

the original less than fair value (LTFV) investigation, the cash deposit will continue to be the most recent rate published in the final determination for which the exporter received a company-specific rate; and (3) if the exporter is not a firm covered in this review or the LTFV investigation, the cash deposit rate will be 13.06 percent, the "Romania-Wide" rate established in the LTFV investigation. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania*, 65 FR 48963 (August 10, 2000). These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 5, 2003.

**Joseph Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-11746 Filed 5-9-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-122-815]

#### Pure Magnesium and Alloy Magnesium from Canada: Preliminary Results of Countervailing Duty Administrative Reviews

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

**ACTION:** Notice of Preliminary Results of Countervailing Duty Administrative Reviews.

**SUMMARY:** The Department of Commerce is conducting administrative reviews of the countervailing duty orders on pure magnesium and alloy magnesium from Canada for the period January 1, 2001 through December 31, 2001. We preliminarily find that certain

producers/exporters have received countervailable subsidies during the period of review. If the final results remain the same as these preliminary results, we will instruct the Customs Service to assess countervailing duties as detailed in the "Preliminary Results of Review" section of this notice. Interested Parties are invited to comment on these preliminary results (*see* the Public Comment section of this notice).

**EFFECTIVE DATE:** May 12, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Melanie Brown, 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) 482-4987

**SUPPLEMENTARY INFORMATION:**

**Case History**

On August 31, 1992, the Department of Commerce ("the Department") published in the Federal Register the countervailing duty orders on pure magnesium and alloy magnesium from Canada (57 FR 39392). On August 6, 2002, the Department published a notice of "Opportunity to Request Administrative Review" of these countervailing duty orders (67 FR 50856). We received a timely request for review of Norsk Hydro Canada, Inc. ("NHCI") and Magnola Metallurgy, Inc. ("Magnola") from the petitioner, U.S. Magnesium, LLC. On September 25, 2002, we initiated this review covering shipments of subject merchandise from NHCI and Magnola (67 FR 60210).

On December 3, 2002, we published *Pure and Alloy Magnesium from Canada: Correction of Notice of Initiation and Partial Rescission of Countervailing Duty Administrative Review* (67 FR 71936). In that notice, we stated that the correct POR for these administrative reviews is January 1, 2001 through December 31, 2001, and rescinded the reviews with respect to Magnola, because Magnola is currently a party in a new shipper administrative review covering the same POR and the same subject merchandise. Therefore, in accordance with 19 CFR 351.213(b), these reviews cover NHCI, a producer/exporter of the subject merchandise. These reviews cover 16 subsidy programs.

On December 5, 2002, we issued countervailing duty questionnaires to NHCI, the Government of Québec ("GOQ"), and the Government of Canada ("GOC"). We received questionnaire responses from the GOQ and the GOC on January 13, 2003, and from NHCI on January 27, 2003.

### 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.

The pure and alloy magnesium subject to review is 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 ("POR") for which we are measuring subsidies is from January 1, 2001 through December 31, 2001.

### Subsidies Valuation Information

*Discount rate:* As noted below, the Department preliminarily finds that NHCI benefitted from one countervailable subsidy program during the POR: Article 7 grants from the Québec Industrial Development Corporation. As in the investigations and previous administrative reviews of these cases, we have used the company's cost of long-term, fixed-rate debt in the year in which this grant was approved as the discount rate for purposes of calculating the benefit pertaining to the POR.

*Allocation period:* In the investigations and previous administrative reviews of these cases, the Department used as the allocation period for non-recurring subsidies, the average useful life ("AUL") of renewable physical assets in the magnesium industry as recorded in the Internal Revenue Service's 1977 Class Life Asset Depreciation Range System ("the IRS tables"), *i.e.*, 14 years. Pursuant to section 351.524(d)(2) of the countervailing duty regulations, the Department will use the AUL in the IRS tables as the allocation period unless a

party can show that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry. If a party can show that either of these time periods differs from the AUL in the IRS tables by one year or more, the Department will use the company-specific AUL or the country-wide AUL for the industry as the allocation period.

Neither NHCI nor the petitioner has contested using the AUL reported for the magnesium industry in the IRS tables. Therefore, we continue to allocate non-recurring benefits over 14 years.

### Analysis of Programs

#### I. Program Preliminarily 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 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 is provided for projects that are 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 section 351.524(b)(2) of our regulations, we continue to allocate the benefit of this grant over time. We used our standard grant methodology as described in section 351.524(d) of the regulations 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 preliminarily determine the countervailable subsidy from the Article 7 SDI grant to be 1.68 percent *ad valorem* for NHCI.

#### II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily 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 Previously Determined To Be Terminated

- Exemption from Payment of Water Bills

In the administrative reviews covering calendar year 1997, the Department

found that this program was terminated during the POR. In our final results, we stated that we, therefore, 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)).

### Alleged Over-assessment of Countervailing Duties

In its January 27, 2003 questionnaire response, NHCI contends that the Department should adjust the assessment rate applied to the value of entries made during the POR in order to avoid alleged over-countervailing in connection with cash deposits retained on 1997 entries. NHCI states that the Department issued appropriate liquidation instructions to the Customs Service ("Customs") following the completion of the 1997 administrative review, but that Customs erroneously liquidated hundreds of NHCI entries at the cash deposit rate at the time of entry, rather than at the rate established in the final results of the 1997 administrative review.

The Department does not have the authority to address what is essentially a customs protest issue concerning entries from a prior, completed review in the context of this administrative review. Parties cannot revive an issue for which the deadlines for a proper challenge have already passed by raising it in an on-going administrative proceeding. Therefore, the Department will not address an issue which is not properly before the agency in this review.

### Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(I), we calculated a subsidy rate for NHCI, the sole producer/exporter subject to these administrative reviews. For the period January 1, 2001, through December 31, 2001, we preliminarily find the net subsidy rate for NHCI to be 1.68 percent *ad valorem*. We will disclose our calculations to the interested parties in accordance with section 351.224(b) of the regulations.

### Assessment Rates

If the final results of these reviews are affirmative, the Department intends to instruct Customs to assess countervailing duties at the net subsidy rate. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of these reviews. For the period January 1, 2001, through December 31, 2001, 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.

#### Cash Deposit Instructions

The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties at the rate of 1.68 percent on the f.o.b. value of 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 administrative reviews.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies, (except Timminco Limited which was excluded from the orders during the investigations) at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rate that will be applied to non-reviewed companies covered by these orders is that established in *Pure and Alloy Magnesium From Canada; Final Results of the Second (1993) Countervailing Duty Administrative Reviews*, 62 FR 48607 (September 16, 1997) or the company-specific rate published in the most recent final results of an administrative review in which a company participated. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

#### Public Comment

Interested parties may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs (*see below*). Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. Parties who submit briefs in these proceedings should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later

than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due.

The Department will publish a notice of the final results of these administrative reviews within 120 days from the publication of these preliminary results.

These administrative reviews and notice are in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: May 5, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review, Application No. 03-00002.

**SUMMARY:** The Department of Commerce has issued an Export Trade Certificate of Review to EXIM Services of North America, Inc. ("EXIM"). This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number), or by e-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2001).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11 (a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

#### Description of Certified Conduct

##### *Export Trade*

1. *Products:* All products.
2. *Services:* All services.

3. *Technology Rights:* Technology Rights, including, but not limited to: patents, trademarks, copyrights, and trade secrets that relate to Products and Services.

4. *Export Trade Facilitation Services (as they Relate to the Export of Products, Services, and Technology Rights)*

Export Trade Facilitation Services, including, but not limited to, professional services and assistance relating to government relations; state and federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services and the formation of shippers' associations.

##### *Export Markets*

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

##### *Export Trade Activities and Methods of Operation*

With respect to the sale of Products and Services, licensing of Technology Rights and provisions of Export Trade Facilitation Services EXIM may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;
2. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;
3. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights in Export Markets;
4. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;
5. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;
6. Allocate export orders among Suppliers;