

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-832]

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

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

**SUMMARY:** On June 8, 2009, the Department published its preliminary results in the antidumping duty administrative review of pure magnesium from the PRC.<sup>1</sup> The period of review ("POR") for the administrative review is May 1, 2007, through April 30, 2008. We have determined that Tianjin Magnesium International Co., Ltd. ("TMI"), the only respondent in this review, made sales in the United States at prices below normal value ("NV"). There are no other respondents covered by this review. We invited interested parties to comment on our preliminary results in this review. Based on our analysis of the comments we received in the administrative review, we made certain changes to our *Preliminary Results*. The final dumping margins for this review are listed in the "Final Results Margins" section below.

**EFFECTIVE DATE:** December 14, 2009.

**FOR FURTHER INFORMATION CONTACT:** Eugene Degnan, 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, respectively.

**Background**

The Department published its preliminary results on June 8, 2009.<sup>2</sup> We invited parties to comment on the *Preliminary Results*. We received comments from Petitioner,<sup>3</sup> TMI and Alcoa Inc., a U.S. consumer of pure magnesium. Interested parties submitted case and rebuttal briefs on July 17 and July 23, 2008, respectively. On September 29, 2008, the Department extended the deadline for the final results to December 8, 2008.<sup>4</sup> We held

a hearing on November 20, 2008, in which all interested parties participated.

**Verification**

As provided in section 782(i) of the Tariff Act of 1930, as amended ("the Act"), we verified the information submitted by TMI for use in our final results of review.<sup>5</sup> We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by TMI.

**Period of Review**

The POR is May 1, 2007, through April 30, 2008.

**Scope of the 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 percent primary magnesium, by weight (generally referred to as "ultra pure" magnesium); (2) Products that contain less than 99.95 percent but not less than 99.8 percent primary magnesium, by weight (generally referred to as "pure" magnesium); and (3) Products that contain 50 percent or greater, but less than 99.8 percent 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 percent by weight. It generally does not contain, individually or in combination,

1.5 percent 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 percent by weight), and remelted magnesium whose pure primary magnesium content is less than 50 percent 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.

**Separate Rate**

In the *Preliminary Results*, we determined that TMI met the criteria for the application of a separate antidumping duty rate.<sup>6</sup> We have continued to grant TMI a separate rate because we have not received any information since the *Preliminary Results* which would warrant reconsideration of our separate-rate determination. Therefore, we have assigned an individual antidumping duty margin to TMI for this review period.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the memorandum from John M. Andersen, Acting Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations to Carole A. Showers, Acting Deputy Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Pure Magnesium from the People's Republic of China," dated December 7, 2009, which is hereby adopted by this notice ("Issues and Decision Memorandum"). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public

<sup>1</sup> See *Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 27090 (June 8, 2009) ("Preliminary Results").

<sup>2</sup> See *Preliminary Results*.

<sup>3</sup> United States Magnesium LLC.

<sup>4</sup> See *Pure Magnesium From the People's Republic of China: Extension of Time for the Final Results of the Antidumping Duty Administrative Review*, 74 FR 48904 (September 24, 2009).

<sup>5</sup> See Memorandum to Wendy J. Frankel, "Verification of the Sales and Factors Responses of Tianjin Magnesium International, Ltd. in the 2007-2008 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People's Republic of China, ("TMI Verification Report")" dated November 4, 2009, on the record of this review Central Records Unit ("CRU"), Room 1117 of the main Department building.

<sup>6</sup> See *Preliminary Results*, 74 FR at 27092-3.

document and is on file in the CRU, Main Commerce Building, Room 1117, 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 the results of the verification and an analysis of the comments received, the Department has assigned a margin based on adverse facts available ("AFA"), to TMI for these final results.<sup>7</sup>

### Use of Facts Available

The Department has determined that the information to construct an accurate and otherwise reliable margin is not available on the record with respect to TMI because TMI's producers withheld information that had been requested, significantly impeding this proceeding, and provided information that could not be verified, pursuant to sections 776(a)(1) and (2)(A), (C) and (D) of the Act.<sup>8</sup> As a result, the Department has determined to apply the facts otherwise available.<sup>9</sup> Further, because the Department finds that TMI's producers have failed to cooperate to the best of their ability, pursuant to section 776(b) of the Act, the Department has determined to use an adverse inference when applying facts available in this review.<sup>10</sup> As AFA, the Department is applying a rate of 111.73, which is the highest calculated rate on the record of any segment of the proceeding.<sup>11</sup> In accordance with section 776(b) of the Act, the Department has corroborated this rate to the extent practicable.<sup>12</sup>

### Final Results Margins

We determine that the following weighted-average percentage margins exist for the POR:

#### PURE MAGNESIUM FROM THE PRC

Exporter	Weighted-Average Margin (Percent)
TMI .....	111.73 Percent

<sup>7</sup> For a complete discussion of the basis for, and application of, AFA with respect to TMI in this review, see the Issues and Decision Memorandum at Comment 1, and the Memorandum to the File, "Application of Adverse Facts Available for Tianjin Magnesium International, Ltd. in the Review of Pure Magnesium from the People's Republic of China ("AFA Memorandum")," dated December 7, 2009.

<sup>8</sup> See AFA Memorandum at 12-13.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 13-14.

<sup>11</sup> See *Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 76336 (December 16, 2008) ("Pure Magnesium 06-07").

<sup>12</sup> See AFA Memorandum at 17-19.

### Assessment Rates

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of administrative review.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: 1) for the exporter listed above, the cash deposit rate will be the rate shown for that company; 2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; 3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 108.26 percent; and 4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

### 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 the APO in accordance with 19 CFR 351.305(a)(3), 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 that is subject to sanctions.

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 7, 2009.

**Carole A. Showers,**

*Acting Deputy Assistant Secretary for Import Administration.*

### Appendix I

#### List of Issues

*Comment 1:* Application of Facts Available with Adverse Inferences to TMI

*Comment 2:* Reconciliation of TMI's Financial Statements

*Comment 3:* Amended Preliminary Results based on Verification

*Comment 4:* Sulfur and Dolomite

*Comment 5:* By-product Cement Clinker

*Comment 6:* By-product Waste Magnesium

*Comment 7:* Surrogate Values for No. 2 Flux

*Comment 8:* Surrogate Values for Coal

*Comment 9:* Surrogate Financial Statements

*Comment 10:* China Wage Rate

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-953]

#### Narrow Woven Ribbons with Woven Selvage from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

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

**SUMMARY:** The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of narrow woven ribbons with woven selvage from the People's Republic of China. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** December 14, 2009.

**FOR FURTHER INFORMATION CONTACT:** Scott Holland or Anna Flaaten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1279 or (202) 482-5156, respectively.

**SUPPLEMENTARY INFORMATION:**