previously reviewed or investigated companies not participating in these reviews, the cash deposit rate will continue to be the company–specific rate published for the most recent period; 3) if the exporter is not a firm covered in these reviews or the original less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the all–others rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: April 29, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9887 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–821–819)

Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to timely requests, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on magnesium metal from the Russian Federation for the period of review (POR) April 1, 2006, through March 31, 2007. The review covers two respondents, PSC VSMPO–AVISMA Corporation (AVISMA) and Solikamsk Magnesium Works (SMW).

The Department preliminarily determines that AVISMA and SMW made sales to the United States at less than normal value. If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of AVISMA's and SMW's merchandise during the POR. The preliminary results are listed below in the section titled ''Preliminary Results of Review.''

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0665 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on magnesium metal from the Russian Federation on April 15, 2005. See *Notice of Antidumping Duty Order: Magnesium Metal from the Russian Federation*, 70 FR 19930 (April 15, 2005) (*Antidumping Duty Order*). On April 2, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on magnesium metal from the Russian Federation. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 15650 (April 2, 2007). On April 30, 2007, AVISMA, a Russian Federation producer of the subject merchandise, requested that the Department conduct an administrative review. On April 30, 2007, U.S. Magnesium Corporation LLC, the petitioner in this proceeding, also requested that the Department conduct an administrative review with respect to AVISMA and SMW, another Russian Federation producer of the subject merchandise. On May 30, 2007, the Department published a notice of initiation of an administrative review of the antidumping duty order on magnesium metal from the Russian Federation for the period April 1, 2006, through March 31, 2007. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 29968 (May 30, 2007).

On December 18, 2007, the Department extended the deadline for the preliminary results of this antidumping duty administrative review from December 31, 2007, to April 29, 2008. See *Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Magnesium Metal From the Russian Federation*, 72 FR 71620 (December 18, 2007).

Scope of the Order

The merchandise covered by the order is magnesium metal (also referred to as magnesium), which includes primary and secondary pure and 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 the order includes blends of primary and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium, including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: (1) products that contain at least 99.95 percent 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 magnesium, by weight (generally referred to as ''pure'' magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less that 99.8 percent, by weight, whether or not conforming to an ''ASTM Specification for Magnesium Alloy''.

The scope of the order excludes: (1) magnesium that is in liquid or molten form; and (2) 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, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly

ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[1]

The merchandise subject to the order is currently classifiable under items 8104.11.00, 8104.19.00, 8104.30.00, and 8104.90.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

On November 9, 2006, in response to U.S. Magnesium Corporation LLC's request for scope rulings, the Department issued final scope rulings in which it determined that the processing of pure magnesium ingots imported from Russia by Timminco, a Canadian company, into pure magnesium extrusion billets constitutes substantial transformation. Therefore, such alloy magnesium extrusion billets produced and exported by Timminco are a product of Canada and thus are not within the scope of the order. See November 9, 2006, Memorandum for Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Barbara E. Tillman, Director, Office 6, and Wendy Frankel, Director, Office 8, China/NME Group, AD/CVD Operations: Pure Magnesium from the People's Republic of China (A–570–832), Magnesium Metal from the People's Republic of China (A–570–896), and Magnesium Metal from Russia (A–821–819): Final Ruling in the Scope Inquiry on Russian and Chinese Magnesium Processed in Canada.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of adverse facts available (AFA) is appropriate for the preliminary results of this review with respect to SMW.

A. Use of Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (the Act), provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties.

On July 11, 2007, SMW notified the Department that it would not participate in this administrative review. As such, SMW failed to respond to our questionnaire, thereby withholding, among other things, home–market and U.S. sales information necessary for reaching the applicable results. Such information is imperative to calculate an antidumping margin for the preliminary results of the review. Because SMW failed to provide the information requested and thus significantly impeded the proceeding, we find that we must base its margin on facts otherwise available pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. Further, sections 782(d) and (e) of the Act are inapplicable because SMW decided not to provide the Department with any information.

B. Application of Adverse Inferences for Facts Available

In applying the facts otherwise available, section 776(b) of the Act provides that, if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title the administering authority may use an inference adverse to the interests of that party in selecting from among the facts otherwise available.

Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol.1 (1994) at 870 (*SAA*). Further, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997). Because SMW has not provided any information in response to our questionnaire and has notified us that it would not participate in this review, we find that SMW has not acted to the best of its ability in providing us with relevant information which is under its control. This constitutes a failure on the part of SMW to cooperate to the best of its ability to comply with a request for information by the Department within the meaning of section 776(b) of the Act. Based on the above, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. See, *e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total AFA where the respondent failed to respond to the antidumping questionnaire).

C. Selection and Corroboration of Information Used as Facts Available

Section 776(b) of the Act provides that the Department may use as AFA information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. When selecting an AFA rate from among the possible sources of information, the Department's practice has been to ensure that the margin is sufficiently adverse to induce respondents to provide the Department with complete and accurate information in a timely manner. See, *e.g., Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006). In selecting an appropriate AFA rate for SMW, the Department considered the following rates from the proceeding: 1) the rates alleged in the petition which range from 54.40 to 68.94 and 86.54 to 101.24 percent (when taking into account

[1] This second exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000-2001 investigations of magnesium from China, Israel, and Russia. See *Notice of 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); *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Notice of 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.

adjustments for electricity; see *Notice of Initiation of Antidumping Duty Investigations: Magnesium Metal From the People's Republic of China and the Russian Federation*, 69 FR 15293 (March 25, 2004)); 2) the rates we calculated for the final determination of the investigation which ranged from 18.65 to 21.71 percent (see *Antidumping Duty Order*); and 3) the rates we calculated in the first administrative review (the most recently completed review), 0.41 and 3.77 percent (see *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 72 FR 51791 (September 11, 2007)).

Section 776(c) of the Act provides that the Department shall corroborate, to the extent practicable, secondary information used for facts available by reviewing independent sources reasonably at its disposal. With respect to the rates alleged in the petition, information from prior segments of the proceeding constitutes secondary information. See *SAA* at 870 and *Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination to Revoke Order in Part: Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom*, 69 FR 55574, 55577 (September 15, 2004) (AFBs 14). The word ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.*; see also *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.

Because SMW did not submit information we requested in this review we do not have such information to consider in determining whether the petition rates are relevant to SMW. To determine whether the petition rates are reliable and relevant in this administrative review, we compared the transaction–specific margins of AVISMA for the POR to the petition rates and found that the petition rates were not relevant for use in this administrative review and, therefore, do not have probative value for use as AFA.

In addition, we find that the weighted–average rates we calculated for respondents in the previous, as well as in the instant review, are not sufficiently high as to effectuate the purpose of the facts–available rule (*i.e.*, we do not find that any of these rates are high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act). Therefore, as facts available with an adverse inference, we have selected the rate of 21.71 percent for SMW, the weighted–average margin the Department calculated for JSC AVISMA Magnesium–Titanium Works (a predecessor to PSC VSMPO–AVISMA Corporation) in the original investigation (see *Antidumping Duty Order*); it is the highest rate the Department has calculated in any segment of the proceeding. We consider the 21.71 percent rate to be sufficiently high so as to encourage participation in future segments of this proceeding.

With respect to corroboration of other rates from the proceeding, unlike other types of information such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, with respect to an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, there is no practical manner to test the margin's reliability further and the Department considers the rate reliable. See *AFBs 14* at 55577.

With respect to the relevance aspect of corroboration the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin *and determine an appropriate margin. See* Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996), where the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin.

We examined individual transactions made by AVISMA in the current review and the margins on those transactions in order to determine whether the rate of 21.71 percent was probative. We found a number of sales with dumping margins above the rate of 21.71 percent. Further, to support our corroboration, because SMW did not provide us with any information in this review, we examined individual transactions made by SMW during the immediately preceding (2005–06) administrative review period and the margins we determined for that review on those transactions in order to determine whether the rate of 21.71 percent was probative. See *Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Wire Rod from the Republic of Korea*, 72 FR 32074, 32076 (June 11, 2007) (unchanged in *Final Results of Antidumping Duty Administrative Review: Stainless Steel Wire Rod from the Republic of Korea*, 72 FR 46035 (August 16, 2007)). We found a number of sales by SMW during the 2005–06 period with dumping margins above the rate of 21.71 percent. Thus, the AFA rate is relevant as applied to SMW for this review because it falls within the range of AVISMA's transaction–specific margins in the current review period and SMW's own transaction–specific margins in the prior review period. See *Ta Chen Stainless Steel Pipe, Inc. vs. United States*, 298 F.3d 1330, 1340 (CAFC 2002) (''Because Commerce selected a dumping margin within the range of Ta Chen's actual sales data, we cannot conclude that Commerce overreached reality'.'') We have detailed the corroboration of the AFA rate in the memorandum from the analyst to Laurie Parkhill entitled ''The Use of Facts Available and Corroboration of Secondary Information for Solikamsk Magnesium Works in the 2006/2007 Administrative Review of the Antidumping Duty Order on Magnesium Metal from the Russian Federation,'' dated April 29, 2008. Therefore, we find this rate to be both reliable and relevant. As such, the Department finds this rate to be corroborated to the extent practicable consistent with section 776(c) of Act.

Date of Sale

AVISMA reported invoice date as the date of sale for all sales in both markets, consistent with our conclusions in earlier segments of the proceeding regarding both spot sales and sales made according to short and long–term agreements. See *Magnesium Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than Fair Value*, 70 FR 9041 (February 24, 2005), and accompanying Issues and Decision Memorandum at Comment 14. After analyzing AVISMA's response and the sample sales documents it provided, we preliminarily determine that invoice date is the appropriate date of sale for all U.S. and home–market sales subject to analysis in this review.

Constructed Export Price

AVISMA identified all of its sales to the United States as constructed export–price (CEP) sales because the U.S. sales were made for the account of AVISMA by AVISMA's U.S. affiliate, VSMPO–Tirus, U.S., Inc. (Tirus US), to unaffiliated purchasers in the United States. AVISMA and Tirus US are affiliated because Tirus US is a wholly owned subsidiary of AVISMA. See section 771(33)(E) of the Act. U.S. sales to the first unaffiliated party were made in the United States by the U.S. affiliate, thus satisfying the legal requirements for CEP sales. See section 772(b) of the Act.

We calculated CEP based on the packed, C.I.F price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, for AVISMA's CEP sales we made deductions from price for movement expenses and discounts, where appropriate. More specifically, we deducted early–payment discounts, expenses for Russian railway freight from plant to port, freight insurance, Russian brokerage, handling, and port charges, international freight and marine insurance, U.S. customs duties, U.S. brokerage, handling, and port charges, U.S. warehousing, and U.S. inland freight.

In accordance with section 772(d)(1) of the Act we deducted direct selling expenses and indirect selling expenses related to commercial activity in the United States. See also *SAA* at 823–824. Pursuant to sections 772(d)(3) and 772(f) of the Act, we made an adjustment for CEP profit allocated to expenses deducted under section 772(d)(1) of the Act. In accordance with section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and home markets. See the memorandum to the file entitled ''Administrative Review of the Antidumping Duty Order on Magnesium Metal from the Russian Federation - Preliminary Results Analysis Memorandum for PSC VSMPO–AVISMA Corporation'' (April 29, 2008) (AVISMA Analysis Memorandum).

Normal Value

Based on a comparison of the aggregate quantity of home–market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by AVISMA in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. AVISMA's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we considered basing normal value on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the CEP sales.

In accordance with section 771(16)(A) of the Act, we considered all products produced by AVISMA that are covered by the description in the ''Scope of the Order'' section, above, and that were sold in the home market during the POR to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with sections 771(16)(B) and (C) of the Act, where there were no sales of identical merchandise in the home market to compare to U.S. sales, we considered comparing U.S. sales to the most similar foreign like product on the basis of the product characteristics we determined to be the most appropriate for purposes of product matching.

Cost–of-Production Analysis

We disregarded below–cost sales in accordance with section 773(b) of the Act in the last completed review with respect to AVISMA. See *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 25740, 25743 (May 7, 2007) (unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 72 FR 51791 (September 11, 2007)). Therefore, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP investigation of sales by AVISMA in the home market.

In accordance with section 773(b)(3) of the Act, we calculated a weighted–average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for home–market selling, G&A expenses, interest expense, and packing expenses.

In the original investigation and in the first administrative review, AVISMA's cost–reporting methodology was based on its normal books and records which treated magnesium metal as the main product and chlorine gas as a by–product of the manufacturing process. On January 1, 2007, during the current POR, AVISMA changed its normal books and records to treat magnesium as the by–product of its titanium operations (chlorine is consumed in titanium production). Raw magnesium and chlorine gas are produced jointly during the third major processing step, the electrolysis stage (*i.e.*, the split–off point), during which both products become identifiable physically. In its cost responses, AVISMA claims that its acquisition by VSMPO, a titanium producer, has shifted its operational focus to the production of titanium sponge. Accordingly, it contends, the company determined that the production of chlorine gas, which is a significant and a critical input in the production of titanium sponge, is the main goal of production while magnesium production is now treated as a secondary product. As such, AVISMA claims, it has reduced its magnesium production to the minimum levels needed to support the titanium- sponge production based on its new operational focus. AVISMA claims that the reduction in magnesium production is apparent through its reduction or cessation of its practice of burning off excess chlorine gas.

In its original cost response AVISMA included only the costs from the further–processing steps (*i.e.*, only the costs incurred after the split–off point and none of the joint costs of the electrolysis and prior stages) in its COP database.

In its supplemental cost responses AVISMA provided alternative cost calculations in which it treated raw magnesium and chlorine gas as co–products. Under this approach, AVISMA calculated the value of chlorine at the split–off point by starting with sale prices of titanium sponge and then deducting the post–split-off titanium–processing costs; AVISMA calculated the value of raw magnesium at the split–off point using the starting sale prices of magnesium metal and then deducted the post–split-off costs of the magnesium–metal processing. AVISMA then allocated the joint costs under the net–realizable-value (NRV) methodology.

We requested that AVISMA provide another set of cost calculations based on a co–product methodology which relies

on the sales or market values of the joint products, *i.e.*, magnesium and chlorine gas (for the one-year period prior to the original period of investigation) instead of the sales values of the downstream products (*i.e.*, titanium sponge). AVISMA provided the requested cost data based on a co–product methodology of allocating joint costs in which it determined the value of chlorine gas (with certain adjustments) at the split–off point using the current market prices of liquid chlorine and the value of raw magnesium at the split–off point using the sales prices for magnesium products for the period predating the period of original investigation. AVISMA allocated joint costs based on the relationship between the NRV of raw magnesium and the NRV of chlorine gas.

We analyzed the data on the record to determine whether to judge the joint products appropriately as co–products or byproducts. In doing so, we conservatively considered the lowest per–metric-ton value of chlorine gas during the POR; for raw magnesium we considered the average per–metric-ton value for the period prior to the period of investigation (*i.e.*, prior to a period in which dumping was alleged). We evaluated the significance of each product at the split–off point and found that chlorine gas represented a significant percentage of the total value of all products at the split–off point. Consequently, based on our review of the combination of factors (the takeover of AVISMA by VSMPO, the cessation of the burning off of excess chlorine gas, and our examination of the relative values of the joint products in question), we have preliminarily determined that it is appropriate to treat chlorine gas and raw magnesium as co–products for purposes of allocating the common costs of these joint products for the entire cost- reporting period.

We have relied on AVISMA's cost database based on the co–product methodology of allocating joint costs for the preliminary results. We made certain adjustments to AVISMA's cost data - we revised the value of chlorine gas to reflect the company's purchases of liquid chlorine less freight costs and further–processing costs[2] and we increased the total pool of joint costs to be allocated to the co–products to include the costs associated with the disposal of excess chlorine gas.[3] For more details, see Memorandum to Neal M. Halper, Director, Office of Accounting, through Michael P. Martin, Lead Accountant, from Heidi K. Schriefer, Senior Accountant, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - PSC VSMPO–AVISMA Corporation and VSMPO - Tirus US Inc,'' dated April 29, 2008.

After calculating the COP and in accordance with section 773(b)(1) of the Act, we tested whether home–market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model–specific COPs to the reported home–market prices less any applicable movement charges, discounts, and rebates. Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we do not disregard any below–cost sales of that product because the below–cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we disregard the below–cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted–average COPs for the period of review, such sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded all of AVISMA's home–market sales of magnesium metal because all such sales failed the cost test. See AVISMA Analysis Memorandum.

Constructed Value

Section 773(a)(4) of the Act provides that, where normal value cannot be based on comparison–market sales, normal value may be based on constructed value. Accordingly, because all home–market sales of magnesium metal failed the sales–below-cost test, we based normal value on constructed value.

Section 773(e) of the Act provides that constructed value shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general and administrative expenses (G&A), interest expense, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Cost- of–Production Analysis'' section above.

Because we disregarded all home–market sales as below–cost sales there are no sales made in the ordinary course of trade that we can use to calculate selling expenses and profit for constructed value pursuant to section 773(e)(2)(A) of the Act for AVISMA. In cases where actual data are not available to use in the calculation of selling expenses and profit, section 773(e)(2)(B)(i) of the Act provides the alternative of calculating such expenses using ''actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale of merchandise that is in the same general category of products as the subject merchandise.'' This option is not available to us for these preliminary results because the record information, such as the financial information AVISMA submitted in this review, is not sufficiently detailed to permit a calculation of selling expenses and profit specific to subject merchandise or specific to a category of products in the same category as the subject merchandise.

Another alternative at section 773(e)(2)(B)(ii) of the Act suggests calculating the amounts in question using ''the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i)) '' This alternative is not applicable in this review because AVISMA is the single cooperating respondent in this review and there are no other participating exporters/producers in this review.

Another statutory alternative of calculating the amounts in question provided at section 773(e)(2)(B)(iii) of the Act suggests ''any other reasonable method '' Therefore, pursuant to section 773(e)(2)(B)(iii) of the Act, we have calculated an estimate of direct and indirect selling expenses and profit for AVISMA in this review using the selling expenses and profit we calculated for AVISMA in the 2005–06 administrative review. See AVISMA Analysis Memorandum.

When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for circumstance–of-sale differences and level–of-trade

[2] AVISMA added the cost of evaporating liquid chlorine to the sales value of liquid chlorine in order to arrive at the estimated value of chlorine gas. In the absence of a cost value associated with liquefying chlorine gas, as a proxy, we subtracted the evaporation costs from the sales value of liquid chlorine to estimate the NRV of chlorine gas at the split-off point.

[3] AVISMA burned off excess chlorine gas for part of the POR. By November 2006, AVISMA was no longer producing excess chlorine gas.

differences. We made circumstance–of-sale adjustments by deducting home–market direct selling expenses from constructed value. Because we calculated constructed value at a level of trade different from the CEP level trade, we made a CEP–offset adjustment in accordance with sections 773(a)(7)(B) and 773(a)(8) of the Act. See ''Level of Trade'' section below.

Level Of Trade

In the U.S. market, AVISMA made CEP sales. In the case of CEP sales, we identified the level of trade based on the price after the deduction of expenses and profit under section 772(d) of the Act. Although the starting price for CEP sales was based on sales made by the affiliated reseller to unaffiliated customers through two channels of distribution, sales to end–users and distributors, AVISMA reported similar selling activities associated with all sales *to* the affiliated reseller (*i.e.*, at the CEP level of trade).

AVISMA reported one channel of distribution in the home market, sales to end–users. We found that this channel of distribution constitutes a single level of trade in the home market. When normal value is based on constructed value, the level of trade is that of the sales from which we derive selling, G&A, and profit figures.

To determine whether home–market sales were made at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. We found that there were significant differences between the selling activities associated with the CEP level of trade and those associated with the home–market level of trade and, thus, we found the CEP level of trade to be different from the home–market level of trade. Further, we found the CEP level of trade to be at a less advanced stage of distribution than the home–market level of trade.

Because AVISMA reported no home–market levels of trade that were equivalent to the CEP level of trade and because we determined that the CEP level of trade was at a less advanced stage than the home–market level of trade, we were unable to determine a level–of-trade adjustment based on the respondent's home–market sales of the foreign like product. Furthermore, we have no other information that provides an appropriate basis for determining a level–of-trade adjustment. For AVISMA's CEP sales, we made a CEP–offset adjustment in accordance with sections 773(a)(7)(B) and 773(a)(8) of the Act. The CEP–offset adjustment to constructed value was subject to the offset cap, calculated as the sum of home–market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP (or, if there were no home–market commissions, the sum of U.S. indirect selling expenses and U.S. commissions). For a description of our level–of-trade analysis for these preliminary results, see AVISMA Analysis Memorandum.

Currency Conversion

For purposes of the preliminary results and in accordance with section 773A of the Act, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. See also 19 CFR 351.415.

Preliminary Results of Review

As a result of this review, we preliminarily find that the following weighted–average
dumping margins exist:

Manufacturer/Exporter	Margin (percent)
PSC VSMPO–AVISMA Corporation	17.68
Solikamsk Magnesium Works	21.71

Disclosure and Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs are due within 30 days after the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument a statement of the issues, a brief summary of the argument, and a table of authorities. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. If requested, the hearing will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case brief, rebuttal brief, or hearing no later than 120 days after publication of these preliminary results.

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific assessment rate for AVISMA reflecting these preliminary results of review. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for the importer. We will instruct CBP to assess the importer–specific rate uniformly on all entries of subject merchandise made by the relevant importer during the POR. See 19 CFR 351.212(b). The Department will issue instructions to CBP 15 days after the publication of the final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*). This clarification will apply to entries of subject merchandise during the POR produced by AVISMA for which AVISMA did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries of AVISMA–produced merchandise at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Assessment of Antidumping Duties*.

Because we are relying on total AFA to establish SMW's dumping margin, we preliminarily determine to instruct CBP to apply a dumping margin of 21.71 percent to all entries of subject merchandise during the POR that were produced and/or exported by SMW.

Cash–Deposit Requirements

If these preliminary results are adopted in the final results of review, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Act: 1) the cash–deposit rate for the reviewed firms will be those established in the

final results of this review; 2) for previously reviewed or investigated companies not covered in this review, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and 4) if neither the exporter nor the manufacturer is a firm covered in this or any previous segment of the proceeding, the cash–deposit rate will continue to be the all–others rate established in the LTFV investigation, which is 21.01 percent. See *Antidumping Duty Order*. These cash–deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

The preliminary results of this administrative review and this notice are issued and

published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 29, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9889 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–520–803)

Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from the United Arab Emirates (UAE) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to a request from an interested party, we are postponing our final determination to not later than 135 days after publication of the preliminary determination.

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Douglas Kirby or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3782 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

This investigation was initiated on October 18, 2007. *See Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations (Notice of Initiation)*, 72 FR 60801 (October 26, 2007). On November 13, 2007, the United States International Trade Commission (ITC) preliminarily determined that, pursuant to section 733(a) of the Act, there is a reasonable indication that an industry in the United States is materially injured by reason of imports of PET Film from Brazil, China, Thailand, and the United Arab Emirates. *See Investigation Nos. 731–TA–1131–1134 (Preliminary): Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates*, 72 FR 67756 (November 13, 2007) (*ITC Preliminary Determination*). The domestic interested parties are DuPont Teijin Films, Mitsubishi Polyester Film of America, Inc., SKC, Inc. and Toray Plastics (America), Inc. (collectively, the petitioners). The respondent for this investigation is Flex Middle East FZE (Flex FZE).

On November 27, 2007, the Department issued its sections A through E questionnaires to Flex FZE. On December 19, 2007, Flex FZE submitted its section A response. On January 18, 2008, Flex FZE submitted its sections B and C responses. On January 23, 2008, the petitioners made a timely request pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(e) for a postponement of the preliminary determinations with respect to Brazil, the People's Republic of China, Thailand, and the United Arab Emirates. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

On February 6, 2008, the petitioners submitted a timely allegation that home market sales were being made at prices below the cost of production and requested that the Department initiate a sales–below-cost investigation of Flex FZE pursuant to 19 CFR 351.301(d)(2)(B). On February 8, 2008, the Department issued its first supplemental questionnaire to Flex FZE. On February 27, 2008, Flex FZE submitted its response to the first supplemental questionnaire. On February 29, 2008, the Department issued a second supplemental questionnaire to Flex FZE. On February 29, 2008, the Department initiated a sales–below-cost–investigation of Flex FZE and requested that Flex FZE respond to the section D questionnaire. *See* Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, from the Team, *Petitioners' Allegation of Sales Below the Cost of Production for Flex Middle East FZE (Flex FZE)* (*Cost Allegation Memorandum*) (February 29, 2008), on file in the Central Record Unit, room 1117 of the main Department of Commerce building (CRU). On March 12, 2008, Flex FZE submitted its response to the second supplemental questionnaire. On March 14, 2008, Flex FZE submitted its response to the section D questionnaire.

On March 21, 2008, the petitioners submitted an allegation pursuant to 19 CFR 351.301(d)(5) that certain U.S. sales by Flex FZE were targeted for dumping. On March 27, 2008, the Department issued a supplemental questionnaire for sections A through D to Flex FZE. On March 31, 2008, Flex FZE submitted comments regarding the petitioners' targeted dumping allegation. On April 1, 2008, the Department issued a letter to Flex FZE to clarify the March 27, 2008, supplemental questionnaire. On April 8, 2008, Flex FZE submitted its response to the sections A through D supplemental questionnaire. On April 11, 2008, the Department issued questions to the petitioners regarding its targeted dumping allegation. On April