbon, and chemically bonded by resin or pitch. HTS 6815.99.4010 includes articles of other mineral substances (not of talc, steatite, or soapstone[18]) having the same specified chemical contents. MCBs may also be imported under more general statistical reporting numbers that cover many other products beyond in-scope MCBs. HTS 6815.91.0070 includes articles of magnesite, dolomite, or chromite but without content requirements for magnesia, carbon, or resin or pitch. HTS 6815.99.4070 includes articles of other mineral substances (not of talc, steatite, or soapstone) also without content requirements for magnesia, carbon, or resin or pitch. MCBs originating in either China or Mexico enter the U.S. market at a column 1-general duty rate of "Free" for HTS subheadings 6815.91.00, 6815.99.40, 6902.10.10, and 6902.10.50.[19]

As of September 24, 2018, MCBs originating in China are subject to an additional 10 percent ad valorem duty (that was subsequently increased to 25 percent ad valorem as of May 10, 2019) imposed by the Office of the United States Trade Representative ("USTR"), under Section 301 of the Trade Act of 1974, as amended.[20] See also U.S. notes 20(e), 20(f), and 20(l) to

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[18] Commerce's scope specifies a magnesia content exceeding that for products classifiable under HTS subheading 6815.99.20 for articles of talc (a hydrous magnesium silicate mineral), steatite (a mineral variety of talc) and soapstone (talc schist, a metamorphic rock consisting of talc and lesser amounts of other minerals) that are cut or sawed, or in blanks, crayons, cubes, disks or other forms. Rather, the magnesia content in talc is approximately 63.4 percent by weight. Staff calculations from atomic and molecular weights available in National Institute of Standards and Technology ("NIST"), "NIST Chemistry WebBook, SRD 69, Search for Species Data by Chemical Name," ©2018, https://webbook.nist.gov/chemistry/name-ser/, retrieved February 2, 2021.

[19] HTSUS (2021) Basic Revision 1, USITC Publication 5177, March 2021, pp. 68-10, 68-11, 69-4, and 69-21.

[20] 19 U.S.C. § 2411. HTS subheadings 6815.91.00, 6815.99.40, 6902.10.10, and 6902.10.50 were included in the USTR's third enumeration ("Tranche 3" or "List 3") of products originating in China that became subject to the additional 10 percent ad valorem duties (Annexes A and C of 83 FR 47974, September 21, 2018) as of September 24, 2018. Escalation of this duty to 25 percent ad valorem was rescheduled from January 1, 2019 (Annex B of 83 FR 47974, September 21, 2018) to March 2, 2019 (83 FR 65198, December 19, 2018), but was subsequently postponed until further notice (84 FR 7966, March 5, 2019), and then was implemented as of May 10, 2019 (84 FR 20459, May 9, 2019). A subsequent modification was provided for subject goods exported from China prior to May 10, 2019 not to be

(*continued*...)

subchapter III of HTS chapter 99.[21] As of March 17, 2021,[22] USTR has not granted any exemptions for MCBs from the Section 301 duties. MCBs are not subject to an additional ad valorem national security import duty under Section 232 of the Trade Expansion Act of 1962, as amended.[23]

Description and uses[24]

MCBs date back in the late-1970s[25] as "basic" (alkaline-resistant) refractory products,[26] consisting mostly of magnesia along with carbon, to provide thermal, chemical corrosion, and mechanical abrasion resistance for equipment linings exposed to the harsh, high-temperature operating conditions when directly in contact with molten metal and slags, as occurs during iron and steel manufacturing. MCBs are mainly used in the production of steel and demand for MCBs is driven by the level of steel production. Commenting on these observations noted in

(…*continued*)

subject to the escalated 25 percent duty as long as such goods entered into the United States prior to June 1, 2019 (84 FR 21892, May 15, 2019). USTR proposed raising this additional duty from 25 percent to 30 percent on such products imported from China, on or after October 1, 2019 (Annex C – (List 3 - $200 Billion Action), Part 1, of 84 FR 46212, September 3, 2019).

[21] HTSUS (2021) Basic Revision 1, USITC Publication 5177, March 2021, pp. 99-III-23 – 99-III-24, 99-III-41, 99-III-54, and 99-III-241 – 99-III-248.

[22] USITC, "Harmonized Tariff Information," March 17, 2021, https://www.usitc.gov/harmonized_tariff_information, retrieved March 18, 2021.

[23] 19 U.S.C. 1862. As of March 23, 2018, most steel mill products are subject to 25 percent ad valorem Section 232 import duties, with duty exemptions and quota exemption limits for imports originating in certain U.S. trade partners. For further information, see U.S. Customs and Border Protection ("CBP"), "Trade Remedies, Information on Trade Remedy Questions and Resources, Section 232 Trade Remedies on Aluminum and Steel," no date, https://www.cbp.gov/trade/programs-administration/trade-remedies#, retrieved March 24, 2021.

[24] Unless otherwise noted, this information is based on first review publication, pp. I-4 – I-5; and 81 FR 7502, February 12, 2016.

[25] Previously, other refractory products for lining basic oxygen furnaces included dolomite (calcium-magnesium carbonate), chrome-magnesite or magnesium-chrome, and high-purity magnesia. Sarna, Satyendra Kumar, "Refractories for Basic Oxygen Furnaces," IspatGuru, August 28, 2014, https://www.ispatguru.com/refractories-for-basic-oxygen-furnace/.

[26] Basic refractory products are formulated to be resistant to the highly corrosive, strongly alkaline molten slags at elevated temperatures, as generated by the production and refining of iron and steel. Harbison-Walker Refractories Co. ("HWRC"), Harbison-Walker Handbook of Refractory Practice, 2005, p. CR-2, https://www.somitmurni.com/Handbook.pdf; and Sarna, "Refractories and Classification of Refractories," IspatGuru, April 30, 2017, https://www.ispatguru.com/refractories-and-classification-of-refractories/.

both the original investigations[27] and first five-year reviews[28] (figure I-1), the domestic interested parties note that demand for MCBs continues to rise and fall with the level of steel production in 2020 (figure I-2).[29] MCBs are available in many different grades with various levels of magnesia, carbon, and other materials, depending upon the specific end-use applications (figure I-3).[30] The high-temperature resistance properties of MTBs depend upon both the high content and high purity (less than 0.3 percent silica[31]) of the magnesia, which itself has a very high melting point (of 2,800° C or 5,070° F), along with both high thermal conductivity and high thermal expansion.[32] The high carbon content (typically 8-30 percent, but more commonly 10-20 percent[33]) of MCBs is achieved with the addition of graphite flakes,

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[27] In the original investigations, the Commission found that apparent U.S. consumption of MCBs followed a similar trend to that of U.S. crude steel production, which fluctuated upward between January 2007 and August 2008, then decreased between August 2008 and April 2009 during the global recession, followed by an upward turn between April 2009 and April 2010. Original publication, pp. 14 and II-9.

[28] In its first five-year reviews, the Commission noted that the factors affecting buying patterns and demand for MCBs "largely remained unchanged since the original investigations." First review publication, p. 14.

[29] The domestic interested parties noted that overall demand for steel products has fluctuated during 2020, being strong at the beginning of the year, falling off during the middle part of the year due to a slowdown in the economy because of the coronavirus epidemic, and then improving over the past several months. Domestic interested parties' response to notice of institution, February 3, 2021, p. 9. See also: NASDAC.com, "US Steel Output on an Upswing: Demand Revival Buoys Prospects," October 7, 2020, attached as exh. 8 to Ibid.

[30] Steelmakers use several types of refractory bricks to line their furnaces and ladles, because wear and replacement rates of the refractory bricks vary significantly based on the type of steel being produced, individual furnaces or ladle, and the differing performance requirements of specific surface areas of the steel furnaces or ladle. More specifically, MCBs only line the most demanding areas of the furnace or ladles, principally along the slag lines and at the top of the steel vessel where active chemical processes occur, and impurities and waste tend to aggregate. Other less costly products line the bottom and lower sides of furnaces and ladles where slag conditions are less aggressive and will wear out at lower rates. MCBs and the other refractory bricks are strategically placed in the ladle so that the overall wear on the ladle lining is even and provides the lowest unit cost per ton of steel produced. Original publication, pp. 1-9 – I-10.

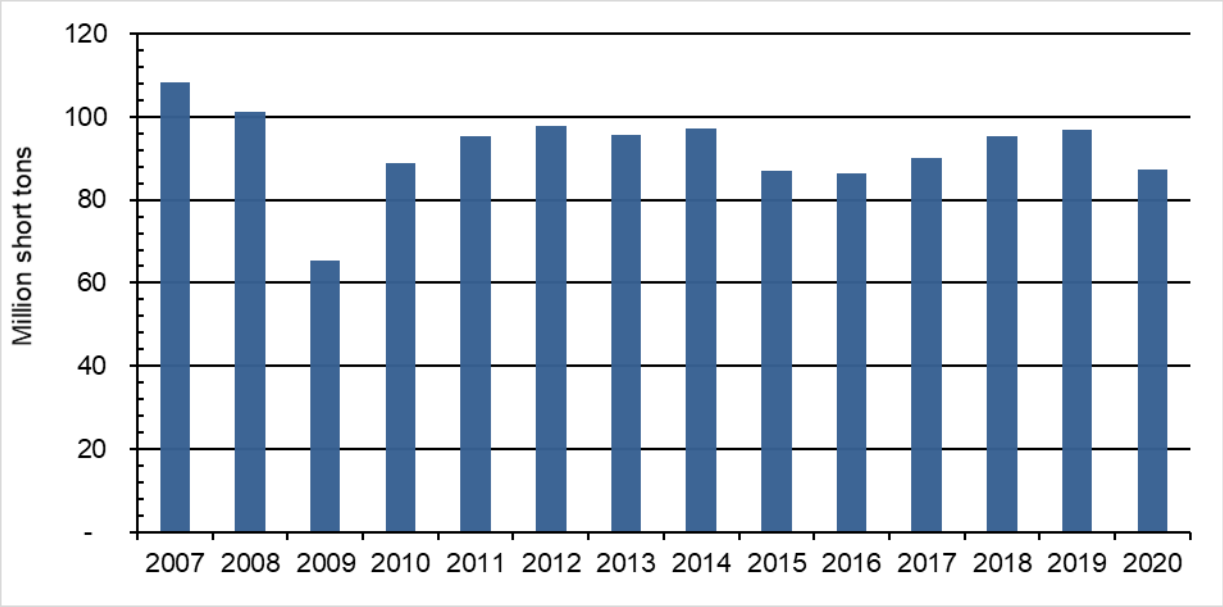
[31] Sarna, "Refractory Lining of a Basic Oxygen Furnace," March 28, 2013, https://www.ispatguru.com/refractory-lining-of-a-basic-oxygen-furnace/.

[32] HWRC, Harbison-Walker Handbook of Refractory Practice, 2005, p. CR-3, https://www.somitmurni.com/Handbook.pdf; and Sarna, "Basic Shaped Refractories," IspatGuru, February 18, 2015, https://www.ispatguru.com/basic-shaped-refractories/.

[33] HWRC, Harbison-Walker Handbook of Refractory Practice, 2005, p. CR-4, https://www.somitmurni.com/Handbook.pdf; and Sarna, "Basic Shaped Refractories," IspatGuru, February 18, 2015, https://www.ispatguru.com/basic-shaped-refractories/.

which provides both (1) high thermal conductivity to promote resistance to spalling (fragmentation or shattering) by reducing internal thermal stresses as the refractory product undergoes wide-ranging temperature changes and (2) low surface adherence ("wettability") to resist the molten slag from penetrating and corroding the refractory product.[34] Powdered aluminum, silicon, or other metals are additives that prevent oxidation and dissolution of the carbon from contact with the molten slag by forming metal carbides.[35] The iron and steel industry considers MCBs as the most durable of refractory bricks for lining the lower and upper sidewalls, slag lines, and roofs of transfer ladles, ladle metallurgy furnaces, basic oxygen (decarburation) furnaces, and electric-arc (melting) furnaces.[36]

Figure I-1
Annual U.S. crude steel production, 2007-2020



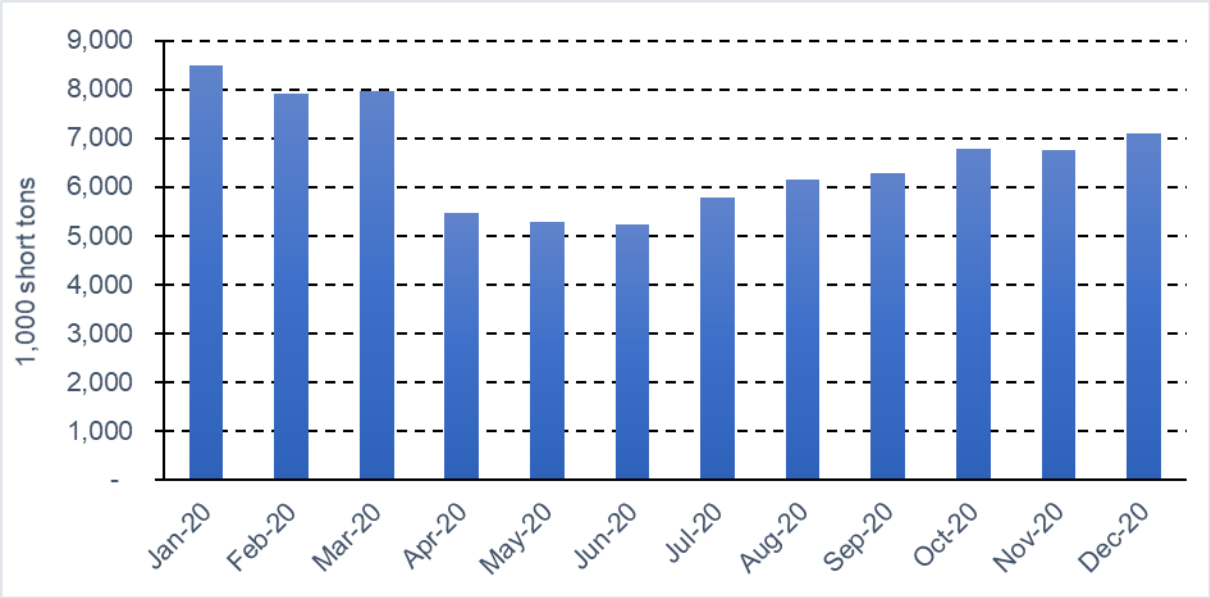
Source: World Steel Association ("WSA"), Table 1: Total production of crude steel, in Steel Statistical Yearbook, various years, p. 1, https://www.worldsteel.org/steel-by-topic/statistics/steel-statistical-yearbook.html; and "2020 Steel Production by Country, Data Table," 2021 press releases, https://www.worldsteel.org/media-centre/press-releases/2021.html; and 2020 press releases, https://www.worldsteel.org/media-centre/press-releases/2020.html, retrieved March 25, 2021.

[34] HWRC, Harbison-Walker Handbook of Refractory Practice, 2005, pp. CR-5 – CR-6, https://www.somitmurni.com/Handbook.pdf; and Sarna, "Carbon Based Refractories," IspatGuru, March 9, 2015, https://www.ispatguru.com/carbon-based-refractories/.

[35] HWRC, Harbison-Walker Handbook of Refractory Practice, 2005, p. CR-6, https://www.somitmurni.com/Handbook.pdf; and Sarna, "Carbon Based Refractories," IspatGuru, March 9, 2015, https://www.ispatguru.com/carbon-based-refractories/.

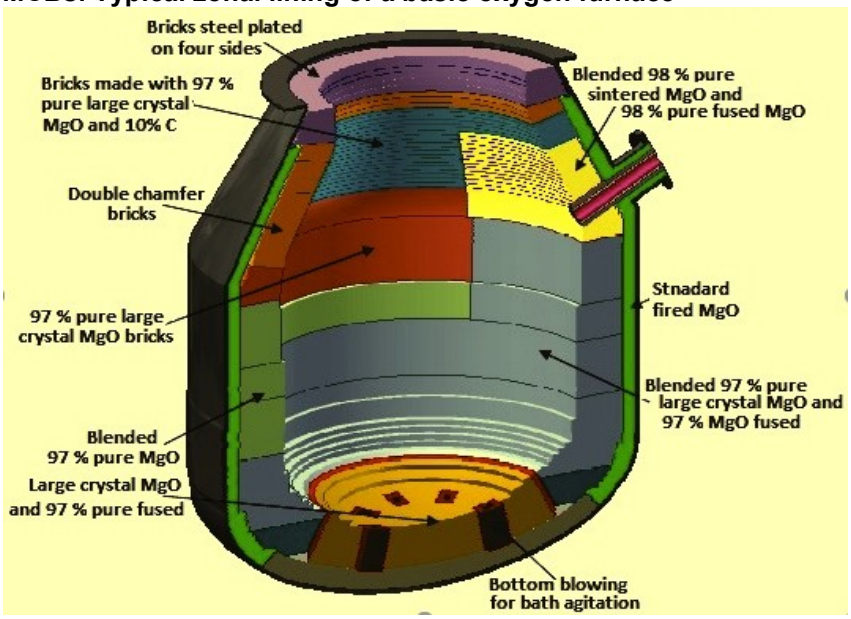
[36] Original publication, pp. I-9 – I-10; first review publication, p. I-4; and HWRC, Harbison-Walker Handbook of Refractory Practice, 2005, pp. CR-4 – CR-5, https://www.somitmurni.com/Handbook.pdf.

Figure I-2
Monthly U.S. crude steel production, January-December 2020



Source: World Steel Association ("WSA"), "2020 Steel Production by Country, Data Table," 2021 press releases, https://www.worldsteel.org/media-centre/press-releases/2021.html; and 2020 press releases, https://www.worldsteel.org/media-centre/press-releases/2020.html, retrieved March 25, 2021.

Figure I-3
MCBs: Typical zonal lining of a basic oxygen furnace



Source: Sarna, Satyendra Kumar, "Refractories for Basic Oxygen Furnaces," IspatGuru, August 28, 2014, https://www.ispatguru.com/refractories-for-basic-oxygen-furnace/.

Manufacturing process[37]

The magnesia for MCBs is derived from three sources: (1) naturally occurring magnesium carbonate (magnesite) mined from ore deposits; (2) sea-water magnesium produced by firing magnesium hydroxide extracted from sea water; or (3) brine magnesia produced from high-salt concentrates from deep-water wells. The raw material is then processed into either sintered ("dead-burned") magnesia, by heating below its melting point both to drive off water and carbon dioxide, as well as to increase its density, or fused magnesia by heating into a molten state for an extended period before cooling.

The sintered or fused magnesia is subsequently crushed, ground, and screened. It is then mixed with other materials, including resin binders, graphite, and metallic additives specific for the type of brick being produced. The mixed material is placed in a press for forming into individual custom-shaped bricks. Afterwards, the bricks are heated in either batch or tunnel ovens to set the resin binders. Finally, the finished bricks are packaged for shipment.

The industry in the United States

U.S. producers

During the final phase of the original investigations, the Commission received U.S. producer questionnaires from three firms (ANH Refractories Company ("ANH"), Magnesita, and Resco). These firms accounted for approximately *** percent of production of MCBs in the United States during 2009.[38]

During the first five year reviews, the domestic interested parties provided a list of four known U.S. producers of MCBs during 2014.[39] The domestic interested parties' response to the Commission's notice of institution in those reviews included requested U.S. industry data for

[37] Unless otherwise noted, this information is based on original publication, pp. I-10 – I-14; and first review publication, p. I-4.

[38] Investigation Nos. 701-TA-468 and 731-TA-1166-1167 (Final): Certain Magnesia Carbon Bricks from China and Mexico, Confidential Report, INV-HH-080, August 13, 2010, as revised in INV-HH-084, August 24, 2010 ("Original confidential report"), p. III-1. A fourth U.S. producer, ***. Ibid.

[39] First review publication, p. I-10.

three domestic producers (Harbison Walker (formerly ANH), Magnesita, and Resco) that accounted for approximately *** percent of estimated U.S. production of MCBs in 2014.[40]

In response to the Commission's notice of institution in these current reviews, domestic interested parties provided a list of four known and currently operating U.S. producers of MCBs. Three firms (Harbison Walker, Magnesita, and Resco) providing U.S. industry data in response to the Commission's notice of institution accounted for approximately *** percent of production of MCBs in the United States during 2020.[41]

Recent developments

Domestic interested parties identified the same four firms as domestic MCB producers that were reported in the original investigations: Harbison Walker, formerly known as ANH;[42] Magnesita; Resco; and TYK America.[43] [44] Since the Commission's last five-year reviews, the domestic interested parties reported production process upgrades and capacity expansions, along with measures undertaken and challenges encountered to remain operating during the ongoing Covid-19 epidemic.

Table I-2 presents events in the U.S. industry since the last five-year reviews.

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[40] Investigation Nos. 701-TA-468 and 731-TA-1166-1167 (Review): Certain Magnesia Carbon Bricks from China and Mexico, Confidential Report, INV-NN-076, October 26, 2015 ("First review confidential report"), pp. I-2 and I-14 and table I-1.

[41] Domestic interested parties' response to the notice of institution, February 3, 2021, exh. 1-2; and domestic interested parties' supplemental response to the notice of institution, March 4, 2021, exh. 1.

[42] In January 2015, the former ANH announced its new corporate name, "HarbisonWalker International Inc." HarbisonWalker International Press Release, "HarbisonWalker International, a familiar name with a new direction," January 16, 2015, https://thinkhwi.com/harbisonwalker-international-a-familiar-name-with-a-new-direction-2/, retrieved March 17, 2021.

[43] Domestic interested parties' response to the notice of institution, February 3, 2021, pp. 3-4, and 31; and original publication, p. III-2.

[44] Although not a petitioner in the original investigations nor a responding U.S. producer to the notice of institution in these second five-year reviews, TYK America, which produces refractory bricks at its facility in Clariton, Pennsylvania, ***. Domestic interested parties' response to the notice of institution, February 3, 2021, p. 31 and exh. 2.

Table I-2
MCBs: Recent developments in the U.S. industry, since January 2015

Item	Firm	Event
Upgrade	Harbison Walker	2016: Expended $1.5 million of capital investment to install new technologies for enhancing the raw materials handling capabilities at its facility in White Cloud, Michigan, that produces refractory bricks for the steel industry.
Upgrade	Magnesita	September 2018: Received a state grant of $300 million from the Redevelopment Assistance Capital Program ("RACP") to construct a new building for the new raw material crushing equipment installed at its facility in York, Pennsylvania.
Expansion	Harbison Walker	May 2019: Announced capital investment plans, totaling $9 million, to upgrade and expand the existing production capacity by 25 percent at its facility in White Cloud, Michigan.
Expansion	Harbison Walker	July 2019: Completed the first phase of expansion at its facility in White Cloud, Michigan, that included a 35-percent expansion of production and warehousing floor space and the installation of new advanced manufacturing and hydraulic press technologies.
Upgrade	Resco	January 2020: Completed (1) state-of-the-art batching systems to replace dated electrical equipment and (2) software upgrades to control systems to enhance quality consistency and optimize mix times of raw materials at its facility in Hammond, Indiana.
Contingency measures	Resco	March and June 2020: Announced (1) decision (in March) and (2) measures undertaken (in June) for production facilities to remain operating during the ongoing Covid-19 epidemic.
Contingency measures	Harbison Walker	March and October 2020: Announced (1) state approval (in March) and (2) measures undertaken (in October) for production facilities to remain operating during the ongoing Covid-19 epidemic.
Raw materials shortage	Magnesita	Fourth-quarter 2020 and first-quarter 2021: The facility in York, Pennsylvania remained operating during the ongoing Covid-19 epidemic, but a supply shortage of dead-burned magnesite ("DBM") arose during ongoing rotary kiln repairs (in fourth-quarter 2020) due to increased raw material demand for producing MCB bricks and magnesia mixes. Sourcing additional domestic supplies and building-up inventories were anticipated to resolve the supply shortage of DBM by March 2021.

Sources:
HarbisonWalker, "HWI Announces Investments in US Steel Industry," press release, May 16, 2017, https://thinkhwi.com/hwi-announces-investments-us-steel-industry/, retrieved March 4, 2021;
Refractories Window, "RHI Magnesita York Factory Receives $300 million Grants from State Program," September 14, 2018, http://www.refwin.com/news/NewsDetail/12088/1/RHIMagnesitaYorkfactoryreceives%24300milliongrantsfromstateprogram;jsessionid=2E6E0BC5B40F450AFEFAA8AF279A9520, retrieved March 5, 2021;
Coyne, Justine, "HarbisonWalker Scaling Up US Refractories Output to Meet Higher Steel Demand," S&P Global Platts, May 7, 2019, https://www.spglobal.com/platts/en/market-insights/latest-news/metals/050719-harbisonwalker-scaling-up-us-refractories-output-to-meet-higher-steel-demand, retrieved March 4, 2021;
Area Development, "HarbisonWalker International Expands White Cloud, Michigan Manufacturing Complex," July 22, 2019, https://www.areadevelopment.com/newsItems/7-22-2019/harbisonwalker-international-white-cloud-michigan.shtml, retrieved March 4, 2021;
HarbisonWalker, "HarbisonWalker International Celebrates New Investments in White Cloud, Michigan Manufacturing Facility," news release, July 25, 2019, https://thinkhwi.com/2844-2/, retrieved March 4, 2021;

Resco, "Upgrading Batching Systems & Software," blog post, January 16, 2020, https://www.rescoproducts.com/blog/show/upgrading-batching-systems-software, retrieved March 5, 2021;
Resco, "Resco Products COVID-19 Response," blog post, March 20, 2020, https://www.rescoproducts.com/blog/show/resco-products-responds-to-covid-19, retrieved March 5, 2021;
Resco, "Resco Products COVID-19 Update," blog post, June 3, 2020, https://www.rescoproducts.com/blog/show/resco-products-covid-19-update, retrieved March 5, 2021;
HarbisonWalker, "HWI is Fully Operational," news release, March 23, 2020, https://thinkhwi.com/hwi-fully-operational/, retrieved March 5, 2021;
HarbisonWalker, "COVID-19 Update – October 2020," news release, October 15, 2020, https://thinkhwi.com/covid-19-update-october-2020/, retrieved March 5, 2021;
Magnesita, "How RHI Magnesita Deals with COVID-19," March 18, 2020, https://www.rhimagnesita.com/how-rhi-magnesita-deals-with-covid-19/, retrieved March 5, 2021; and
Magnesita, "Counteractions to COVID-19 Supply Chain Challenges," no date, https://www.rhimagnesita.com/counteractions-to-covid-19-supply-chain-challenges/#york, retrieved March 5, 2021.

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 in the current five-year reviews.[45] Table I-3 presents a compilation of the trade and financial data submitted from all responding U.S. producers in the original investigations and subsequent five-year reviews.

[45] Individual company trade and financial data are presented in app. B.

Table I-3
MCBs: Trade and financial data submitted by U.S. producers, 2009, 2014, and 2020

Item	2009	2014	2020
Capacity (short tons)	114,241	134,529	123,584
Production (short tons)	49,997	86,553	77,507
Capacity utilization (percent)	43.8	64.3	62.7
U.S. shipments:			
Quantity (short tons)	42,243	80,184	74,234
Value ($1,000)	53,933	114,284	143,199
Unit value (per short ton)	$1,277	$1,425	$1,929
Net sales ($1,000)	***	***	***
COGS ($1,000)	***	***	***
COGS/net sales (percent)	***	***	***
Gross profit (loss) ($1,000)	***	***	***
SG&A expenses ($1,000)	***	***	***
Operating income (loss) ($1,000)	***	***	***
Operating income (loss)/net sales (percent)	***	***	***

Note: For a discussion of data coverage, please see "U.S. producers" section.

Source: For the years 2009 and 2014, data are compiled using data submitted in the Commission's original investigations and first five-year reviews, respectively. For the year 2020, data are compiled using data submitted by domestic interested parties. Domestic interested parties' response to the notice of institution, February 3, 2021, exh. 1; and domestic interested parties' supplemental response to the notice of institution, March 4, 2021, exh. 1.

Definitions 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. 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. Under the related parties provision, the Commission may exclude a U.S. producer from the domestic industry for purposes of its injury determination if "appropriate circumstances" exist.[46]

[46] Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

In its original determinations and its expedited first five-year review determinations, the Commission defined a single domestic like product consisting of MCBs that are within Commerce's scope and it defined the domestic industry as all producers of the domestic like product, MCBs.[47]

U.S. imports and apparent U.S. consumption

U.S. importers

During the final phase of the original investigations, the Commission received U.S. importer questionnaires from 12 firms, which accounted for approximately 60 percent of total U.S. imports of MCBs from China and 100 percent of total U.S. imports of MCBs from Mexico during 2009.[48] Import data presented in the original investigations are based on questionnaire responses.

Although the Commission did not receive responses from any respondent interested parties in its first five-year reviews, the domestic interested parties provided a list of 16 firms that may have imported MCBs from China and Mexico at that time.[49] Import data presented in the first reviews are derived from *** filtered to include companies identified as importers of MCBs by the domestic interested parties during that proceeding.

Although the Commission did not receive responses from any respondent interested parties in these current reviews, in its response to the Commission's notice of institution, the domestic interested parties provided a list of 21 potential U.S. importers of MCBs from China and Mexico.[50] Import data presented in the current five-year reviews are based on official Commerce statistics.

U.S. imports

Table I-4 presents the quantity, value, and unit value of U.S. imports from China and Mexico, as well as the other top sources of U.S. imports (shown in descending order of 2020 imports by quantity).

[47] 86 FR 126, January 4, 2021.
[48] Original publication, p. IV-1.
[49] First review publication, p. I-13.
[50] Domestic interested parties' response to the notice of institution, February 3, 2021, exh. 3.

Table I-4
MCBs: U.S. imports, 2015-20

Item	2015	2016	2017	2018	2019	2020
Quantity (short tons)						
China (subject)	14,410	13,016	8,710	10,725	9,675	4,654
Mexico (subject)	2,115	213	330	1,046	---	---
Subtotal, subject	16,525	13,229	9,040	11,771	9,675	4,654
Germany	9,028	8,101	7,699	7,844	10,589	7,986
Vietnam	254	1,691	1,407	2,315	3,405	4,742
Brazil	15,983	14,489	13,205	7,545	4,342	36
All other sources	6,124	5,473	6,916	4,976	7,649	4,626
Subtotal, nonsubject	31,389	29,754	29,227	22,680	25,985	17,390
Total imports	47,914	42,983	38,267	34,451	35,660	22,044
Landed, duty-paid value ($1,000)						
China (subject)	14,155	14,750	9,594	17,596	16,987	5,788
Mexico (subject)	2,969	275	331	1,001	---	---
Subtotal, subject	17,125	15,025	9,925	18,597	16,987	5,788
Germany	10,387	8,897	8,891	9,905	13,389	10,511
Vietnam	356	2,265	1,846	4,349	6,236	8,875
Brazil	19,992	18,901	16,067	9,170	4,986	48
All other sources	8,004	7,226	9,411	8,425	10,381	7,077
Subtotal, nonsubject	38,739	37,290	36,215	31,849	34,992	26,511
Total imports	55,864	52,315	46,140	50,446	51,979	32,299
Unit value (dollars per short ton)						
China (subject)	982	1,133	1,101	1,641	1,756	1,244
Mexico (subject)	1,404	1,291	1,003	957	---	---
Subtotal, subject	1,036	1,136	1,098	1,580	1,756	1,244
Germany	1,151	1,098	1,155	1,263	1,264	1,316
Vietnam	1,402	1,339	1,312	1,879	1,831	1,872
Brazil	1,251	1,305	1,098	1,215	1,148	1,333
All other sources	1,307	1,320	1,361	1,693	1,357	1,530
Subtotal, nonsubject	1,234	1,253	1,098	1,404	1,347	1,524
Total imports	1,166	1,217	1,206	1,464	1,458	1,465

Note: Because of rounding, figure may not add to total shown.

Note: During the first five-year review, import statistics were compiled *** filtered to include companies identified as importers of MCBs by the domestic interested parties for HTS statistical reporting number 6902.10.1000. ***. Accordingly, import statistics during the current five-year review are compiled using official Commerce statistics and are likely overstated. ***. Within the relevant HTS statistical reporting number, very few import duties have been paid since the imposition of the orders. ***.

Source: Compiled from official Commerce statistics for HTS statistical reporting number 6902.10.1000, accessed February 25, 2021. These data are likely overstated as HTS statistical reporting number 6902.10.1000 also contains products outside the scope of these reviews.

Apparent U.S. consumption and market shares

Table I-5 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

Table I-5
MCBs: U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares, 2009, 2014, and 2020

Item	2009	2014	2020
		Quantity (short tons)	
U.S. producers' U.S. shipments	42,243	80,184	74,234
U.S. imports from—			
China (subject)	***	***	4,654
Mexico (subject)	***	***	---
Subtotal, subject	***	11,276	4,654
All other sources	***	8,573	17,390
Total imports	***	19,849	22,044
Apparent U.S. consumption	***	100,033	96,278
		Value (1,000 dollars)	
U.S. producers' U.S. shipments	53,933	114,284	143,199
U.S. imports from—			
China (subject)	***	***	5,788
Mexico (subject)	***	***	---
Subtotal, subject	***	10,940	5,788
All other sources	***	9,427	26,511
Total imports	***	20,366	32,299
Apparent U.S. consumption	***	134,650	175,498

Table continued on next page.

Table I-5—Continued
MCBs: U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares, 2009, 2014, and 2020

Item	2009	2014	2020
		Share of consumption based on quantity (percent)	
U.S. producer's share	***	80.2	77.1
U.S. imports from.--			
China (subject)	***	***	4.8
Mexico (subject)	***	***	---
Subtotal, subject	***	11.3	4.8
All other sources	***	8.6	18.1
Total imports	***	19.8	22.9
		Share of consumption based on value (percent)	
U.S. producer's share	***	84.9	81.6
U.S. imports from.--			
China (subject)	***	***	3.3
Mexico (subject)	***	***	---
Subtotal, subject	***	8.1	3.3
All other sources	***	7.0	15.1
Total imports	***	15.1	18.4

Note: For a discussion of data coverage, please see "U.S. producers" and "U.S. importers" sections.

Source: For the year 2009, 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. For the year 2014, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the notice of institution during the first five-year reviews. U.S. imports are compiled *** filtered to include companies identified as importers of MCBs by the domestic interested parties 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. For the year 2020, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution and U.S. imports are compiled using official Commerce statistics under HTS statistical reporting number 6902.10.1000, accessed February 25, 2021.

Cumulation considerations[51]

In assessing whether imports should be cumulated in five-year reviews, the Commission considers, among other things, whether there is a likelihood of a reasonable overlap of competition among subject imports and the domestic like product. Additional information concerning geographical markets and simultaneous presence in the market is presented below.[52]

U.S. imports of refractory products under HTS statistical reporting number 6902.10.1000 from China were present in all 72 months during 2015-20, while the presence of imports in the market from Mexico appeared more sporadic. U.S. imports from Mexico were present in 10 months of 2015, 4 months of 2016, 3 months of 2017, and 8 months of 2018. There were no reported U.S. imports from Mexico during 2019-20.

U.S. imports of refractory products under HTS statistical reporting number 6902.10.1000 from China were reported in all years during 2015-20. These imports entered through the northern, southern, eastern, and western borders of the United States in each year during 2015-20. U.S. imports from Mexico were reported in all years except for 2019 and 2020 during 2015-20. These imports entered through the southern border of the United States in all years from 2015 through 2018, with the exception of 2018 where a small quantity of imports also entered through the northern border of the United States.

[51] Unless otherwise noted, this information is based on official U.S. import statistics for HTS statistical reporting number 6902.10.1000. As previously indicated, HTS statistical reporting number 6902.10.1000 includes products both within and outside the scope of these reviews.

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

The industry in China

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from seven firms, which accounted for approximately *** percent of China's MCB capacity during 2008, and approximately *** percent of MCB exports from China to the United States during 2009.[53]

Although the Commission did not receive responses from any respondent interested parties in its first five-year reviews, the domestic interested parties provided a list of 36 possible producers of MCBs in China in that proceeding.[54]

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested parties provided a list of 49 firms that they believe currently produce MCBs in China or export MCBs from China.[55]

***.[56] Domestic interested parties provided recent examples of official approvals granted for expansions of existing production capacity and construction of new production capacity by the Chinese industry in 2019 and 2020.[57]

Table I-6 presents events in the Chinese industry since the last five-year reviews.

[53] Original confidential report, p. VII-3.

[54] First review publication, p. I-20.

[55] Domestic interested parties' response to the notice of institution, February 3, 2021, exh. 4.

[56] Domestic interested parties' response to the notice of institution, February 3, 2021, p. 33.

[57] Domestic interested parties' response to the notice of institution, February 3, 2021, p. 18; and exh. 10: articles showing Chinese capacity expansions in 2019 and 2020.

Table I-6
MCBs: Recent developments in the Chinese industry, since January 2015

Item	Firm	Event
Closure	Not available	June 2018: Nearly 300 magnesia and magnesite kilns of 43 magnesium products enterprises in Haicheng City (in the northeastern Province of Liaoning) that failed comprehensive review inspections are designated for closure.
Expansion	Liaoning Qunyi Group	May 2019: The Dashiqiao City Government approved Liaoning Qunyi Group's request to upgrade its production line, which will be able to produce 50,000 tons of high-quality low-carbon brick.
Expansion	Jiangsu Jinnai New Materials Technology Co. Ltd.	Second-half 2019: Capital investment exceeding 50 million yuan to construct a new product line and install a full set of automated production equipment, to improve production efficiency of refractory products, including MCBs.
Revised upgrade and expansion	Henan Zhulin Lixin Furnace Industry Co. Ltd.	October 2019: Revised previous facility upgrade plans with additional capital investment of 15 million yuan to demolish the old production facility and storage buildings, reconstruct the existing production facility building, and replace the existing equipment with upgraded equipment to expand facility production capacity to 50,000 metric tons (55,000 short tons) of shaped refractory products and 30,000 metric tons (33,000 short tons) of unshaped refractory products.
Expansion	Yingkou Qinghua Group Import & Export Co. Ltd.	January 2020: The Dashiquiao City Government approved Yingkou Qinghua Group's construction of a new MCB production line with 100,000 metric tons (110,231 short tons) of annual output capacity.
New producer	Anti-City Port Genesis New Materials Co. Ltd.	December 2020: The Yingkou Jinlong Refractories Group established a new subsidiary company, Anti-City Port Genesis New Materials Co. Ltd., with capacity to produce refractory materials, including MCBs.

Sources:
China's Refractories, "Kilns of 43 Enterprises in Haicheng City Were Shut Down," August 2, 2018, http://www.china-refractories.cn/news/news.aspx?value=1007, retrieved March 9, 2021;
China's Refractories, "Jiangsu Jinnai Further Improved Automation Level," March 12, 2020, http://www.china-refractories.cn/news/news.aspx?value=1043, retrieved March 9, 2021;
China's Refractories, "Henan Zhulin Lixin Furnace Industry Co., Ltd. to Invest CNY15 Million in Refractory Technology Upgrading," October 10, 2019, http://www.china-refractories.cn/news/news.aspx?value=1028, retrieved March 9, 2021;
Domestic interested parties' response to the notice of institution, February 3, 2021, p. 18; and exh. 10: articles showing Chinese capacity expansions in 2019 and 2020; and
China Refractories Network, "Refractories News Center," no date, http://www.china-refractories.cn/news/newscenter.aspx, retrieved various dates.

Table I-7 presents export data for certain refractory products, a category that includes MCBs and out-of-scope products, from China (by export destination in descending order of quantity for 2020). Leading destination markets India (13.1 percent), Japan (10.0 percent), Indonesia (9.7 percent), and Korea (9.3 percent), together accounted for approximately two-fifths (42.1 percent) of China's total annual exports reported in quantity terms in 2020.

Table I-7
Certain refractory products: Exports from China, by destination, 2015-20

Item	Calendar year					
	2015	2016	2017	2018	2019	2020
	Quantity (short tons)					
India	178,405	226,493	173,712	177,603	146,179	117,439
Japan	136,340	118,436	128,007	125,898	108,758	89,107
Indonesia	33,006	41,416	35,348	84,395	84,834	86,742
Korea	121,425	100,890	120,489	93,166	87,011	82,885
Vietnam	24,005	30,026	37,070	41,314	45,104	56,587
Taiwan	14,991	14,080	18,843	25,687	20,762	28,416
Netherlands	38,505	33,699	45,717	35,795	25,711	27,938
Malaysia	15,794	23,099	13,207	32,780	22,254	24,565
Thailand	18,593	21,096	25,752	17,791	15,522	23,885
Russia	12,917	13,053	24,174	18,685	18,915	21,288
All other	314,902	323,114	372,011	413,396	350,212	334,831
Total	908,882	945,401	994,331	1,066,510	925,263	893,683

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

Source: IHS Markit, Global Trade Atlas, HS subheading 6902.10: Refractory bricks, blocks and tiles containing by weight more than 50 percent magnesium, calcium, or chromium, accessed March 22, 2021. These data are likely overstated as this HS subheading contains products outside the scope of these reviews.

The industry in Mexico

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from one firm, which accounted for 100 percent of production of MCBs in Mexico and approximately 100 percent of MCB exports from Mexico to the United States during the original period of investigation (January 2007 to March 2010).[58]

Although the Commission did not receive responses from any respondent interested parties in its first five-year reviews, the domestic interested parties provided a list of one possible producer of MCBs in Mexico in that proceeding.[59]

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested parties provided a list of two firms that they believe currently produce MCBs in Mexico or export MCBs from Mexico.[60] Domestic interested parties identified Producción RHI Mexico S. de R.L. de C.V., ***, as the only known producer of MCBs in Mexico[61] and RHI-REFMEX, S.A. de C.V. ***.[62]

Table I-8 presents events in the Mexican industry since the last five-year reviews.

[58] Original publication, p. VII-5.

[59] First review publication, p. I-21.

[60] Domestic interested parties' response to the notice of institution, February 3, 2021, exh. 4.

[61] Domestic interested parties' response to the notice of institution, February 3, 2021, pp. 19-20 and 32; and domestic interested parties' supplemental response to the notice of institution, March 4, 2021, p. 3.

[62] Domestic interested parties' supplemental response to the notice of institution, March 4, 2021, p. 3.

Table I-8
MCBs: Recent developments in the Mexican industry, since January 2015

Item	Firm	Event
Production interruption	Producción RHI Mexico	Second-quarter 2020: Production lead times for MCBs and aluminum-magnesia-carbon bricks are anticipated to stabilize after resolving (1) production worker shortages and (2) drawdown of raw materials inventories.
Raw materials shortage	Producción RHI Mexico	Second-quarter 2020 onward: Delays in deliveries of raw materials from the usual 8 weeks extending to 20 or more weeks was attributed to adverse impacts of the Covid-19 epidemic upon suppliers. Proactive efforts to restore raw materials inventory levels based on anticipated demand plus a 10-15 percent buffer margin.
Manpower shortage	Producción RHI Mexico	Second-quarter 2020 onward: Recruitment of additional production workers necessary due to the unanticipated high incidence of Covid-19 infections at the facility.
Maintenance plans	Producción RHI Mexico	Second-quarter 2020 onward: Implemented a new comprehensive plan to maintain production equipment in optimal condition to assure high product delivery reliance at this facility.

Source: Magnesita, "Counteractions to COVID-19 Supply Chain Challenges," no date, https://www.rhimagnesita.com/counteractions-to-covid-19-supply-chain-challenges/#york, retrieved March 5, 2021.

Table I-9 presents export data for certain refractory products, a category that includes MCBs and out-of-scope products, from Mexico (by export destination in descending order of quantity for 2019).[63] The United States accounted for over three-fifths (62.7 percent) of Mexico's total annual exports, by quantity, in 2019.

[63] Export data for 2020 are not presented for Mexico because export data to several partner countries are not yet available.

Table I-9
Certain refractory products: Exports from Mexico, by destination, 2015-29

Item	Calendar year				
	2015	2016	2017	2018	2019
	Quantity (short tons)				
United States	257	718	698	757	3,145
Bolivia	769	223	271	284	516
Canada	774	440	646	2,901	373
Ecuador	880	719	483	136	258
Jamaica	40	0	0	366	197
Costa Rica	578	0	24	585	159
Barbados	0	0	0	445	148
El Salvador	95	118	0	86	120
Venezuela	70	49	377	0	91
Spain	0	0	0	0	7
All other	2,780	2,854	1,337	1,852	0
Total	6,243	5,122	3,836	7,412	5,014

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

Note: Export data for 2020 are not presented for Mexico because export data to several partner countries are not yet available.

Source: IHS Markit, Global Trade Atlas, HS subheading 6902.10: Refractory bricks, blocks and tiles containing by weight more than 50 percent magnesium, calcium, or chromium, accessed March 22, 2021. These data are likely overstated as this HS subheading contains products outside the scope of these reviews. Exports from Mexico are compiled from the corresponding imports from Mexico reported by trade partners, except for those (Chile, Colombia, and Peru) that reported in terms of the number of bricks rather than by weight.

Antidumping or countervailing duty orders in third-country markets

Based on available information, certain refractory bricks (including MCBs) originating in China are currently subject to an antidumping duty order of $145.00 per metric ton ($131.54 per short ton) in Turkey, which was extended in September 2018 for another five years.[64]

[64] The original antidumping order was imposed in September 2007, which was subsequently extended in March 2013. Domestic interested parties' response to the notice of institution, February 3, 2021, p. 22; and exh. 12: World Trade Organization, Committee on Anti-Dumping Practices, "Semi-Annual Report Under Article 16.4 of the Agreement – Turkey; and Global Trade Alert, "Intervention

(*continued*...)

Antidumping orders imposed by Brazil's Secretary for Foreign Trade of the Ministry of Development, Industry and Foreign Trade on basic refractories (including MCBs) originating in China ($536.52 per metric ton ($486.72 per short ton)) and Mexico ($277.66 per metric ton ($251.89 per short ton)),[65] were initially suspended for one year in June 2018 but were subsequently terminated six months later in December 2018.[66]

The global market[67]

In addition to the United States, China, and Mexico, MCBs are produced in Europe and Brazil. RHI Magnesita GmbH, which claims to be the global leading manufacturer and supplier of heat-resistant refractory products,[68] operates MCB production plants at Veitsch and Carinthia in Austria; Germany; and Brazil.[69] In 2017, RHI Magnesita agreed in September 2017 to sell its MCB operations in Oberhausen, Germany to Intocast Actiengesellshaft Feurefest-Produkte Gieβhilfsmittal as a divestiture requirement for European Economic Area ("EEA") approval of the corporate merger of RHI AG and Magnesita Refatarios S.A., completed in November 2017.[70] Another firm, Refratechnik Cement GmbH produces MCBs in Gottingen, Germany.[71]

Table I-10 presents global export data for certain refractory products, a category that includes MCBs and out-of-scope products (by source in descending order of quantity for

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(…*continued*)

17653, Turkey: Extension of Antidumping Duty on Imports of Certain Refractory Bricks from China," no date, https://www.globaltradealert.org/intervention/17536/anti-dumping/turkey-extension-of-antidumping-duty-on-imports-of-certain-refractory-bricks-from-china, retrieved March 3, 2021.

[65] Domestic interested parties' response to the notice of institution, February 3, 2021, exh. 9: MCBFTC, Domestic Industry's Response to the Notice of Institution, September 2, 2015, exh. 17: World Trade Organization, Committee on Anti-Dumping Practices, "Semi-Annual Report Under Article 16.4 of the Agreement – Brazil," (March 28, 2014) (excerpt).

[66] The original antidumping orders were imposed in December 2013 for five years. Global Trade Alert, "Intervention 17098, Brazil: Termination of Definitive Antidumping Duty on Imports of Basic Refractories from China and Mexico Following a Suspension of the Measure for Six Months," no date, https://www.globaltradealert.org/intervention/17098/anti-dumping/brazil-termination-of-definitive-antidumping-duty-on-imports-of-basic-refractories-from-china-and-mexico-following-a-suspension-of-the-measure-for-six-months, retrieved March 4, 2021.

[67] Unless otherwise noted, this information is based on first review publication, pp. I-21 – I-22.

[68] RHI Magnesita, "Who We Are," no date, https://www.rhimagnesita.com/about/who-we-are/, retrieved March 3, 2021.

[69] First review publication, p. I-21.

[70] RHI Magnesita, "Completion of Merger Control Divestments," news release, December 1, 2017, https://www.rhimagnesita.com/completion-of-merger-control-divestments/, retrieved March 3, 2021.

[71] First review publication, p. I-22.

2019).[72] Leading exporters China (51.9 percent), followed by Austria (10.8 percent) and Germany (10.0 percent) together accounted for 72.7 percent of total global exports reported in terms of quantity in 2019. By contrast, Mexico accounted for only 0.01 percent of total global exports in that year.

Table I-10
Certain refractory products: Global exports by major sources, 2015-19

Item	Calendar year				
	2015	2016	2017	2018	2019
	Quantity (short tons)				
China	908,882	945,401	994,331	1,066,510	925,263
Austria	161,555	145,871	169,164	192,670	192,109
Germany	246,217	214,595	258,450	243,741	177,995
Poland	57,351	60,522	57,126	70,774	54,959
Turkey	45,688	41,027	43,459	55,783	50,078
France	91,724	108,896	106,859	74,091	42,388
Russia	33,073	33,729	44,490	64,676	40,900
Slovakia	24,094	32,780	33,902	36,371	38,086
India	30,071	23,716	27,379	58,784	36,582
United States	51,489	54,215	62,418	51,352	35,705
All other	199,380	169,578	189,452	229,754	187,192
Total	1,849,523	1,830,330	1,987,031	2,144,507	1,781,258

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

Note: Global export data are not presented for 2020 because the export data for several countries are not yet available.

Source: IHS Markit, Global Trade Atlas, HS subheading 6902.10: Refractory bricks, blocks and tiles containing by weight more than 50 percent magnesium, calcium, or chromium, accessed March 22, 2021. These data may be overstated as this HS subheading contains products outside the scope of these reviews. These data also exclude those of exporters (Chile, Colombia, and Peru) that reported in terms of the number of bricks rather than by weight.

[72] Global export data for 2020 are not presented because export data from several countries are not yet available.

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
86 FR 60 January 4, 2021	*Initiation of Five-Year (Sunset) Reviews*	https://www.govinfo.gov/content/pkg/FR-2021-01-04/pdf/2020-29123.pdf
86 FR 126 January 4, 2021	*Magnesia Carbon Bricks From China and Mexico; Institution of Five-Year Reviews*	https://www.govinfo.gov/content/pkg/FR-2021-01-04/pdf/2020-28941.pdf

APPENDIX B

COMPANY-SPECIFIC DATA

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APPENDIX C

SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS

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	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Mexico	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Mexico	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
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	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***

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	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
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)	***	***	***	***	***	***	***	***	***
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	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***

(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 eight firms as the top purchasers of MCBs: ***. Purchaser questionnaires were sent to these eight firms and three firms, ***, provided responses, which are presented below.

1. Have there been any significant changes in the supply and demand conditions for MCBs that have occurred in the United States or in the market for MCBs in China and/or Mexico since January 1, 2015?

Purchaser	Yes / No	Changes that have occurred
***	***	***
***	***	***
***	***	***

2. Do you anticipate any significant changes in the supply and demand conditions for MCBs in the United States or in the market for MCBs in China and/or Mexico within a reasonably foreseeable time?

Purchaser	Yes / No	Changes that have occurred
***	***	***
***	***	***
***	***	***