

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-815]

Pure Magnesium and Alloy Magnesium from Canada: Final Results of 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 May 8, 2002, the Department of Commerce published in the **Federal Register** the preliminary results and partial rescission of the administrative reviews of the countervailing duty orders on pure magnesium and alloy magnesium from Canada for the period January 1, 2000, through December 31, 2000. The Department has now completed these reviews in accordance with section 751(a) of the Act. The final results do not differ from the preliminary results.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT:

Sally Hastings, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3464.

SUPPLEMENTARY INFORMATION:**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions of section 751(a) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA"), effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to 19 CFR part 351 (2001).

Background

On August 31, 1992, the Department published in the **Federal Register** the countervailing duty orders on pure magnesium and alloy magnesium from Canada (57 FR 39392). The Department published the preliminary results and partial rescission of these administrative reviews on May 8, 2002 (see *Pure Magnesium and Alloy Magnesium From Canada: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Reviews*, 67 FR 30874 (May 8, 2002) ("Preliminary Results")). No comments were received on the *Preliminary Results*.

The Magnesium Corporation of America ("Magcorp"), the petitioner in these reviews, requested reviews of Norsk Hydro Canada, Inc. ("NHCI"), and Magnola Metallurgy Inc. ("Magnola"). As stated in the *Preliminary Results*, we rescinded these reviews as to Magnola. Accordingly, these reviews cover only NHCI.

On June 24, 2002, we received notification from U.S. Magnesium, LLC ("U.S. Magnesium") that it had purchased all of the assets of Magcorp and its ongoing magnesium business. In response to U.S. Magnesium's request, we are treating that company as a successor-in-interest to Magcorp for the purpose of these countervailing duty reviews.

Scope of the Orders

The products covered by these orders are 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.

The pure and alloy magnesium are currently classifiable under items 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, the written descriptions of the merchandise subject to the orders are dispositive.

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

Period of Review

The period of review for which we are measuring subsidies is from January 1, 2000, through December 31, 2000.

Analysis of Programs

As stated above, there were no comments submitted to the Department with respect to the *Preliminary Results*. Therefore, we determine the following:

I. Program Determined To Confer Countervailable Subsidies**A. Article 7 Grant From the Québec Industrial Development Corporation ("SDI")**

SDI (Société de Développement Industriel du Québec) administers

development programs on behalf of the Government of Quebec ("GOQ"). SDI provides assistance under Article 7 of the SDI Act in the form of loans, loan guarantees, grants, assumptions of costs associated with loans, and equity investments. This assistance involves projects capable of having a major impact upon the economy of Québec. Article 7 assistance greater than 2.5 million dollars must be approved by the Council of Ministers and assistance over 5 million dollars becomes a separate budget item under Article 7. Assistance provided in such amounts must be of "special economic importance and value to the province." (See *Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 30946, 30948 (July 13, 1992) ("Magnesium Investigation").)

In 1988, NHCI was awarded a grant under Article 7 to cover a large percentage of the cost of certain environmental protection equipment. In the *Magnesium Investigation*, the Department determined that NHCI received a disproportionately large share of assistance under Article 7. On this basis, we determined that the Article 7 grant was limited to a specific enterprise or industry, or group of enterprises or industries and, therefore, countervailable. In these reviews, neither the GOQ nor NHCI has provided new information which would warrant reconsideration of this determination.

In the *Magnesium Investigation*, the Department found that the Article 7 assistance received by NHCI constituted a non-recurring grant because it represented a one-time provision of funds. In the *Preliminary Results of First Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada*, 61 FR 11186, 11187 (March 19, 1996), we found this determination to be consistent with the principles enunciated in the Allocation section of the *General Issues Appendix* ("GIA") appended to the *Final Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37225, 37226 (July 9, 1993). In the current review, no new information has been placed on the record that would cause us to depart from this treatment. Therefore, in accordance with 19 C.F.R. 351.524(b)(2), we have continued to allocate the benefit of this grant over time. We used our standard grant methodology as described in 19 C.F.R. 351.524(d) to calculate the countervailable subsidy. We divided the benefit attributable to the POR by NHCI's total sales of Canadian-manufactured products in the POR. On this basis, we determine the

countervailable subsidy from the Article 7 SDI grant to be 1.59 percent ad valorem for NHCI.

II. Programs Determined To Be Not Used

We examined the following programs and determine that NHCI did not apply for or receive benefits under these programs during the POR:

- 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
- Transportation Research and Development Assistance Program

III. Program From Which NHCI No Longer Receives a Countervailable Benefit

- Exemption from Payment of Water Bills

In the administrative reviews covering calendar year 1997 the Department found that NHCI's benefits from this program had been exhausted and NHCI's participation in this program had ended. We also found that no residual benefits were being provided or received and no substitute program had been implemented. In our final results, we stated that therefore, we did not intend to continue to examine this program in the future (*see Pure Magnesium and Alloy Magnesium From Canada: Final Results of Countervailing Duty Administrative Reviews*, 64 FR 48805, 48806 (September 8, 1999)). Consistent with this determination and in the absence of any new allegation, we did not examine this program in these reviews.

Final Results of Reviews

In these final results, we have determined that no changes to our analysis in the *Preliminary Results* are

warranted. Therefore, for the period January 1, 2000, through December 31, 2000, we determine the net subsidy rate for the reviewed company to be as follows:

Net Subsidy Rate	
Manufacturer/exporter	Percent
Norsk Hydro Canada, Inc..	1.59 percent

The Department will issue appropriate assessment instructions directly to the Customs Service ("Customs") within 15 days of publication of these final results of review. We will direct Customs to assess the countervailing duties in the above amount on all entries of subject merchandise produced and exported by NHCI during the review period.

The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the above percentage on the f.o.b. invoice price on all shipments of the 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. The requested review will normally cover only those companies specifically named (*see* 19 CFR 351.213(b)). Pursuant to 19 CFR 351.212(c), 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). Therefore, the cash deposit rates for all companies except NHCI will be unchanged by the results of these reviews.

Accordingly, 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 for Timminco Limited, which was excluded from the orders in the original investigations, these rates were established in the first administrative proceeding conducted under the URAA. *See Final Results of the Second Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada*, 62 FR 48607 (September 16, 1997).

In addition, for the period January 1, 2000, through December 31, 2000, the assessment rates applicable to all non-reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry, except for Timminco Limited (which was excluded from the orders in the original investigations).

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 351.305(a)(3). 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 sections 751(a)(1) and 777(i) of the Act.

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-835]

Preliminary Results, Intent to Partially Rescind and Postponement of Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea

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

ACTION: Notice of preliminary results, intent to partially rescind and postponement of final results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on