

DEPARTMENT OF COMMERCE**International Trade Administration**

A-570-832

Pure Magnesium from the People's Republic of China: Final Results of 2004-2005 Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") published its preliminary results of administrative review of the antidumping duty order on pure magnesium from the People's Republic of China ("PRC") on April 10, 2006. The period of review ("POR") is May 1, 2004, through April 30, 2005. We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our margin calculations. Therefore, the final results differ from the preliminary results. The final dumping margin for this review is listed in the "Final Results of Review" section below.

EFFECTIVE DATE: October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Eugene Degnan or Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0414 or (202) 482-6478, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On April 10, 2006, the Department published its preliminary results of review. See *Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 18067 (April 10, 2006) ("Preliminary Results"). On April 28, 2006, Tianjin Magnesium International, Ltd. ("TMI") submitted additional surrogate value information. On May 8, 2006, TMI requested a hearing. On May 10, 2006, TMI submitted its case brief. US Magnesium LLC ("Petitioner") submitted a rebuttal brief on May 17, 2006. On July 19, 2006, the Department held a public hearing. On July 31, 2006, the Department published a notice extending the time limit for the final results of review until September 7, 2006. See *Notice of Extension of Final Results of the 2004-2005 Administrative Review of Pure Magnesium from the People's Republic of China*, 71 FR 43110 (July 31, 2006). On September 12, 2006, the Department

published a notice extending the time limit for the final results of review until September 29, 2006. See *Notice of Extension of Final Results of the 2004-2005 Administrative Review of Pure Magnesium from the People's Republic of China*, 71 FR 53662 (September 12, 2006). On October 6, 2006, the Department published a notice extending the time limit for the final results of review until October 10, 2006. See *Pure Magnesium from the People's Republic of China: Notice of Extension of Final Results of the 2004-2005 Administrative Review*, 71 FR 59078 (October 6, 2006).

We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.213.

Period of Review

The POR is May 1, 2004, through April 30, 2005.

Scope of Order

Merchandise covered by this order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

- (1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as "ultra pure" magnesium);
 - (2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as "pure" magnesium); and
 - (3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as "off-specification pure" magnesium).
- "Off-specification pure" magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or

more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of this order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (i.e., length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by this order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Results of Antidumping Duty Order on Pure Magnesium from the People's Republic of China," dated October 10, 2006 ("Issues and Decision Memo"), which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the *Issues and Decision Memo* is attached to this notice as an appendix. The *Issues and Decision Memo* is a public document which is on file in the Central Records Unit ("CRU") in room B-099 in the main Department building, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for TMI.

- In the preliminary results, we used Indian imports statistics from *World Trade Atlas* ("WTA") to value dolomite. For the final results, we have determined to average dolomite prices from the financial statements of Indian Iron & Steel Company, Ltd. and Tata

Sponge Iron Ltd. *See Issues and Decision Memo* at Comment 1 for a thorough discussion of this issue and “*Tianjin Magnesium International, Ltd. Program Analysis for the Final Results of Review*” from Hua Lu, Case Analyst, through Robert Bolling, Program Manager, to the File, dated October 10, 2006 (“*Final Analysis Memorandum*.”).

• In the preliminary results, we calculated the surrogate value for flux No. 2 based on the HTSUS subheading for magnesium chloride, which is one of the constituent materials that make up flux No. 2. For the final results, we valued flux No. 2 based on the three compounds included in flux No. 2 (*i.e.*, magnesium chloride, sodium chloride and potassium chloride) according to their respective proportions. *See Issues and Decision Memo* at Comment 3 and *Final Analysis Memorandum*.

• In the preliminary results, we used the price for grade A coal from the 2003/2004 Tata Energy Research Institute’s Energy Data Directory & Yearbook (“TERI data”) to value the coal used by TMI in the production of pure magnesium. For the final results, we have determined to value coal using grade C coal prices from the TERI data. *See Issues and Decision Memo* at Comment 4 and *Final Analysis Memorandum*.

Surrogate Country

In the *Preliminary Results*, we stated that we treat the PRC as a non-market economy (“NME”) country, and, therefore, we calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries. Also, we stated that we had selected India as the appropriate surrogate country to use in this review for the following reasons: 1) India is at a level of economic development comparable to that of the PRC; 2) India is a significant producer of comparable merchandise; 3) India provides the best opportunity to use quality, publicly available data to value the factors of production; pursuant to section 773(c)(4) of the Act. *See Preliminary Results*, 71 FR 18069. For the final results, we made no changes to our findings with respect to the selection of a surrogate country.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to administrative review in an NME

country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results*, we found that TMI demonstrated its eligibility for separate-rate status. For the final results, we continue to find that the evidence placed on the record of this review by TMI demonstrates an absence of government control, both in law and in fact, with respect to its exports of the merchandise under review and, thus, determine that TMI is eligible for separate-rate status.

Final Results of Review

We determine that the following dumping margin exists:

Exporter/manufacturer	Weighted-average margin percentage
TMI	0.00

Assessment Rates

The Department will issue appraisal instructions directly to U.S. Customs and Border Protection (“CBP”) within 15 days of publication of these final results of administrative review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review. We divided the total dumping margins of reviewed sales by the total entered value of reviewed sales for each applicable importer to calculate *ad valorem* assessment rates. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each importer’s entries under the relevant order during the POR.

To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates. For TMI, we aggregated the dumping margins calculated for all U.S. sales to each importer and divided this amount by the entered value of the sales to each importer. Where an importer-specific *ad valorem* rate is *de minimis*, we will order CBP to liquidate appropriate entries without regard to antidumping duties.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of pure magnesium from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section

751(a)(1) of the Act: (1) The cash deposit rate for TMI is zero; (2) for previously reviewed or investigated companies not listed above that have a separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 108.26 percent, the current PRC-wide rate; and (4) the cash deposit rate for all non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective orders (“APOs”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 10, 2006.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Comment 1: Surrogate Value for Dolomite

Comment 2: Surrogate Value for Ferrosilicon

Comment 3: Surrogate Value for Flux No. 2

Comment 4: Surrogate Value for Coal
Comment 5: Surrogate Value for Electricity

Comment 6: Ocean Freight

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-428-825)

Stainless Steel Sheet and Strip in Coils From Germany: Notice of Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is rescinding its administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany for the period July 1, 2005 to June 30, 2006.

EFFECTIVE DATE: October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Tyler R. Weinhold, Deborah Scott, or Robert James at (), AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; Telephone: (202) 482-2657 and (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2006, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany. *See Antidumping of Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 37890 (July 3, 2006). In response, on July 31, 2006, German producers ThyssenKrupp Nirosta GmbH ("ThyssenKrupp Nirosta"), ThyssenKrupp Nirosta Prazisionsband GmbH ("TKNP"), ThyssenKrupp VDM GmbH ("TKVDM") (collectively, "TKN"), along with their affiliated U.S. importers ThyssenKrupp Nirosta North America, Inc. ("TKNNA") and ThyssenKrupp VDM USA, Inc. ("TKVDMUSA") requested an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from

Germany for the period of review July 1, 2005, through June 30, 2006. Petitioners in this case did not request an administrative review. On August 30, 2006, the Department initiated an administrative review of TKN. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 51573 (August 30, 2006). On September 19, 2006, TKN submitted a letter withdrawing their request for an administrative review. See letter from TKN dated September 19, 2006.

Rescission of Review

Section 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request. In response to TKN's withdrawal of their request for an administrative review, the Department hereby rescinds the administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany for the period July 1, 2005 through June 30, 2006.

The Department will issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) within 15 days of the publication of this notice. The Department will direct CBP to assess antidumping duties for TKN at the cash deposit rate in effect on the date of entry for entries during the period July 1, 2005, through June 30, 2006.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/

destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 10, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101106C]

Endangered and Threatened Species; Initiation of a Status Review under the Endangered Species Act (ESA) for the Black Abalone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; initiation of a status review under the ESA.

SUMMARY: We, NMFS, announce the initiation of an ESA status review of the black abalone (*Haliotis cracherodii*), and we solicit information on the species.

DATES: Information on the black abalone must be received by December 18, 2006.

ADDRESSES: You may submit information on the black abalone via mail to Melissa Neuman, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA, 90802-4213, e-mail at black.abalone@noaa.gov, or fax to 562-980-4027. Include in the subject line of any e-mail the following document identifier: Black abalone review.

FOR FURTHER INFORMATION CONTACT: Melissa Neuman, (562) 980-4115, melissa.neuman@noaa.gov, or Marta Nammack, (301) 713-1401, marta.nammack@noaa.gov.

SUPPLEMENTARY INFORMATION: We initiated an informal ESA status review of the black abalone on July 15, 2003, and we conducted a biological scoping workshop on January 29-30, 2004, which served to bring together individuals who have research experience with black abalone and/or experience conducting status reviews and/or stock assessments. A second workshop was convened on July 31-August 1, 2006, to discuss research