

Avisma and SMW should be assigned individual dumping margins.

Regarding Greenwich, as stated in the *Preliminary Determination*, since Greenwich is located in a market economy country and is not affiliated with a Russian producer/exporter, we calculated a separate rate in accordance with our practice. See *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (Apr. 30, 1996).

#### Russia-Wide Rate

As explained in the *Preliminary Determination*, in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Information on the record of this investigation indicates that Avisma and SMW were the only Russian producers and/or exporters of the subject merchandise with sales or shipments to the United States during the POI. Based upon our examination and clarification of Customs data, we have determined that there are no other Russian producers and/or exporters of the subject merchandise and consequently none which were required to respond to the Department's questionnaire. See the memorandum from Christopher Priddy to the file entitled "Examination of Customs Data for Pure Magnesium Russian Imports During the Period of Investigation" dated April 23, 2001. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of this determination. Therefore, we have continued not to assign a Russia-wide rate in this investigation.

#### Surrogate Country

For purposes of the final determination, we find that South Africa remains the appropriate primary surrogate country for Russia. For further discussion and analysis regarding the surrogate country selection for Russia, see the *Preliminary Determination*.

#### Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is hereby adopted by this notice. Parties can find a complete discussion of the

issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum.

#### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

#### Final Determination

We determine that the following percentage weighted-average margins exist for the period April 1, 2000 through September 30, 2000:

Manufacturer/exporter	Margin (percent)
Avisma Titanium Magnesium Works .....	0.00
Greenwich Metals Corporation .....	0.00
Solikamsk Magnesium Works ..	0.00

#### Suspension of Liquidation

Because the estimated weighted-average dumping margins for all the examined companies are 0.00 percent, we are not directing the Customs Service to suspend liquidation of entries of pure magnesium from Russia.

#### Notification of the International Trade Commission

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our determination.

This notice serves as the only 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.

This determination is issued and published in accordance with sections 735(d) and 777(i) of the Act.

Dated: September 14, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### Appendix—Issues in the Decision Memorandum

- Comment 1: Valuation of Factory Overhead and Profit
- Comment 2: Adjustment to Factory Overhead for Cell Rebuild Costs
- Comment 3: Knowledge of Destination of Sales—Avisma
- Comment 4: By-Product Processing Costs—Avisma
- Comment 5: Treatment of Sulfur and Boric Acid—Avisma
- Comment 6: Chlorine Offset Purity Levels—Avisma
- Comment 7: Rounding Surrogate Value Used for Electricity—Avisma
- Comment 8: Trial Shipments—Greenwich
- Comment 9: Date of Sale—Greenwich
- Comment 10: U.S. Freight Expenses—SMW
- Comment 11: U.S. Warehousing Expenses—SMW
- Comment 12: Scope
- Comment 13: Standing

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#### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-508-809]

#### Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel

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

**SUMMARY:** We determine that pure magnesium from Israel is being, or is likely to be, sold in the United States at less than fair value. On April 30, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of pure magnesium from Israel. Based on the results of verification and our analysis of the comments received, we have made changes in the margin calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled "Continuation of Suspension of Liquidation."

**EFFECTIVE DATE:** September 27, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Craig Matney or Andrew Covington, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-1778 or 482-3534, respectively.

**SUPPLEMENTARY INFORMATION:****The Applicable Statute and Regulations**

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. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

**Case History**

Since the preliminary determination of this investigation (*see Notice of Preliminary Determination of Sales at Less than Fair Value: Pure Magnesium from Israel*, 66 FR 21325 (April 30, 2001) ("Preliminary Determination")), the following events have occurred:

On May 2, 2001, DSM submitted a supplemental questionnaire response regarding the appropriate date of sale and revised databases which include sales which were contracted during the POI but invoiced after the POI.

On May 14, 2001, we postponed the final determination until no later than September 12, 2001, at the request of Dead Sea Magnesium, Ltd. ("DSM"), the sole respondent in this investigation (66 FR 24324, May 14, 2001).

We verified DSM's questionnaire responses in May.

The petitioners (Magnesium Corporation of America ("Magcorp"), the United Steelworkers of America, USWA Local 8319, and Concerned Employees of Northwest Alloys, Inc.), and DSM filed case briefs on July 17 and 18, 2001, respectively. The petitioners and DSM filed rebuttal briefs on July 26 and 27, 2001, respectively. A brief was also filed by Rosborough Manufacturing Co. LP on July 26, 2001, regarding the scope of this and the companion antidumping investigations of pure magnesium from Russia and the People's Republic of China. Additional comments on the scope of this investigation were submitted by the petitioners on August 9 and 27, 2001. No hearing was held because the parties withdrew their earlier requests for a hearing.

Although the deadline for this determination was originally September 12, 2001, in light of the events of

September 11, 2001, and the subsequent closure of the Federal Government for reasons of security, the timeframe for issuing this determination has been extended by two days.

**Scope of Investigation**

The scope of this investigation includes imports of pure magnesium products, regardless of chemistry, form, or size, including, without limitation, ingots, raspings, granules, turnings, chips, powder, and briquettes.

Pure magnesium includes: (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); (3) chemical combinations of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an "ASTM Specification for Magnesium Alloy"<sup>1</sup> (generally referred to as "off-specification pure" magnesium); and (4) physical mixtures of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight. Excluded from this order are mixtures containing 90 percent or less pure magnesium by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures. The non-magnesium granular materials which the Department is aware are used to make such excluded reagents are: Lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, aluminum, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomitic lime, and colemanite. A party importing a magnesium-based reagent which includes one or more materials not on this list is required to seek a scope clarification from the Department before such a mixture may be imported free of antidumping duties.

The merchandise subject to this investigation is classifiable under items 8104.11.00, 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided

<sup>1</sup>The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys*.

for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a full discussion of scope comments and determinations, see the accompanying September 14, 2001, Issue and Decision Memorandum from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration ("Decision Memorandum"), comments 9 and 10, which is on file in the Central Records Unit of the main Department building ("B-099") and on the Web at [ia.ita.doc.gov/frn/](http://ia.ita.doc.gov/frn/).

**Period of Investigation**

The period of investigation ("POI") is October 1, 1999, through September 30, 2000. This period corresponds to the respondent's four most recently completed fiscal quarters prior to the filing of the petitions (*see* 19 CFR 351.204(b)).

**Normal Value ("NV")**

We used the same methodology as that described in the *Preliminary Determination* to determine the cost of production ("COP"), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

*a. Cost of Production Analysis*

We used the reported COP amounts to compute a weighted-average COP during the POI, except in the following instances in which the costs were not appropriately quantified or valued. Specifically, we restated the revenue received from sales of chlorine to DSM's affiliated party to reflect an arm's length price (*see*, Decision Memorandum, comment 6), adjusted the price paid by DSM to its affiliated electricity supplier to reflect a market price (*see*, Decision Memorandum, comment 7), adjusted DSM's reported cost of manufacturing ("COM") by treating certain joint products as byproducts (rather than as coproducts) which required the reallocation of manufacturing costs (*see*, Decision Memorandum, comment 2), and recalculated DSM's reported interest and general and administrative ("G&A") expenses based on this revised COM. For further information, see the September 12, 2001, Cost Calculation Memorandum.

*b. Calculation of NV Based on Constructed Value*

We calculated the NV based on the methodology used in the *Preliminary Determination*, with the exception of the

changes described in the Cost of Production Analysis section, above.

**Fair Value Comparisons**

To determine whether sales of pure magnesium from Israel to the United States were made at less than fair value, we compared the export price ("EP") or constructed export price ("CEP") to the NV.

**Date of Sale**

At the *Preliminary Determination*, we used DSM's invoice date as the date of sale, and stated that we would examine this issue further for the final determination. Based on our review of DSM's May 2, 2001, submission and the information examined at verification, it is clear that the material terms of sale of DSM's various long-term agreements can, and frequently do, change prior to the date of invoice, but are fixed at the time of the invoice. See, e.g., public version of June 29, 2001, "Sales Verification Report" at 5. Accordingly, we are continuing to use DSM's invoice date as the date of sale for the final determination.

**Export Price and Constructed Export Price**

For certain sales to the United States, we used EP as defined in section 772(a) of the Act. For the remaining sales to the United States, we used CEP as defined in section 772(b) of the Act. We calculated EP and CEP based on the same methodologies described in the *Preliminary Determination*. At the commencement of verification DSM notified the Department that it had discovered a data sorting error which misclassified certain CEP sales as EP sales and vice versa. We have corrected this misclassification for the final determination. Additionally, based on our verification findings, we revised DSM's reported values for inventory carrying costs for all sales and, for selected sales, we revised DSM's reported values for its sale terms, contract dates, contract type, payment dates, imputed credit, U.S. warehousing, inland freight, and international freight. See June 26, 2001, Verification Report and September 12, 2001, Calculation Memorandum.

**Currency Conversions**

We made currency conversions in accordance with section 773A of the Act in the same manner as in the *Preliminary Determination*.

**Verification**

As provided in section 782(i)(1) of the Act, we verified the information submitted by DSM for our final

determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the September 14, 2001, Issues and Decision Memorandum, which is hereby adopted and incorporated by reference into this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Issues and Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in B-099. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at: <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(A) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of pure magnesium from Israel that are entered, or withdrawn from warehouse, for consumption on or after April 30, 2001, the date of publication of the *Preliminary Determination* in the **Federal Register**. Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Dead Sea Magnesium .....	28.14
All Others .....	28.14

In accordance with section 735(c)(5)(A), we have based the "all others" rate on the dumping margin found for the sole producer/exporter investigated in this proceeding, DSM.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the

International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 14, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

**Appendix**

*List of Comments and Issues in the Decision Memorandum*

- I. Issues Related to DSM's Sales
  - Comment 1: Sales of "Off Specification" Magnesium
- II. Issues Related to DSM's Cost of Production/Constructed Value
  - Comment 2: Treatment of Chlorine and Sylvanite as Byproducts
  - Comment 3: Identification of "Split-off" Point in the Production of Joint Products
  - Comment 4: Cost Allocation Methodology
  - Comment 5: Allocation of Production Costs to Pure and Alloy Magnesium
  - Comment 6: Calculation of Byproduct Offset
  - Comment 7: Adjustment of Electricity Costs for Affiliated Party Transactions
  - Comment 8: Calculation of Profit for Constructed Value
- III. Issues Related to Petitioners' Standing and Scope
  - Comment 9: Reconsideration of Industry Standing
  - Comment 10: Scope

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[C-508-810]**

**Final Affirmative Countervailing Duty Determination: Pure Magnesium From Israel**

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

**ACTION:** Notice of final affirmative determination in a countervailing duty investigation.

**SUMMARY:** The Department of Commerce (the Department) has made a final