ITC Finds US Not Harmed By Dumped Chinese Silica Bricks

By Alex Lawson

Law360, New York (December 12, 2013, 2:42 PM ET) -- The U.S. International Trade Commission on Thursday unanimously voted not to impose remedial duties on imports of silica bricks from China, finding that even though the products are sold at below-market prices, they present no threat to domestic producers of similar products.

The 6-0 vote from the commission represented a reversal from its preliminary ruling handed down in January that there was a “reasonable indication” that U.S. producers were being materially injured by the Chinese silica bricks. With a negative determination now on the books, the U.S. will not place anti-dumping duties on the bricks as requested in a petition by Utah Refractories Corp.

"As a result of the [ITC's] negative determination, an anti-dumping duty order will not be issued," the commission said in a brief statement, adding that the full opinion of the commissioners will be made available in a report to be circulated next month.

The decision not to impose duties comes just four weeks after the U.S. Department of Commerce closed a parallel investigation, finding that Chinese respondent Tianjin New Century Refractories Co. Ltd. was underselling the bricks by 63.81 percent. Commerce also found a 73.1 percent dumping rate on a China-wide basis.

TNCR and primary importer Suncoke Energy Inc. fought hard against the imposition of duties, telling the six ITC commissioners that the Chinese bricks subject to potential duties in the case do not directly compete with U.S. sales and do not cause material injury to domestic producers.

Utah Refractories lodged its anti-dumping petitions with Commerce and the ITC in November 2012, alleging that it had effectively been driven out of the market for silica refractory bricks, or SRB. The bricks are generally used in building furnaces, coke ovens and other industrial structures, according to the ITC.

“The entire U.S. SRB industry for coke ovens has been driven out of business by dumped Chinese imports,” Utah Refractories said in its anti-dumping petition. “From 2001 to 2007, Utah Refractories had consistent sales of SRB to the U.S. coke oven industry. However, from 2008 through the present, Utah Refractories' sale of SRB to the U.S. coke oven industry have plummeted to almost nothing.”

The company alleged further that Chinese silica bricks increased from about 28 percent of total annual imports in 2005 to nearly 50 percent in 2011.

Attorneys for Utah Refractories and Suncoke Energy did not immediately respond to
requests for comment Thursday.

Utah Refractories is represented by Samuel C. Straight and D. Zachary Wiseman of Ray Quinney & Nebeker PC.

Suncoke Energy was represented by Gregory Huisisan and Christopher M. Swift of Foley & Lardner LLP.

TNCR is represented by Nithya Nagarajan of the Law Offices of Nithya Nagarajan LLC.

The case is In the Matter of Silica Bricks and Shapes from the People's Republic of China, investigation number 731-TA-1205, in the U.S. International Trade Commission.

--Additional reporting by Scott Flaherty. Editing by John Quinn.

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