the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351, 62 FR 27295 (May 19, 1997).

Background

On March 27, 1998, the Department of Commerce (the Department) received a request from Ningbo Nanlian Frozen Foods Company, Ltd. (Ningbo Nanlian) for a new shipper antidumping administrative review of freshwater crawfish tail meat. On May 8, 1998, the Department published its initiation of this new shipper review covering the period of September 1, 1997 through March 31, 1998 (63 FR 25449).

Extension of Time Limits for Preliminary Results

Because of the complexities enumerated in the Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Extension of Time Limit for the New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China, dated August 18, 1998, it is not practical to complete this review within the time limits mandated by section 751(a)(2)(B) of the Act.

Therefore, in accordance with section 751(a)(2)(B) of the Act, the Department is extending the time limits for the preliminary results 75 days to January 10, 1999. The final results continue to be due 90 days after the publication of the preliminary results.

Dated: August 18, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 98–22666 Filed 8–21–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–815]

Pure and Alloy Magnesium From Canada; Final Results of the Fifth (1996) Countervailing Duty Administrative Reviews

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

ACTION: Notice of final results of countervailing duty administrative reviews.

SUMMARY: On April 30, 1998, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of the fifth administrative reviews of the countervailing duty orders on pure and alloy magnesium from Canada covering the period January 1, 1996 through December 31, 1996 (see *Pure Magnesium and Alloy Magnesium From Canada; Preliminary Results of the Fifth Countervailing Duty Administrative Reviews* (*Preliminary Results*), 63 FR 23728). We have completed these reviews and determine the net subsidy in each to be 2.78 percent *ad valorem* for Norsk Hydro Canada, Inc. (NHCI). We will instruct the U.S. Customs Service (Customs) to assess countervailing duties in this amount.

EFFECTIVE DATE: August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Marian Wells or Rosa Jeong, AD/CVD Enforcement, Group 1, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC. 20230; telephone: (202) 482–6309 or (202) 482–3853, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 19 CFR 355.22(a), these reviews cover only those producers or exporters of the subject merchandise for which reviews were specifically requested. Accordingly, these reviews cover only NHCI, a producer of the subject merchandise which exported pure and alloy magnesium to the United States during the review period.

On April 30, 1998, the Department published in the **Federal Register** the *Preliminary Results* of its fifth administrative reviews of the countervailing duty orders on pure and alloy magnesium from Canada (63 FR 23728). We invited interested parties to comment on the *Preliminary Results.* On June 1, 1998, case briefs were submitted by the Government of Québec (GOQ), and the petitioner, Magnesium Corporation of America (MAGCORP). The GOQ subsequently filed a rebuttal brief on June 8, 1998. The Department did not conduct a hearing for these reviews because none of the interested parties requested one.

These reviews cover the period January 1, 1996 through December 31, 1996 (the period of review or POR). The reviews involve one company (NHCI) and the following programs: Exemption from Payment of Water Bills, Article 7 Grants from the Québec Industrial Development Corporation (SDI), St. Lawrence River Environment Technology Development Program, Program for Export Market Development, the Export Development Corporation, Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec, Opportunities to Stimulate Technology Programs, Development Assistance Program, Industrial Feasibility Study Assistance Program, Export Promotion Assistance Program, Creation of Scientific Jobs in Industries, Business Investment Assistance Program, Business Financing Program, Research and Innovation Activities Program, Export Assistance Program, Energy Technologies Development Program, and Transportation Research and Development Assistance Program.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA), effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act. References to ''Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments,'' (54 FR 23366, May 31, 1989) (''1989 Proposed Regulations''), which have been withdrawn, are provided solely for further explanation of the Department's countervailing duty practice.

Scope of the Reviews

The products covered by these reviews are shipments of pure and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes. Pure and alloy magnesium are currently classifiable under subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Secondary and granular magnesium are not included in the scopes of these orders. Our reasons for excluding granular magnesium are summarized in the *Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada* (57 FR 6094, February 20, 1992).

Analysis of Programs

Based upon our analysis of the questionnaire responses and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

A. Exemption from Payment of Water Bills

In the *Preliminary Results*, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Results.* On this basis, the net subsidy rate for this program is as follows:

Manufacturer/exporter	Rate (percent)
NHCI	0.46

B. Article 7 Grants from the Québec Industrial Development Corporation

In the *Preliminary Results*, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Results.* On this basis, the net subsidy rate for this program is as follows:

Manufacturer/exporter	Rate (percent)
NHCI	2.32

II. Programs Found Not to be Used

In the *Preliminary Results*, we found that NHCI did not apply for or receive benefits under the following programs:

- St. Lawrence River Environment Technology Development Program
- Program for Export Market Development
- Export Development Corporation
- Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec
- Opportunities to Stimulate Technology Programs
- Development Assistance Program
- Industrial Feasibility Study Assistance Program
- Export Promotion Assistance Program
- Creation of Scientific Jobs in Industries
- Business Investment Assistance Program
- Business Financing Program
- Research and Innovation Activities Program
- Export Assistance Program
- Energy Technologies Development Program
- Transportation Research and Development Assistance Program.

We received no comments on these programs from the interested parties; therefore, we have not changed our findings from the *Preliminary Results.*

Analysis of Comments

In its June 1, 1998 case brief, Magcorp affirmed all of the Department's positions in the preliminary results of review.

Comment 1: Obligation of Department to Re-examine Specificity of Article 7 Assistance

In the event the Department continues to treat the Article 7 assistance as a nonrecurring grant, the GOQ argues that the Department must re-examine whether the assistance was specific. In particular, the Department is obliged to evaluate, according to the GOQ, in each administrative review the countervailability of a program previously determined to be de facto specific, regardless of whether the parties have provided new information. The Department may not rely, as it did in the *Preliminary Results,* on a de facto specificity determination made in the original investigations.

DOC Position

Just as it does not revisit prior determinations that a program is not specific, it is the Department's policy not to revisit prior determinations that a program is specific, absent the presentation of new facts or evidence (see e.g., *Carbon Steel Wire Rod From Saudi Arabia; Final Results of Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order (Carbon Steel Wire Rod from Saudi Arabia),* 59 FR 58814 (November 15, 1994); *Final Results of the First Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada (First Magnesium Reviews),* 62 FR 13857 (March 24, 1997); *Final Results of the Second Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada (Second Magnesium Reviews),* 62 FR 48607 (September 16, 1997); and *Final Results of the Third Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada (Third Magnesium Reviews),* 62 FR 18749 (April 17, 1997)). In the present reviews, no new facts or evidence have been presented which would lead us to question our original specificity determination for the POI.

Comment 2: Alternative Methodology for Determining Specificity of Article 7 Assistance

The GOQ continues to argue, as it has in previous reviews, that the Department should take an entirely different approach to the question of how to determine if a nonrecurring grant is disproportionately large, and therefore, specific. Rather than base its analysis on the entire amount of the grant at the time of bestowal, the GOQ maintains that the Department must instead examine only the portion of the benefit allocated—in accordance with the Department's standard allocation methodology—to the POR. It is this amount, in relationship to the portions of benefits allocated to the POR for all assistance bestowed under the program to all other enterprises, that must be determined to be disproportionate. Because the benefit attributable to the POR is the subsidy at issue, it is that amount, according to the GOQ, that must be found specific before it may be countervailed.

The GOQ also counters the Department's assertion in *Final Results of the Fourth Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada (Fourth Magnesium Reviews),* 62 FR 48812, 48814 (September 17, 1997) that the GOQ has not cited a single determination by the Department or any other legal authority to support its position. The GOQ asserts that it has cited to the sixth administrative review of *Live Swine from Canada: Final Results of Countervailing Duty Administrative Review (Live Swine from Canada),* 59 FR 12243, 12249 (March 16, 1994) as an example where the Department reexamined the countervailability of benefits found to be de facto specific in prior reviews.

DOC Position

As we have explained in previous final results (see *First Magnesium Reviews, Second Magnesium Reviews,* and *Third Magnesium Reviews),* the GOQ is confusing the determination of specificity with the measurement of the subsidy.

The specificity determination and the measurement of the subsidy are two separate and distinct processes. The question of whether a nonrecurring grant is disproportionately large is based on an examination of the entire amount of the grant at the time of bestowal. If such a grant is found to be

disproportionately large, it is determined to be specific. (As a grant specifically provided, it is also at this point that the statutory requirements for countervailing the grant are met. See section 771(5) of the Act.) The separate and distinct second step is the measurement of the benefit. This step involves allocating portions of the grant over time. It is these portions of the grant which then provide the basis for the calculation of the ad valorem rate of subsidization. The portions of subsidies allocated to periods of time using the Department's standard allocation methodology are irrelevant to an examination of the actual distribution of benefits by the granting government at the time of bestowal.

The GOQ refers to the sixth review of the countervailing duty order on *Live Swine from Canada* as demonstrating that the Department has, as a matter of course, revisited its de facto specificity determinations from one segment of a proceeding to another. We continue to believe that the situation in the *Magnesium* reviews can be distinguished from the situation in *Live Swine from Canada.* As explained in the *First, Second, and Third Magnesium Reviews* the facts underlying our analyses in *Live Swine from Canada* differ from the situation here. Because those facts have not changed, we continue to make the identical distinction in the current reviews. For a full discussion of the distinction made between the revisiting specificity determinations in *Live Swine from Canada* and the *Magnesium* case, see *First Magnesium Reviews* at 13861, *Second Magnesium Reviews* at 48609, and *Third Magnesium Reviews* at 18753.)

Comment 3: Appropriate Time of Specificity Determination: ''Bestowal'' or Disbursement

The GOQ argues that although the Department concluded in the *First Magnesium Reviews* and the *Third Magnesium Reviews* that the proper time period for a specificity determination is the time of bestowal, the Department did not examine specificity in the original period of investigation (POI) at the time of bestowal. Rather, the Department examined specificity at the time of approval of the funds. The GOQ states that it is confused by the Department's policy to determine specificity at a time when no funds have been provided to NHCI. The GOQ argues that the time of bestowal for the purpose of a specificity determination should refer to the time of actual disbursement of funds, and should not refer to the time funds are approved by the granting authority.

DOC Position

We disagree with the GOQ's assertion that the Department's specificity analysis during the original investigations should have been conducted based on the time of actual disbursement of funds. We acknowledge that the specificity determination in the original investigations was based on the action of the granting authority, i.e., the GOQ, at the time of approval. However, we note that the Department uses the terms ''approval'' and ''bestowal'' interchangeably in this context. The time of bestowal or approval is the appropriate basis for the specificity determination because it most directly demonstrates whether a government has limited the benefits bestowed upon an enterprise or industry, or group thereof.

Comment 4: Relevance of New Information

The GOQ maintains that given the Department's responsibility to make a finding of specificity and countervailability based on the information relevant to the POR, the Department should consider any new assistance provided by SDI since the end of the original POI. To this end, the GOQ provided information on the Article 7 assistance extended up to, and including, the POR in a submission dated January 15, 1997. According to the GOQ, this new factual information was apparently considered irrelevant information by the Department.

DOC Position

As stated above, the proper time period for a specificity determination is the time of bestowal. Therefore, information submitted by the GOQ concerning assistance that was provided subsequent to the time of bestowal of the assistance granted to NHCI under Article 7 of the SDI Act is not relevant to the specificity determination. The remaining information presented by the GOQ on the Article 7 assistance granted prior to and including the time of bestowal of NHCI's Article 7 benefits is nearly identical to that utilized by the Department in its original specificity determination. Differences between the updated information on Article 7 provided by the GOQ and information used in the original specificity determination are sufficiently small so as not to compromise the original specificity determination. *Fourth Magnesium Reviews* at 48815.

Comment 5: Relevance of Article 9 Information

The GOQ argues that assistance under Article 9 should be included in the Article 7 specificity analysis because Article 9 was the predecessor of Article 7 and the provisions of Article 9 functioned basically the same as those of Article 7.

DOC Position

We disagree. The GOQ did not provide any information which would allow us to make a determination on whether Article 9 and Article 7 should be considered integrally linked or otherwise considered a single program for purposes of our specificity analysis (see Section 355.43(b)(6) of the 1989 Proposed Regulations). Information on the record in these proceedings with respect to Article 9 consists only of a statement by the GOQ in its case brief that Article 9 was the predecessor of Article 7. This is an insufficient basis to determine that the two programs should be treated as one.

Final Results of Review

In accordance with 19 CFR 355.22(c)(4)(ii), we calculated an individual subsidy rate for each producer/exporter subject to these administrative reviews. For the period January 1, 1996 through December 31, 1996, we determine the net subsidy for NHCI to be 2.78 percent ad valorem. We will instruct Customs to assess countervailing duties in this amount for all entries of NHCI's merchandise during this period. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties of 2.78 percent of the f.o.b. invoice price on all shipments of subject merchandise from NHCI, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these reviews.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. Consequently, the requested review will normally cover only those companies specifically named (19 CFR 355.22(a)). Pursuant to 19 CFR 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be

collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except NHCI are unchanged by the results of these reviews.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company, except from Timminco Limited (which was excluded from the order in the original investigations). Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by these orders are those established in the administrative reviews completed for the most recent POR, conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. See *Fourth Magnesium Reviews.* This rate shall apply to all non-reviewed companies until a review of a company assigned this rate is requested. In addition, countervailing duties will be assessed on any entries during the period January 1, 1996 through December 31, 1996, for all non-reviewed companies at the cash deposit rates in effect at the time of entry.

This notice 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 19 CFR 355.34(d). Timely written notification of 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.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: August 18, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–22664 Filed 8–21–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050198C]

Small Takes of Marine Mammals Incidental to Specified Activities; Tatoosh Island, WA Storage Tank Removal Project

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of California sea lions, Pacific harbor seals, and Steller sea lions by harassment incidental to removing three underground storage tanks (USTs) and one or two above-ground storage tanks (ASTs) at the Cape Flattery Light Station on Tatoosh Island, Callam County, WA. has been issued to the U.S. Coast Guard's Civil Engineering Unit, Oakland, CA (USCG).

DATES: This authorization is effective from August 31, 1998, through April 29, 1999.

ADDRESSES: A copy of the application and a list of references used in this document may be obtained by writing to the Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301–713–2055, or Brent Norberg, Northwest Regional Office at 206–526–6733.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as '' ...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA now defines ''harassment'' as:

> ...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On April 27, 1998, NMFS received a request from the USCG for authorization to take small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina*), and Steller sea lions (*Eumetopias jubatus*) by harassment incidental to removing three USTs and one or two ASTs at the Cape Flattery Light Station on Tatoosh Island, Callam County, WA.

The expected impact on marine mammals will be from the noise created by the arrival and departure of heavy-lift, tandem-rotor helicopters. Heavy-lift helicopters will be used to sling equipment and materials to and from the project. The most common heavy-lift helicopters commercially available in the Pacific Northwest are the Boeing 234 Chinook and Vertol 107–II.

Large equipment and materials will be slung 30 to 50 ft (9.1 to 15.2 m) below the helicopter, depending upon the load's dynamics. Personnel, small equipment, and supplies will be carried