

## CHLORINATED ISOCYANURATES FROM THE PRC SECTION A RESPONDENTS

Manufacturer/exporter	Original preliminary margin (percent)	Amended preliminary margin (percent)
Changzhou Clean Chemical Co., Ltd. ....	140.27	111.03
Liaocheng Huaao Chemical Industry Co., Ltd. ....	140.27	111.03
Shanghai Tian Yuan International Trading Co., Ltd. ....	140.27	111.03
Sinochem Hebei Import & Export Corporation .....	140.27	111.03
Sinochem Shanghai Import & Export Corporation .....	140.27	111.03

The collection of bonds or cash deposits and suspension of liquidation will be revised accordingly and parties will be notified of this determination, in accordance with section 733(d) and (f) of the Act.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission ("ITC") of our amended preliminary determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of the *Preliminary Determination* or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: February 17, 2005.

**Joseph A. Spetrini,**

Acting Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-896]

#### Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal From the People's Republic of China

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

#### Final Determination

We determine that magnesium metal from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV") as provided in section

735 of Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

**DATES:** Effective Date: February 24, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Laurel LaCivita or Lilit Astvatsatrian, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4243 and (202) 482-6412, respectively.

#### Case History

The Department of Commerce ("the Department") published its preliminary determination of sales at LTFV on October 4, 2004. *See Preliminary Determination of Sales at Less Than Fair Value: Magnesium Metal from the People's Republic of China*, 69 FR 59187, (October 4, 2004) ("Preliminary Determination"). The Department selected two mandatory respondents<sup>1</sup> and received a Section A response from a third company requesting a rate separate from the PRC-wide entity.<sup>2</sup> Since the *Preliminary Determination*, the Department conducted verification

<sup>1</sup> Tianjin Magnesium International Co., Ltd. ("Tianjin"), and the RSM companies. In the preliminary determination we determined that the following companies were collapsed members of the RSM group of companies for the purposes of this investigation: Nanjing Yunhai Special Metals Co., Ltd. ("Yunhai Special"), Nanjing Welbow Metals Co., Ltd. ("Welbow"), Nanjing Yunhai Magnesium Co., Ltd. ("Yunhai Magnesium"), Shanxi Wenxi Yunhai Metals Co., Ltd. ("Wenxi Yunhai"). *See Memorandum to Laurie Parkhill, Director, Office 8, NME/China Group, from Laurel LaCivita, Senior Case Analyst, through Robert Bolling, Program Manager: Antidumping Duty Investigation of Magnesium Metal from the People's Republic of China: Affiliation and Collapsing of Members of the RSM Group and its Affiliated U.S. Reseller, Toyota Tsusho America, Inc.*, dated September 24, 2004. In addition, we calculated a separate rate for China National Nonferrous Metals I/E Corp. Jiangsu Branch ("Jiangsu Metals"). *See Memorandum to Laurie Parkhill, Director, Office 8, NME/China Group, from Laurel LaCivita, Senior Case Analyst and Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager: Separate Rates Memorandum*, dated September 24, 2004.

<sup>2</sup> Beijing Guangling Jinghua Science & Technology Co., Ltd. ("Guangling").

of RSM and Tianjin in both the PRC and the United States, where applicable. *See the Verification Section* below for additional information. On November 22, 2004, the parties<sup>3</sup> submitted surrogate-value information. On December 2, 2004, the parties submitted rebuttals to those surrogate-value submissions. On December 28, 2004, the petitioners submitted an allegation of critical circumstances in accordance with section 733(e)(1) of the Act and 19 CFR 351.206(c)(1). On January 4, 2005, the Petitioners, RSM, and Tianjin submitted case briefs, and on January 10, 2005, all three parties submitted rebuttal briefs. On January 11, 2005, the Department invited all parties to comment on the petitioners' allegation of critical circumstances and requested RSM, Tianjin, and Guangling to report the quantity and value of their shipments of subject merchandise to the United States on a monthly basis for the period January 2003 through December 2004. On January 19, 2005, RSM and Tianjin provided the requested information. Guangling did not respond to the Department's request for information. On February 3, 2005, the Department published its preliminary determination of critical circumstances in which it found that critical circumstances exist with regard to imports of magnesium metal from the PRC for Tianjin, Guangling, and the PRC-wide entity. *See Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People's Republic of China*, 70 FR 5606 (February 3, 2005) ("Critical Circumstances Determination"). On February 7, 2005, the petitioners submitted comments on the Department's preliminary determination of critical circumstances. None of the respondents provided comments or rebuttals on the Department's preliminary determination of critical circumstances.

<sup>3</sup> The parties include RSM, Tianjin, and the petitioners (U.S. Magnesium LLC, United Steelworkers of America, Local 8319 and Glass, Molders, Pottery, Plastics & Allied Workers International, Local 374). Guangling did not submit case or rebuttal briefs.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding are addressed in the memorandum from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, *Issues and Decision Memorandum for the Less-Than-Fair-Value Investigation of Magnesium Metal from the People's Republic of China*, dated February 16, 2005, 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 document and is on file in the Central Records Unit (“*CRU*”), Main Commerce Building, Room B-099, and is accessible on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the memorandum are identical in content.

### Scope of Investigation

The products covered by this investigation are primary and secondary alloy magnesium metal regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an “ASTM Specification for Magnesium Alloy”<sup>4</sup> and thus are outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as “alloy” magnesium).

<sup>4</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*.

The scope of this investigation excludes the following merchandise: (1) All forms of pure magnesium, including chemical combinations of 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>5</sup>; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form, by weight, and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, 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, dolomite lime, and colemanite.<sup>6</sup>

The merchandise subject to this investigation is currently classifiable under items 8104.19.00 and 8104.30.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the mandatory respondents for use in our final determination (see the Department’s verification reports on the record of this investigation, located in the CRU, with respect to Jiangsu Metals, Yunhai

<sup>5</sup> This material is already covered by existing antidumping orders. See *Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995), and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 57936 (November 19, 2001).

<sup>6</sup> This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from the PRC, Israel, and Russia. See *Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys because they are not chemically combined in liquid form and cast into the same ingot.

Special, Welbow, Bada, Tianjin, and Toyota Tsusho America, Inc. (“TAI”). For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records as well as original source documents provided by respondents.

### Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) India is at a level of economic development comparable to that of the PRC; (2) Indian manufacturers produce comparable merchandise and are significant producers of aluminum; (3) India provides the best opportunity to use appropriate, publicly available data to value the factors of production. See *Preliminary Determination*, 69 FR at 59191. For the final determination, we made no changes to our findings with respect to the selection of a surrogate country.

### Critical Circumstances

As described below in the section concerning the application of adverse facts available (“AFA”), we are applying total AFA to the group of RSM companies which includes Jiangsu Metals and TAI. As part of total AFA for the RSM companies, we determine that RSM and Jiangsu Metals are not eligible for a separate rate and, therefore, remain a part of the PRC-wide entity. Therefore, we revised our critical-circumstances analysis to include imports from RSM and Jiangsu Metals in the total quantity of imports from the PRC-wide entity during the base and comparison periods. As a result of this change, we have determined that critical circumstances do not exist with respect to the PRC-wide entity. Additionally, for this final determination we continue to find that critical circumstances exist for Tianjin and Guangling. For further details regarding the Department’s critical-circumstances analysis see the Memorandum from Laurel LaCivita, Case Analyst, to Laurie Parkhill, Office Director, AD/CVD Enforcement, *Antidumping Duty Investigation of Magnesium Metal from the People's Republic of China (the “PRC”)—Affirmative Final Determination of Critical Circumstances*, dated February 16, 2005 (“*Final Critical Circumstances Memorandum*”).

### Separate Rates

In the *Preliminary Determination*, the Department found that Guangling, which provided a response to Section A

of the antidumping questionnaire, was eligible for a rate separate from the PRC-wide rate. The margin we established in the Preliminary Determination for Guangling was 140.09 percent. Because the rates of the selected mandatory respondents have changed since the *Preliminary Determination*, we have recalculated the rate applicable to Guangling. The final rate is 91.36 percent.

As discussed below, the Department has determined to apply AFA with respect to the RSM companies. In addition, we have determined that there is no reliable basis for granting the RSM companies a separate rate. Accordingly, the RSM companies have not overcome the presumption that they are part of the PRC-wide entity and, therefore, entries of their merchandise will be subject to the PRC-wide rate.

#### Adverse Facts Available

Section 776(a)(2) of the Act provides that the Department shall apply "facts otherwise available" if, *inter alia*, an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act provides further that the Department may use an adverse inference when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, and is not so incomplete that it cannot be used and if the interested party acted to the best of its ability in providing the

information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

In the *Preliminary Determination*, we calculated a dumping margin of 128.11 percent for RSM based on the information it reported in its questionnaire responses. See *Preliminary Determination*. We conducted verification of the RSM companies in the PRC and in the United States.

In the *Preliminary Determination*, we determined that the RSM group of companies and Jiangsu Metals were affiliated under sections 771(33)(E) and (F) of the Act. See *Preliminary Determination* at 59192. Additionally, we determined that TAI and the RSM group of companies were affiliated under sections 771(33)(E) and (F) of the Act. See *Preliminary Determination* at 59192. There has been no information placed on the record since the *Preliminary Determination* that contradicts our affiliation determinations. Therefore, for the final determination, we continue to find that RSM, Jiangsu Metals, and TAI are affiliated under the statute.

Based on record evidence gathered as a result of the verification of TAI, RSM's affiliated customer in the United States, and pursuant to the statutory requirements of the Act, the Department has determined that the RSM Group and its affiliates impeded this investigation, provided unverifiable information, and did not cooperate to the best of their ability to comply with the Department's requests for information. Therefore, we determine that the use of AFA is warranted with respect to all of TAI's sales of subject merchandise whether exported through RSM or Jiangsu Metals for the purposes of the final determination of this investigation. See our response to Comment 1 in the *Decision Memorandum* for a further discussion of this issue.

In the *Preliminary Determination*, the Department granted RSM and Jiangsu Metals separate rates based on the information provided in their questionnaire responses. See memorandum to Laurie Parkhill, Office Director, China/NME Group, through Robert Bolling, Program Manager, from Laurel LaCivita, Senior Case Analyst and Lilit Astvatsatrian, Case Analyst, *Preliminary Determination: Magnesium Metal from the People's Republic of China: Separate-Rates Memorandum* ("Separate Rates Memorandum"), dated September 24, 2004, at 13. Because we found that RSM's affiliate TAI did not cooperate to the best of its ability and are applying AFA to all of TAI's sales

of subject merchandise in the United States, we have determined that RSM and Jiangsu Metals, which produced and/or exported the subject merchandise, do not qualify for separate rates. See our response to Comment 3 in the *Issues and Decision Memorandum* for a further discussion of this issue.

#### Corroboration of the Adverse-Facts-Available Rate

In the *Preliminary Determination*, in accordance with sections 776(b) of the Act, we assigned an AFA rate to the PRC-wide entity based on a calculated margin derived from information obtained in the course of the investigation and placed on the record of this proceeding. At the *Preliminary Determination*, we applied a rate of 177.62 percent. Based on comments we received from interested parties which changed our calculations of the respondents margins, we have determined to change the AFA rate we applied in the *Preliminary Determination*.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Ibid.* The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Ibid.* As explained in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used.

We find that the export-price and normal-value information in the petition is reliable and relevant and, therefore, have determined that the information has probative value. See Memorandum from Lilit Astvatsatrian to Laurie Parkhill, dated February 16, 2005, *Corroboration of the PRC-Wide Adverse Facts-Available Rate*. Accordingly, we find that the highest margin based on that information, 141.49 percent, is corroborated within the meaning of section 776(c) of the Act.

Furthermore, there is no information on the record that demonstrates that the rate we have selected is an inappropriate total AFA rate for the companies in question. Therefore, we consider the selected rate to have probative value with respect to the firms in question and to reflect the appropriate adverse inference.

**The PRC-Wide Rate**

Because we begin with the presumption that all companies within a non-market-economy (“NME”) country are subject to government control and because only the companies listed under the “Final Determination Margins” below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People’s Republic of China*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents listed in the “Final Determination Margins” section below (except as noted).

**Changes Since the Preliminary Determination**

Based on our analysis of comments received, we have made changes in our margin calculations for Tianjin. We did not calculate a margin using the information RSM provided because we determined the margin for RSM based on total AFA. For discussion of the company-specific changes we made since the preliminary determination to our calculations of Tianjin’s final margin, see Memorandum to the File from Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager, *Analysis Memorandum for the Final Determination of the Antidumping Duty Investigation of Magnesium Metal from the People’s Republic of China: Tianjin Magnesium Co., Ltd. (“Tianjin”)* (“*Final Analysis Memorandum*”), dated February 16, 2005. We made the

following changes to the margin calculations:

- We determined the profit ratios for the Indian surrogate companies as a percentage of the cost of manufacturing, selling, general and administrative expenses, and interest.
- We calculated the surrogate value for the subject merchandise produced by Yinguang Metal based on its purchases of pure magnesium from affiliated and unaffiliated suppliers rather than by using surrogate values for inputs used to produce the raw magnesium produced and supplied to Yinguang by Yangyu Magnesium, an affiliated supplier.

**Final Determination Margins**

We determine that the following percentage weighted-average margins exist for the Period of Investigation:

**MAGNESIUM METAL FROM THE PRC**

Manufacturer/Exporter	Weighted-Average Margin
Tianjin .....	91.31
Guangling .....	91.31
PRC-Wide Rate* .....	141.49

\*Not a separate rate; also applies to the RSM companies and Jiangsu Metals.

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Bureau of Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from the PRC that are entered, or withdrawn from warehouse, for consumption on or after October 4, 2004 for the RSM group of companies.

With respect to Tianjin and Guangling, we will direct the U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of magnesium metal from the PRC that are entered, or withdrawn from warehouse, on or after 90 days before the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. 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 directing CBP to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

**Notification Regarding APO**

This notice also 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. Timely notification of return or 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)(1) of the Act.

Dated: February 16, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

**Appendix**

**Issues in the Issues and Decision Memorandum**

*Issues With Respect to RSM*

- Comment 1: TAI Verification Failure
  - Date of Sale
  - TAI’s Lack of Preparation
  - Location of the Accounting Documents and Site Selection for Verification
  - Sales—Trace Documentation
  - Brokerage Expenses Incurred in the United States
  - Warehousing and Freight Expenses Incurred in the United States
  - Indirect Selling Expenses
- Comment 2: Application of Adverse Facts Available
- Comment 3: Separate Rate for Jiangsu Metals
- Comment 4: Labor-Rate Factor at Bada Magnesium

**General Issues**

Comment 5: Critical Circumstances  
 Comment 6: Exporter-Producer Combination Rates

**Surrogate Values**

Comment 7: Time Period for the Valuation of Pure Magnesium  
 Comment 8: Valuation of Pure Magnesium  
 Comment 9: Surrogate Value for Dolomite  
 Comment 10: Ferrosilicon, No. 2 Flux, Fluorite Powder, Magnesium and Barium Chlorides, Bituminous Coal  
 Comment 11: Electricity and Chemicals/Gases  
 Comment 12: Use of Zinc Financial Statements Instead of Aluminum for Determination of the Overhead Ratios  
 Comment 13: Particle-board Pallets, Profit, and Marine Insurance

**Issues with Respect to Tianjin**

Comment 14: Valuation of Pure Magnesium for Yinguang  
 Comment 15: Yinguang's Consumption Rate for Dolomite  
 Comment 16: Supplier Distance for Yangyu  
 Comment 17: Valuation of Pure Magnesium for Guoli

[FR Doc. E5-760 Filed 2-23-05; 8:45 am]

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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-821-819]

**Magnesium Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than Fair Value**

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

**Final Determination**

We determine that magnesium metal ("magnesium") from the Russian Federation ("Russia") is being, or is likely to be, sold in the United States at less-than-fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

**EFFECTIVE DATE:** February 24, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mark Hoadley at (202) 482-3148 or Kimberley Hunt at (202) 482-1272 (Avisma); and Josh Reitze at (202) 482-0666 (SMW); AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**Case History**

On October 4, 2004, the Department of Commerce ("the Department") published its preliminary determination of sales at LTFV of magnesium metal from Russia. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Magnesium Metal From the Russian Federation*, 69 FR 59197 (October 4, 2004) (*Preliminary Determination*). Since the *Preliminary Determination*, the following events have occurred. On October 8, 2004, Solikamsk Magnesium Works ("SMW") requested a public hearing. On October 18, 2004, SMW provided a revised version of its U.S. sales database that included all sales invoiced during the period of investigation. The Department conducted verification of JSC AVISMA Titanium-Magnesium Works' ("Avisma") and SMW's sales and cost questionnaire responses from October 25, 2004, to November 5, 2004.<sup>1</sup> Petitioners<sup>2</sup> requested a hearing on October 28, 2004, and on November 3, 2004, Avisma requested one as well. On November 8 and November 9, 2004, respectively, Petitioners and the USEC Inc. and United States Enrichment Corporation (collectively, "USEC"), submitted comments regarding Russian energy prices. On November 10, 2004, Avisma requested that the Department reject this submission as USEC is not a party to the proceeding. On November 12, 2004, USEC rebutted Avisma's November 10 submission; on November 18, 2004, Avisma filed a rebuttal to Petitioners' November 8, 2004, submission.

The Department conducted verification of SMW's U.S. affiliate, Solimin Magnesium Corporation ("Solimin"), on December 6 and 7,

<sup>1</sup> See Memorandum to the File, from Sebastian Wright, Magnesium Metal From The Russian Federation: Verification Report for JSC AVISMA Titanium-Magnesium Works, December 23, 2004 (*Avisma Verification Report*); Memorandum to Neal M. Halper from Robert Greger, *et al.*, Verification Report on the Cost of Production and Constructed Value Data Submitted by JSC AVISMA Titanium-Magnesium Works, December 30, 2004 (*Avisma Cost Verification Report*); See Memorandum to the File from Maria MacKay and Mark Hoadley; Magnesium Metal From The Russian Federation: Verification Report for Solikamsk Magnesium Works (*SMW Verification Report*); and Memorandum to Neal M. Halper from Ernest Gziryan, *et al.*; Verification Report on the Cost of Production and Constructed Value Data Submitted by Solikamsk Magnesium Works, December 30, 2004 (*SMW Cost Verification Report*), on file in the Central Records Unit, Room B-099 of the Main Commerce building ("CRU").

<sup>2</sup> Petitioners in this investigation are U.S. Magnesium Corporation, LLC; United Steelworkers of America, Local 8319; and Glass, Molders, Pottery, Plastics and Allied Workers International, Local 374.

2004.<sup>3</sup> The Department conducted verification of Avisma's U.S. affiliate, VSMPO-Tirus, U.S., Inc. ("Tirus"), on December 13 and 14, 2004,<sup>4</sup> and of SMW's other U.S. affiliate, CMC Cometals ("Cometals"), on December 16 and 17, 2004.<sup>5</sup>

On January 4, 2005, Petitioners submitted "previously unavailable" information on the Russian energy market. Avisma, on January 5, and SMW, on January 6, 2005, requested that Petitioners' "untimely" submission be removed from the record. During the weeks of January 3rd and January 10th, the Department held meetings with several parties on the energy issue and memoranda documenting these meetings have been placed on the record of this investigation. On January 7, 2005, the Department extended the time limits on the submission of factual information and accepted the Petitioners' submission. On January 14, 2005, Avisma argued that the Department should not rely on the information contained in Petitioners' January 4, 2005, submission.

On January 7, 2005, Petitioners, Avisma, SMW, and Northwest Alloys, Inc. and Alcoa, Inc. (collectively, "Alcoa"), submitted case briefs. SMW submitted a rebuttal brief on January 12 and Petitioners and Avisma submitted rebuttal briefs on January 13, 2005.

On January 12, 2005, the Department requested comments on a methodological issue related to the cost of electricity. On January 14, 2005, Alcoa submitted comments; on January 18, 2005, Avisma and USEC also submitted comments. On January 18, 2005, Petitioners made three submissions, the first two calling for Avisma's and Alcoa's submissions to be struck from the record and the third responding to the Department's request for comment. On January 19, 2005, Avisma made another submission arguing the relevance of Petitioners' January 18, 2005, submission. On January 21, 2005, Petitioners submitted rebuttal comments to Alcoa's January 14, 2005, submission and Avisma's January 18, 2005, submission. On

<sup>3</sup> Memorandum to the File, from Joshua Reitze and Kimberley Hunt, Magnesium Metal From The Russian Federation: U.S. Sales Verification, December 29, 2004 (*Solimin Verification Report*), on file in the CRU.

<sup>4</sup> Memorandum to the File, from Sebastian Wright and Mark Hoadley; Magnesium Metal From The Russian Federation: Verification Report for JSC AVISMA Titanium-Magnesium Works, December 30, 2004 (*Tirus Verification Report*), on file in the CRU.

<sup>5</sup> Memorandum to the File, from Joshua Reitze and Kimberley Hunt, Magnesium Metal From The Russian Federation: U.S. Sales Verification (Cometals), December 30, 2004 (*Cometals Verification Report*), on file in the CRU.