

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT  
2/26/2010 through 3/4/2010

Firm	Address	Date accepted for filing	Products
API Heat Transfer Inc. Buffalo.	2777 Walden Ave Ave Buffalo, NY 14225.	2/26/2010	The Company manufactures shell and tube, aluminum air cooled and plate and frame heat exchangers for industrial thermal transfer needs for a broad range of industries.
Harlon's LA Fish, LLC d/b/a LA Fish.	606 Short Street Kenner, LA 70062.	2/26/2010	Processor of frozen fish for human consumption
Silberline Manufacturing Co., Inc.	130 Lincoln Drive Tamaqua, PA 18252.	2/26/2010	Silberline manufactures special effect and performance pigments.
Fluorolite Plastics, Inc.	2 Central Street Framingham, MA 01701.	3/1/2010	Fluorolite specializes in replacement fluorescent diffusers. Fluorolite Manufactures acrylic ceiling panels, prismatic sheet, diffuser profiles, fluorescent light shields, enclosed gasket fixtures, Lexalite, American Louver products, and outdoor polycarbonate lenses.
Fresh Air Manufacturing Company d/b/a FAMCO.	649 N Ralstin Street Meridian, ID 83642.	3/1/2010	FAMCO is a light duty manufacturer of sheet metal and plastic products for venting units for residential and some small commercial facilities.
Greene Plastics Company.	PO Box 178 Canonchet Hope Valley, RI 02832.	3/2/2010	Plastic beads and imitation gemstones are manufactured by injection molding using plastic, polystyrene and acrylic.
Petoskey Plastics, Incorporated.	One Petoskey Street Petoskey, MI 49770.	3/2/2010	The firm manufacturers polyethylene blown film products.
Arthur A. Oliver & Son, Inc.	PO Box 88, 2406 English High Point, NC 27261.	3/3/2010	The firm produces upholstery supplies including cardboard, fiber batting, and webbing products. Primary materials include paper, and polyester fiber.
Heritage Sign & Display, Inc.	344 Industrial Road Nesquehoning, PA 18240.	3/3/2010	Heritage is a custom manufacturer of point of purchase signs and displays. Our products include lighted signs, wood displays, acrylic displays and a host of others.
Kasten Clay Products, Inc.	713 Kasten Drive Jackson, MO 53755.	3/3/2010	The firm manufacturers and produces clay bricks.
Precision Tool, Die & Machine Co. Inc. d/b/a nth works.	6901 Preston Highway Louisville, KY 40219.	3/3/2010	The firm produces steel parts that are put through stamping, welding, & graining processes. Primary materials include steel.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: March 5, 2010.

**Bryan Borlik,**

*Program Director.*

[FR Doc. 2010-5216 Filed 3-10-10; 8:45 am]

**BILLING CODE 3510-24-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-837]

#### **Certain Magnesia Carbon Bricks from Mexico: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination**

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

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that certain magnesia carbon bricks (bricks) from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to a request from the respondent, we are postponing for 60 days the final determination and extending provisional measures from a

four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

**DATES:** *Effective Date:* March 11, 2010.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger or Terre Keaton Stefanova, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4136 and (202) 482-1280, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 18, 2009, the Department initiated the antidumping duty investigation of BRICKS from Mexico. *See Certain Magnesia Carbon Bricks from the People's Republic of China and Mexico: Initiation of Antidumping Duty Investigations*, 74 FR 42852 (August 25, 2009) (Initiation Notice). The petitioner in this investigation is Resco Products Inc.

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. See *Initiation Notice*, 74 FR at 42853. See also *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997). For further details, see the “Scope Comments” section of this notice, below. The Department also set aside a time for parties to comment on product characteristics for use in the antidumping duty questionnaire. During September 2009, we received product characteristic comments from the petitioner and RHI–Refmex S.A. de C.V. (Refmex), a Mexican producer and exporter of the subject merchandise. For an explanation of the product–comparison criteria used in this investigation, see the “Product Comparisons” section of this notice, below.

On September 29, 2009, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of bricks from Mexico are materially injuring the U.S. industry, and the ITC notified the Department of its finding. See *Certain Magnesia Carbon Bricks from China and Mexico*, 74 FR 49889 (September 29, 2009); see also “Investigation No. 701–TA–468 and 731–TA–1166–67 (Preliminary),” USITC Publication 4100 (September 2009).

On September 29, 2009, we selected Refmex as the sole mandatory respondent in this investigation. See Memorandum entitled: “Antidumping Duty Investigation of Certain Magnesia Carbon Bricks from Mexico - Selection of Respondents for Individual Review,” dated September 29, 2009. We subsequently issued the antidumping questionnaire to Refmex on September 30, 2009. Refmex submitted responses to sections A (*i.e.*, the section covering general information about the company), B (*i.e.*, the section covering comparison market sales) and C (*i.e.*, the section covering U.S. sales) of the antidumping duty questionnaire on November 23, 2009. We issued supplemental section A, B, and C questionnaires, to which Refmex responded during January and February 2010.

On December 8, 2009, the petitioner made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e) for a 50-day postponement of the preliminary determination. Pursuant to section 733(c)(1)(A) of the Act, the Department postponed the preliminary

determination of this investigation until February 24, 2010. See *Certain Magnesia Carbon Bricks from the People’s Republic of China and Mexico: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 74 FR 66954 (December 17, 2009). As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary determination of this investigation is now March 3, 2010. See Memorandum to the Record regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm,” dated February 12, 2010.

On December 11, 2009, the petitioner alleged that Refmex made comparison–market sales of bricks at prices below the cost of production (COP) during the period of investigation (POI).

On January 6, 2010, we initiated an investigation to determine whether Refmex made comparison–market sales of bricks at prices below the COP during the POI. See Memorandum entitled “The Petitioner’s Allegation of Sales Below the Cost of Production for RHI Refmex S.A. de C.V.,” dated January 6, 2010. As a result, we requested that Refmex respond to section D of the questionnaire (*i.e.*, the section covering COP and constructed value (CV)). See Memorandum entitled: “Telephone Conversation with RHI–Refmex Counsel on Initiation of COP Investigation and Submission of Response to Section D of the Department’s Questionnaire,” dated January 7, 2010. We issued a supplemental section D questionnaire to Refmex in February 2010, and received a response later that month.

The petitioner submitted comments for consideration with respect to the preliminary determination on February 12, 2010. Refmex responded to those comments on February 17, 2010.

On February 17, 2010, Refmex requested that, in the event of an affirmative preliminary determination in this investigation, the Department: 1) postpone its final determination by 60 days, in accordance with 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii); and 2) extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month period to a six-month period. For further discussion, see the “Postponement of Final Determination

and Extension of Provisional Measures” section of this notice, below.

### Period of Investigation

The POI is July 1, 2008, to June 30, 2009. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition. See 19 CFR 351.204(b)(1).

### Scope of Investigation

The merchandise under investigation consists of certain chemically–bonded (resin or pitch), magnesia carbon bricks with a magnesia component of at least 70 percent magnesia (MgO) by weight, regardless of the source of raw materials for the MgO, with carbon levels ranging from trace amounts to 30 percent by weight, regardless of enhancements (for example, magnesia carbon bricks can be enhanced with coating, grinding, tar impregnation or coking, high temperature heat treatments, anti–slip treatments or metal casing) and regardless of whether or not antioxidants are present (for example, antioxidants can be added to the mix from trace amounts to 15 percent by weight as various metals, metal alloys, and metal carbides). Certain magnesia carbon bricks that are the subject of this investigation are currently classifiable under subheadings 6902.10.10.00, 6902.10.50.00, 6815.91.00.00, and 6815.99 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.

### Scope Comments

In accordance with the preamble to the Department’s regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. On September 8, 2009, Pilkington North America Inc. (PNA), a U.S. importer of BRICKS from the People’s Republic of China (PRC) and Mexico, filed comments concerning the scope of this investigation and the concurrent antidumping duty and countervailing duty investigations of certain magnesia carbon bricks from the PRC. In its submission, PNA requested that the Department amend the scope of these investigations to exclude ceramic–bonded magnesia bricks with or without trace amounts of carbon, or clarify that this product is outside the scope of these investigations. According to PNA, the ceramic–bonded magnesia bricks it

imports are clearly not within the intended scope of these investigations. The petitioner did not file comments on PNA's submission. On February 24, 2010, the Department issued a memorandum confirming that ceramic bonded magnesia bricks are not included in the scope of the investigations. See Memorandum entitled "Certain Magnesia Carbon Bricks from the People's Republic of China and Mexico: Scope Comments."

### Product Comparisons

We have taken into account the comments that were submitted by the interested parties concerning product-comparison criteria. In accordance with section 771(16) of the Act, all products produced by the respondent covered by the description in the "Scope of Investigation" section, above, and sold in Mexico during the POI are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on six criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: 1) magnesium oxide content range, 2) fused magnesia content range, 3) antioxidants, 4) carbon content range, 5) post-molding treatments, and 6) additives. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the next most similar foreign like product on the basis of the characteristics listed above, which were made in the ordinary course of trade.

### Fair Value Comparisons

To determine whether Refmex' sales of bricks from Mexico to the United States were made at LTFV, we compared the constructed export price (CEP) to normal value (NV), as described in the "Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1) of the Act, we compared POI weighted-average CEPs to POI weighted-average NVs.

In addition to selling bricks to unaffiliated customers, Refmex reported that it ships some subject merchandise in the U.S. and Mexican markets under "Full Line Service Contracts." Under these contracts, Refmex claims that it or its affiliates consume bricks as part of broader service agreements with their customers. Refmex did not include bricks shipped in conjunction with these service contracts in its sales listings. Refmex claimed that the quantity of bricks shipped in these instances constitutes a relatively small

percentage of the total quantity of bricks shipped to U.S. and Mexican customers during the POI. Refmex also claimed that, in fulfilling these contracts, it does not generate invoices specifying a quantity or price for the bricks shipped, and, thus, does not record sales of bricks in its accounting system. Rather, customers pay Refmex or its affiliates based on other terms specified in the contracts.

Our analysis of the information Refmex provided, including examples of Full Line Service Contracts, supports Refmex' representations regarding the complexity of assigning values to the bricks shipped in the fulfillment of these contracts. Based on this analysis and Refmex' claim that the shipment of bricks in fulfillment of these contracts constitutes a relatively small percentage of the total bricks shipped to U.S. customers during the POI, we have excluded bricks consumed under these circumstances in both the home and U.S. markets from our margin analysis.

### Constructed Export Price

Pursuant to section 772(b) of the Act, we calculated CEP for those sales where the subject merchandise was first sold in the United States after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporters, to a purchaser not affiliated with the producer or exporter. In addition, we calculated CEP for those sales where the subject merchandise was first sold in the United States before the date of importation by Refmex' affiliate, Veitsch-Radex America, Inc., located in Mokena, Illinois (VRA), to unaffiliated purchasers. Refmex classified these latter sales as export price (EP) sales because it initially reported that these sales were made outside the United States by its affiliate Veitsch-Radex America, Inc., located in Burlington, Ontario, Canada (VRC). Subsequently, Refmex clarified that these sales were made in the United States by VRA. Accordingly, we have reclassified them as CEP sales because the merchandise was sold in the United States, before importation, by a seller affiliated with the producer or exporter to a purchaser not affiliated with the producer or exporter, consistent with section 772(b) of the Act. See, e.g., *Stainless Steel Bar From Brazil: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 10022, 10023 (March 9, 2009), unchanged in *Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 74 FR 33995 (July 14, 2009); and *Certain Cut-to-Length Carbon-Quality Steel Plate*

*Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Administrative Review in Part*, 72 FR 65701, 65703-04 (November 23, 2007), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part*, 73 FR 15132 (March 21, 2008).

We based CEP on the packed, ex-warehouse or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we adjusted prices for billing adjustments, discounts and rebates. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, inland freight from the plant to the U.S. warehouse, U.S. brokerage and handling expenses (including customs fees), pre-sale warehousing expenses, and U.S. inland freight from the warehouse to the customer. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses incurred by or for the account of the producer or exporter in selling the subject merchandise, which are associated with commercial activities in the United States, no matter where or when paid, including direct selling expenses (*i.e.*, credit expenses, technical service expenses, and warranty expenses), and indirect selling expenses (including inventory carrying costs). We also deducted from CEP an amount for profit, in accordance with sections 772(d)(3) and (f) of the Act.

### Normal Value

#### A. Home Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Refmex' volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise. See section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Refmex had a viable home market during the POI. Consequently, we based NV on home market sales.

#### B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on

sales in the comparison market at the same level of trade (LOT) as the EP or CEP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses, and profit. For EP sales, the U.S. LOT is based on the starting price of the sales in the U.S. market, which is usually from exporter to importer. For CEP sales, the U.S. LOT is based on the starting price of the U.S. sales, as adjusted under section 772(d) of the Act, which is from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 - 61733 (November 19, 1997) (*Plate from South Africa*).

In this investigation, we obtained information from Refmex regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by the respondent and its affiliates for each channel of distribution.

Refmex reported that it made all sales in the U.S. market to end-users. For CEP sales, Refmex reported that its affiliate VRA, supported by another affiliate, VRC, made sales through five channels of distribution: 1) direct shipments from the Mexican plant to the U.S. customer; 2) ex-U.S. warehouse; 3) delivered to the U.S. customer from a U.S. warehouse; 4) on consignment basis ex-U.S. warehouse; and 5) on consignment basis delivered to the U.S. customer from a U.S. warehouse.

Because all of Refmex' U.S. sales were CEP sales, we examined only the selling functions performed by Refmex for these sales, not the selling functions performed by its affiliates, consistent with our normal practice. See *Plate from South Africa*, 62 FR at 61732. We found that the only selling functions that Refmex performed for all CEP sales were packing, inventory maintenance (*i.e.*, in Mexico prior to shipment to the U.S. customer or to U.S. warehouses for resale by Refmex affiliates to unaffiliated U.S. customers), and order input/processing. The selling functions performed for all CEP sales were identical. Therefore, we determined that all CEP sales constituted one LOT.

With respect to home market sales, Refmex reported that sales were made to end users through two channels of distribution: 1) direct to customers; and 2) consignment sales from consignment inventories. We examined the reported selling activities and found that Refmex performed the following selling functions for both sales channels in the home market: sales forecasting, strategic/economic planning, engineering services, sales promotion, packing, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, market research, technical assistance, granting of rebates, after-sales services, and freight and delivery arrangements. Furthermore, we found that Refmex performed most of these selling functions at the same relative level of intensity for all customers in the comparison market. While we note some difference in intensity in the inventory maintenance activity between direct sales and consignment sales, this difference alone is not sufficient to warrant a finding that the two sales channels constitute different LOTs in the home market. Therefore, based on our overall analysis, we found that all home market sales constituted one LOT.

In comparing the home market LOT to the CEP LOT, we found that the selling activities performed by Refmex for its CEP sales, as described above, were significantly fewer than the selling activities that it performed for its home market sales. Therefore, Refmex provided many more selling functions for its home market sales than it provided for its CEP sales, thus making the home market LOT more advanced than the CEP LOT.

Based on the above, we could not match CEP sales to sales at the same LOT in the home market, nor could we determine an LOT adjustment based on Refmex' home market sales because there is only one LOT in the home market. Therefore, it is not possible to

determine if there is a pattern of consistent price differences between the sales on which NV is based and home market sales at the LOT of the export transaction. See section 773(a)(7)(A) of the Act. Furthermore, we have no other information that provides an appropriate basis for determining an LOT adjustment. Consequently, because the data available do not form an appropriate basis for making an LOT adjustment, even though the home market LOT is at a more advanced stage of distribution than the CEP LOT, we made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act. The CEP offset is calculated as the lesser of: (1) the indirect selling expenses incurred on the home market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP. See *id.*

### C. Cost of Production Analysis

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A) and interest expenses (see "Test of Home Market Sales Prices" section below for treatment of home market selling expenses and packing costs). We relied on the COP data submitted by Refmex in its January 27, 2010, response to section D of the questionnaire, except where noted below.

We excluded packing expenses from the denominators of the reported G&A and interest expense ratios. In addition, we revised the numerator of the interest expense ratio to exclude the interest income offset, because Refmex did not demonstrate that this income was generated from certain short-term interest-bearing assets. We applied the revised ratios to Refmex' reported total cost of manufacturing to determine the revised G&A and financial interest expenses. See Memorandum entitled "Cost of Production and Constructed Value Calculation Adjustment RHI-Refmex S.A. de C.V.," dated March 3, 2010.

For the preliminary determination, we have relied upon the POI weighted-average COP Refmex reported. However, depending on the extent to which production costs changed throughout the cost reporting period, we are considering whether it is more appropriate to use the Department's alternative cost averaging methodology for the final determination. Accordingly, we have requested product-specific quarterly cost information from Refmex

for consideration prior to the final determination.

## 2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether the sale prices were below the COP. The sales prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses. For purposes of this comparison, we used the COP exclusive of selling and packing expenses.

### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in "substantial quantities." See section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In accordance with section 773(b)(2)(D) of the Act, we compare prices to the POI average costs to determine whether the prices permit recovery of costs within a reasonable period of time.

In this case, we found that, for certain specific products, more than 20 percent of Refmex' sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We, therefore, excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### D. Calculation of Normal Value Based on Comparison-Market Prices

We based NV for Refmex on packed, ex-factory or delivered prices to unaffiliated customers in the home market. We made deductions from the starting price, where appropriate, for foreign inland freight and warehousing expenses under section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments for imputed credit expenses and technical

service expenses. We also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act. Finally, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Refmex reported royalty expenses incurred on home market sales and paid to an affiliate, Refractory Intellectual Property (REFIP) GmbH & Co. KG., of Refmex' parent company, RHI AG. We have disallowed this selling expense claim, as Refmex was unable to demonstrate that the royalty payments made to its affiliate were at arm's length.

#### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

#### Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for Refmex.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of bricks from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will also instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margins, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Weighted-Average Margin (percent)
RHI-Refmex S.A. de C.V. ....	54.73
All Others .....	54.73

#### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated "All Others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers

individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Refmex is the only respondent in this investigation for which the Department calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for Refmex, as referenced above. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30755 (June 8, 1999); and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from Indonesia*, 72 FR 30753, 30757 (June 4, 2007), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636 (October 25, 2007).

#### Disclosure

The Department will disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. See 19 CFR 351.224(b).

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On February 17, 2010, Refmex requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Refmex requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. In accordance

with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because: (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and, (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of bricks from Mexico are materially injuring, or threatening material injury to, the U.S. industry (see section 735(b)(2) of the Act). Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the ITC will make its final determination no later than 45 days after our final determination.

#### Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. See 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. See 19 CFR 351.309(d)(1). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. See also 19 CFR 351.310(d). If a timely request for a hearing is made in this investigation, we intend to hold the

hearing two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: March 3, 2010.

**Carole A. Showers,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-5369 Filed 3-10-10; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF ENERGY

[Case No. RF-013]

### Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Notice of Granting the Application for Interim Waiver of Haier From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of Petition for Waiver, Notice of Granting Application for Interim Waiver, and request for public comments.

**SUMMARY:** This notice announces receipt of and publishes the Haier Group and Haier America Trading, L.L.C. (Haier) petition for waiver (hereafter, "Petition") from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of electric refrigerators and refrigerator-freezers. The waiver request pertains to Haier's product lines that utilize a control logic that changes the wattage of the anti-sweat heaters based upon the ambient relative humidity conditions to prevent condensation. The existing test procedure does not take humidity or

adaptive control technology into account. Therefore, Haier has suggested an alternate test procedure that considers adaptive control technology when measuring energy consumption. DOE solicits comments, data, and information concerning Haier's Petition and the suggested alternate test procedure. DOE also publishes notice of the grant of an interim waiver to Haier.

**DATES:** DOE will accept comments, data, and information with respect to the Haier Petition until, but no later than, April 12, 2010.

**ADDRESSES:** You may submit comments, identified by case number "RF-013," by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [AS\\_Waiver\\_Requests@ee.doe.gov](mailto:AS_Waiver_Requests@ee.doe.gov). Include either the case number [Case No. RF-013], and/or "Haier Petition" in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121.

Telephone: (202) 586-2945. Please submit one signed original paper copy.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

*Docket:* For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza, SW., (Resource Room of the Building Technologies Program), Washington, DC 20024; (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the petition for waiver and application for interim waiver; and (4) prior DOE rulemakings regarding similar refrigerators and refrigerator-freezers. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611. E-mail: [Michael.Raymond@ee.doe.gov](mailto:Michael.Raymond@ee.doe.gov).

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel,