

shipper review on July 16, 1999. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of New Shipper Antidumping Administrative Review*, 64 FR 38408 (July 16, 1999).

On September 16, 1998, in accordance with 19 CFR 351.213(b)(1), the Department received a request from respondent, Ningbo Nanlian Frozen Foods Company, Ltd., and on September 30, 1998, the Department received a request from petitioner, the Crawfish Processors Alliance ("CPA") and the Louisiana Department of Agriculture and Forestry ("LDAF"), to conduct an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. That administrative review covers the period of March 26, 1997 through August 31, 1998 (63 FR 58010, published October 29, 1998).

Due to extraordinarily complicated issues, the Department extended the deadline for completion of the administrative review on March 18, 1999. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review*, 64 FR 13398 (March 18, 1999). The Department published a second extension notice on July 16, 1999, which extended the deadline of preliminary results of the administrative review until September 30, 1999. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 64 FR 38409 (July 16, 1999).

#### Postponement of New Shipper Review

On August 6, 1999, we received a request from YBBP to conduct the current new shipper review concurrently with the antidumping administrative review, in accordance with 19 CFR 351.214(j)(3). Therefore, pursuant to respondents' request and the Department's regulations, we are conducting these reviews concurrently. As a result, the date of preliminary antidumping duty results in this new shipper review is September 30, 1999.

This notice is published in accordance with Section 751(a)(2)(B) of the Act and 19 CFR 351.214(j)(3).

Dated: August 16, 1999.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-21948 Filed 8-23-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-823-806]

#### Pure Magnesium From Ukraine: Notice of Revocation of the Antidumping Duty Order

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

**ACTION:** Notice of revocation of antidumping duty order.

**SUMMARY:** The Department of Commerce is notifying the public of its revocation of the antidumping duty order on pure magnesium from Ukraine following court litigation concluding that the U.S. industry was not being materially injured, or being threatened with material injury, by reason of imports of the subject merchandise.

**EFFECTIVE DATE:** August 24, 1999.

**FOR FURTHER INFORMATION CONTACT:**

Brian Smith or Brian Ledgerwood, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-3836, respectively.

#### The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all references are made to the Department of Commerce's ("the Department's") regulations at 19 CFR Part 351 (1998).

**SUPPLEMENTARY INFORMATION:**

#### Scope of the Order

The product covered by this order is pure primary magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of these orders. Primary 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 primary magnesium is used as an input in producing magnesium alloy.

Pure primary magnesium encompasses:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as "ultra-pure" magnesium);

(2) Products containing less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as "pure" magnesium); and

(3) Products generally referred to as "off-specification pure" magnesium 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.

"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, primary magnesium anodes, granular primary magnesium (including turnings and powder), and secondary magnesium.

Granular magnesium, turnings, and powder are classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8104.30.00. Magnesium granules and turnings (also referred to as chips) are produced by grinding and/or crushing primary magnesium and thus have the same chemistry as primary magnesium. Although not susceptible to precise measurement because of their irregular shapes, turnings or chips are typically produced in coarse shapes and have a maximum length of less than 1 inch. Although sometimes produced in larger sizes, granules are more regularly shaped than turnings or chips, and have a typical size of 2 mm in diameter or smaller.

Powders are also produced from grinding and/or crushing primary magnesium and have the same chemistry as primary magnesium, but are even smaller than granules or turnings. Powders are defined by the Section Notes to Section XV, the section of the HTSUS in which subheading 8104.30.00 appears, as products of which 90 percent or more by weight will pass through a sieve having a mesh aperture of 1 mm. (See HTSUS, Section

XV, Base Metals and Articles of Base Metals, Note 6(b). Accordingly, the exclusion of magnesium turnings, granules and powder from the scope includes products having a maximum physical dimension (*i.e.*, length or diameter) of 1 inch or less.

The product subject to this order is classifiable under subheadings 8104.11.00, 8104.19.00 and 8104.20.00 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

### Background

On March 30, 1995, the Department published notice of its final affirmative less-than-fair-value determination covering imports of pure magnesium from Ukraine (*see Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Ukraine*, 60 FR 16432). On May 8, 1995, the International Trade Commission ("ITC") made its final affirmative determination that a U.S. industry was being materially injured by reason of imports of pure magnesium from Ukraine as well as China and Russia (*see Magnesium from China, Russia, and Ukraine*, 60 FR 26456, May 17, 1995). On May 12, 1995, the Department published an antidumping order covering imports of pure magnesium from China, Russia and Ukraine (*see Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine*, 60 FR 25691).

Following publication of the antidumping duty order, Gerald Metals, Inc. ("Gerald Metals") filed a lawsuit with the U.S. Court of International Trade ("CIT") challenging the ITC's final affirmative determination of material injury with regard to the Ukrainian imports. In its first decision, the CIT affirmed the ITC's final affirmative determination of material injury with regard to the Ukrainian imports. However, the U.S. Court of Appeals for the Federal Circuit ("Federal Court") subsequently directed the CIT to vacate its decision affirming the ITC's final affirmative determination of material injury with regard to the Ukrainian imports and to remand the case to the ITC. *See Gerald Metals, Inc. v. United States*, 132 F.3d 716 (Fed. Cir. 1997). On remand, the ITC determined that the U.S. industry was not being materially injured by reason of the Ukrainian imports and that there was no threat of material injury. The issue of material retardation of the establishment of a U.S. industry was not raised before the ITC. The CIT affirmed the ITC's remand determination on October 20,

1998. *See Gerald Metals, Inc. v. United States*, Court No. 95-06-00782, Slip Op. 98-148 (CIT).

In the *Notice of Court Decision and Suspension of Liquidation* (63 FR 67854, December 9, 1998) issued following the CIT's decision affirming the ITC's remand determination, the Department indicated that it would continue to order the suspension of liquidation of imports of pure magnesium from Ukraine until there is a "conclusive" decision in this case and that, if the case was not appealed, or if it was affirmed on appeal, the Department would revoke the antidumping order covering imports of pure magnesium from Ukraine.

Magnesium Corporation of America, International Union of Operating Engineers, Local 564, and United Steelworkers of America, Local 8319 ("appellant") later appealed the CIT's decision regarding the Ukrainian imports to the Federal Circuit. On April 16, 1999, however, the Federal Circuit dismissed this appeal because the appellant failed to file its brief within the specified deadline. *See Gerald Metals, Inc. v. United States*, Court No. 99-1166, Order issued April 16, 1999 (Fed. Cir.).

As a result, the CIT's decision affirming the ITC's remand determination is now the "conclusive" decision in this case.

### Revocation of Antidumping Duty Order

Because the ITC found no material injury or threat of material injury in its remand determination, and the CIT's decision affirming the ITC's remand determination is now the conclusive decision in this case, the Department is revoking the antidumping duty order on pure magnesium from Ukraine. This revocation applies to all entries of pure magnesium from the Ukraine entered, or withdrawn from warehouse, for consumption on or after October 30, 1998, which was ten days after the final CIT decision not in harmony with the original agency determination. The Department will instruct the Customs Service to proceed with liquidation of all entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 30, 1998, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries. This notice is in accordance with 19 CFR 351.222.

Dated: August 17, 1999.

**Bernard Carreau,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 073099B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Exempted Fishing Permit; Correction

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

**ACTION:** Issuance of an exempted fishing permit; correction.

**SUMMARY:** This document corrects the notification of issuance of exempted fishing permit (EFP) 99-03 to Groundfish Forum, Inc. This EFP authorizes Groundfish Forum to conduct an experiment in the Bering Sea and Aleutian Islands management area that would test the accuracy of at-sea observer basket sampling practices, the design and use of automated species composition sampling, and the effect of fish stratification in trawls on size composition sampling. This notification was published in the **Federal Register** on August 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Susan Salvesson, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The announcement of the issuance of EFP 99-03 in the **Federal Register** on August 12, 1999 (64 FR 43986), contained an oversight. When the Groundfish Forum requested that fishing under the EFP take place in Bycatch Zone 2 (areas 513, 517, and 521), it thought that Statistical Area 519 was included in Zone 2. To correct this error, this document adds Statistical Area 519.

#### Need for Correction

In FR Doc. 99-20902, published August 12, 1999 (64 FR 43986), on page 43986, in the second column, second line from the bottom, after "Bycatch Zone 2" add "and Statistical Area 519."

**Authority:** 15 U.S.C. 1801 *et seq.*

Dated: August 19, 1999.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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