

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov) no later than April 28, 2010.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting.

However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 9, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 section 10(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 section 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

Dated: April 15, 2010.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2010-9156 Filed 4-20-10; 8:45 am]

**BILLING CODE 3510-JT-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Information Systems Technical Advisory Committee

##### Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on May 5, 2010, 9 a.m., in the Herbert C. Hoover Building, Room 3884, and May 6, 2010, 9 a.m., in the Herbert C. Hoover Building, Room 6087B, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level

of export controls applicable to information systems equipment and technology.

### Wednesday, May 5

#### Public Session

1. Welcome and Introduction.
2. Working Group Reports.
3. Industry Presentations.
4. New Business.

### Thursday, May 6

#### Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov), no later than April 28, 2010.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 23, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-896]

#### Magnesium Metal from the People's Republic of China: Preliminary Results of the 2008-2009 Antidumping Duty Administrative Review

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

**SUMMARY:** In response to requests from interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on magnesium metal from the People's Republic of China ("PRC"), covering the period April 1, 2008, through March 31, 2009. This administrative review covers one exporter of the subject merchandise.

We have preliminarily determined that the respondent in this administrative review has not made sales in the United States at prices below normal value during the period of review ("POR"). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to liquidate entries of subject merchandise during the POR without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a summary of the argument. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act").

**EFFECTIVE DATE:** April 21, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Laurel LaCivita or Eugene Degnan, AD/CVD Operations, Office 8, 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) 482-0414, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 12, 1995, the Department published in the **Federal Register** the antidumping duty order on magnesium metal from the PRC.<sup>1</sup> On April 1, 2009,

<sup>1</sup> See *Notice of Antidumping Duty Orders: Pure Magnesium From the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation*

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 PRC for the period April 1, 2008, through March 31, 2009.<sup>2</sup> On April 27, 2009, in accordance with 19 CFR 351.213(b)(2), Tianjin Magnesium International, Co. Ltd. ("TMI"), a foreign exporter of the subject merchandise, requested the Department to review its sales of subject merchandise. On May 30, 2009, US Magnesium LLC ("Petitioner") also requested that the Department conduct an administrative review of TMI's exports of subject merchandise. On May 29, 2009, the Department initiated an administrative review of the order on magnesium metal from the PRC for the POR with respect to TMI.<sup>3</sup>

On June 10, 2009, the Department issued its antidumping duty questionnaire to TMI. On July 6, 2009, TMI submitted its Section A questionnaire response ("TMI's AQR"). On August 3, 2009, TMI submitted its Section C and D questionnaire responses ("TMI's CQR" and "TMI's DQR," respectively). On September 9, 2009, Petitioner requested that the Department verify TMI. On October 10, 2009, Petitioner submitted comments on TMI's AQR, CQR, and DQR. On December 23, 2009, the Department issued its first supplemental questionnaire to TMI. On January 26, 2010, TMI submitted its response to the Department's sections A, C and D supplemental questionnaire ("TMI's 1st SQR"). On March 19, 2010, the Department issued the second supplemental questionnaire to TMI and the Department received a response on April 6, 2010 ("TMI's 2nd SQR").

On October 13, 2009, the Department requested that Import Administration's Office of Policy provide a list of surrogate countries for this review.<sup>4</sup> On October 13, 2009, the Office of Policy issued its list of surrogate countries.<sup>5</sup> On

<sup>2</sup> *of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995).

<sup>3</sup> *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 74 FR 14771 (April 1, 2009).

<sup>4</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 74 FR 25711 (May 29, 2009).

<sup>5</sup> *See Memorandum to Kelly Parkhill, Acting Director, Office of Policy, "Antidumping Duty Administrative Review of Magnesium Metal from the People's Republic of China: Surrogate-Country Selection,"* dated September 15, 2009.

<sup>6</sup> *See Memorandum from Kelly Parkhill, Acting Director, Office of Policy, "Request for a list of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Magnesium Metal ("Magnesium Metal") from the People's*

October 16, 2009, the Department issued a letter to interested parties seeking comments on surrogate country selection and surrogate values. On October 30, 2009, Petitioner and TMI submitted comments on surrogate country selection ("Petitioner's Surrogate Country Selection Letter" and "TMI's Surrogate Country Selection Letter"). On November 12, 2009, Petitioner and TMI submitted surrogate value comments ("Petitioner's Surrogate Value Comments" and "TMI's Surrogate Value Comments," respectively). On November 25, 2009, Petitioner submitted rebuttal surrogate value comments ("Petitioner's Rebuttal Surrogate Value Comments"). On November 27, 2009, TMI submitted rebuttal surrogate value comments ("TMI's Rebuttal Surrogate Value Comments").

On December 23, 2009, the Department extended the time period for completion of the preliminary results of this review by 75 days until March 16, 2010.<sup>6</sup>

On February 2, 2010, the Department requested that CBP provide entry documentation for certain transactions during the POR.<sup>7</sup>

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. As a result, the revised deadline for the preliminary results of this review became March 23, 2010.<sup>8</sup>

On March 3, 2010, Petitioner requested the Department to extend the deadline for the preliminary results of review by an additional 45 days until May 7, 2010. On March 16, 2010, the Department extended the deadline for the preliminary results an additional 21 days until April 13, 2010.<sup>9</sup>

Republic of China, dated October 13, 2009 ("Surrogate Country List").

<sup>6</sup> *See Magnesium Metal from the People's Republic of China: Extension of Time for the Preliminary Results of the Antidumping Duty Administrative Review*, 74 FR 68227 (December 23, 2009).

<sup>7</sup> *See Memorandum to Alice Buchanan, Acting Director, AD/CVD/Revenue Policy & Programs, Office of International Trade, U.S. Customs and Border Protection, "Request for U.S. Entry Documents - Magnesium Metal from People's Republic of China - A-570-896,"* dated February 18, 2010.

<sup>8</sup> *See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm,"* dated February 12, 2010.

<sup>9</sup> *See Magnesium Metal from the People's Republic of China: Extension of Time for the*

## Period of Review

The POR is April 1, 2008, through March 31, 2009.

## Scope of Order

The product covered by this antidumping duty order is magnesium metal, which includes 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 order 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, and 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>10</sup> and thus are outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as "alloy" magnesium).

The scope of this order excludes: (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>11</sup>; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form

*Preliminary Results of the Antidumping Duty Administrative Review*, 75 FR 13489 (March 22, 2010).

<sup>10</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.

<sup>11</sup> This material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of 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 (Nov. 19, 2001).

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, fluor spar, 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 colemantite.<sup>12</sup>

The merchandise subject to this order is 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 is dispositive.

#### Non-Market Economy Country Status

The Department has treated the PRC as a non-market economy (“NME”) country in all past antidumping duty investigations and administrative reviews and continues to do so in this case.<sup>13</sup> The Department has previously examined the PRC’s market economy status and determined that NME status should continue for the PRC.<sup>14</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority.<sup>15</sup> No interested party to this proceeding has contested such treatment. Accordingly, we

<sup>12</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 China, 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.

<sup>13</sup> See 771(18)(C) of the Act; see, e.g., *Pure Magnesium from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 76336 (December 16, 2008); and *Frontseating Service Valves From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009).

<sup>14</sup> See Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, The People’s Republic of China (PRC) Status as a Non-Market Economy (NME), dated May 15, 2006. This document is available online at: <http://ia.ita.doc.gov/download/prc-nme-status/prc-nme-status-memo.pdf>.

<sup>15</sup> See section 771(18)(C)(i) of the Act.

calculated normal value (“NV”) in accordance with section 773(c) of the Act, which applies to NME countries.

#### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV on the NME producer’s factors of production (“FOPs”). The Act further instructs that valuation of the FOPs shall be based on the best available information in a surrogate market economy country or countries considered to be appropriate by the Department.<sup>16</sup> When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>17</sup> Further, the Department normally values all FOPs in a single surrogate country.<sup>18</sup> The sources of surrogate value are discussed under the “Normal Value” section below and in the Factor Valuation Memorandum, which is on file in the Central Records Unit, Room 1117 of the main Department building.<sup>19</sup>

In examining which country to select as its primary surrogate country for this proceeding, the Department first determined that India, the Philippines, Indonesia, Colombia, Thailand, and Peru are countries comparable to the PRC in terms of economic development.<sup>20</sup> In Petitioner’s Surrogate Country Selection Letter, Petitioner contends that the Department should continue to select India as the surrogate country for this administrative review, as it has in previous segments of this proceeding. In addition, Petitioner maintains that to the best of its knowledge, there are no magnesium producers currently operating in any of the six countries identified in the Surrogate Country Memorandum. Petitioner states that Southern Magnesium & Chemicals Ltd. (“Southern Magnesium”), which is located in India, has either downsized or ceased its magnesium production operations.<sup>21</sup> Petitioner argues, however, that India is

<sup>16</sup> See section 773(c)(1) of the Act.

<sup>17</sup> See section 773(c)(4) of the Act.

<sup>18</sup> See 19 CFR 351.408(c)(2).

<sup>19</sup> See Memorandum to the File, “Preliminary Results of the 2008-2009 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People’s Republic of China: Surrogate Value Memorandum,” dated April 13, 2010 (“Factor Valuation Memorandum”).

<sup>20</sup> See Surrogate Country List.

<sup>21</sup> See 2002 Annual Report of Southern Magnesium, contained in Petitioner’s Surrogate Country Selection Letter, at 3 and Exhibit 2.

a significant producer of aluminum and the Department has “routinely determined that aluminum is a product comparable to magnesium production.”<sup>22</sup> Petitioner states that India has five major producers of aluminum.<sup>23</sup> Additionally, Petitioner contends that the Department determined that zinc is the only other merchandise that the Department has found to be comparable to magnesium,<sup>24</sup> and India is a significant producer of zinc.<sup>25</sup> Finally, Petitioner contends that India is the best available surrogate country for this proceeding because India is known to have complete, up-to-date, and reliable publicly available information for all raw material factors of production. Petitioner states that India is the only potential surrogate country that can be a source for surrogate financial ratios because India is a significant producer of aluminum and zinc.

In TMI’s Surrogate Country Selection Letter, TMI contends that India is the most appropriate surrogate country for the PRC in this review.<sup>26</sup> TMI reiterates the reasons that the Department articulated in its determination to use India as the appropriate surrogate country in the 2006–2007 administrative review of magnesium metal from the PRC: (1) India is a significant producer of comparable merchandise; (2) India is at a level of economic development comparable to the PRC; and (3) the Department has reliable data to use from India.<sup>27</sup> Both Petitioner and TMI submitted Indian sourced data to value FOPs.

<sup>22</sup> See Petitioner’s Surrogate Country Selection Letter, at 4, citing *Pure Magnesium from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 76336, (December 16, 2008) and accompanying Issues and Decision Memorandum at Comment 6.D.

<sup>23</sup> See Petitioner’s Surrogate Country Selection Letter, at 4, citing *The Mineral Industry of India - 2007*, at Table 2, U.S. Geological Survey (“USGS”), contained in Exhibit 3; also, citing *USGS Minerals Yearbook, Zinc-2006* at Table 16, contained in Exhibit 4.

<sup>24</sup> See Petitioner’s Surrogate Country Selection Letter, at 5, citing *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001), at Comment 1.

<sup>25</sup> See Petitioner’s Surrogate Country Selection Letter, at 5, citing *USGS Minerals Yearbook, Zinc - 2007*, at Table 2, contained in Exhibit 3. See also *USGS 2007 Minerals Yearbook, Zinc (Advance Release)*, at Table 13, contained in Exhibit 4.

<sup>26</sup> See TMI’s Surrogate Country Selection Letter at 1.

<sup>27</sup> See *id.* at 3 citing, *Magnesium Metal from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 40293, 40294 (July 14, 2008) and *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal From the People’s Republic of China*, 70 FR 9037, 9038 (February 24, 2005).

After evaluating interested parties' comments, the Department has determined that India is the appropriate surrogate country to use in this review in accordance with section 773(c)(4) of the Act. The Department based its decision on the following facts: (1) India is at a level of economic development comparable to that of the PRC; (2) India is a significant producer of comparable merchandise, i.e., aluminum and zinc; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs. All the data submitted by both Petitioner and TMI for our consideration as potential surrogate values and surrogate financial ratios are sourced from India. Finally, on the record of this review, we have usable surrogate value data (including financial data) from India, but no such surrogate data from any other potential surrogate country.

Therefore, because India best represents the experience of producers of comparable merchandise operating in a surrogate country, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value TMI's FOPs, when available and appropriate. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of the preliminary determination.<sup>28</sup>

### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can

<sup>28</sup> In accordance with 19 CFR 351.301(c)(1), for the final determination of this review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative SV information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both de jure and de facto governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

### Separate Rate Recipients

TMI is the only respondent in this administrative review. TMI reported that it is a wholly Chinese-owned company. Therefore, the Department must analyze whether it can demonstrate the absence of both de jure and de facto government control over export activities.

#### a. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.<sup>29</sup>

The evidence provided by TMI supports a preliminary finding of de jure absence of government control based on the following: (1) an absence of restrictive stipulations associated with its business and export licenses; (2) applicable legislative enactments decentralizing control of companies; and (3) formal measures by the government decentralizing control of companies.<sup>30</sup>

#### b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to de facto

<sup>29</sup> See *Sparklers*, 56 FR at 20589.

<sup>30</sup> See Foreign Trade Law of the People's Republic of China, contained in TMI's AQR, at Exhibit A-2; see also Regulations of the People's Republic of China on Company Registration contained in TMI's AQR at Exhibit A-5.

government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>31</sup> The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The evidence provided by TMI supports a preliminary finding of de facto absence of government control based on the following: (1) the absence of evidence that the export prices are set by or are subject to the approval of a government agency;<sup>32</sup> (2) the respondent has authority to negotiate and sign contracts and other agreements;<sup>33</sup> (3) the respondent has autonomy from the government in making decisions regarding the selection of management;<sup>34</sup> and (4) the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>35</sup>

Therefore, the evidence placed on the record of this review by TMI demonstrates an absence of de jure and de facto government control with respect to TMI's exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, we have determined that TMI has demonstrated its eligibility for a separate rate.

### Fair Value Comparisons

To determine whether sales of magnesium metal to the United States by TMI were made at NV, we compared Export Price ("EP") to NV, as described

<sup>31</sup> See *Silicon Carbide*, 59 FR at 22587; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

<sup>32</sup> See TMI's AQR, at 7; see also the contract and the purchase order between TMI and a U.S. Customer contained in TMI's AQR at Exhibit A-6. See also TMI's 1st SQR at 17-18 and Exhibit 8.

<sup>33</sup> See the purchase agreements between TMI and its producers contained in TMI's AQR at Exhibit 8 and TMI's 1st SQR at Exhibit 8.

<sup>34</sup> See TMI's AQR at 8-9.

<sup>35</sup> See TMI's AQR at 8-9.

in the “Export Price” and “Normal Value” sections of this notice.

#### Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we have used EP for TMI’s U.S. sales because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because Constructed Export Price was not otherwise warranted.

We have based the EP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we have made deductions from the starting price for movement expenses, including expenses for foreign inland freight from the plant to the port of exportation, domestic brokerage and handling, international freight, marine insurance, brokerage and handling expenses incurred in the U.S. and U.S. customs duty. No other adjustments to EP were reported or claimed by TMI.<sup>36</sup>

#### Normal Value

Section 773(c)(1) of the Act provides that, the Department shall determine NV using an FOP methodology if the the merchandise is exported from an NME country and the Department finds that the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. The Department’s questionnaire requires that TMI provide information regarding the weighted-average FOPs across all of the company’s plants that produce the subject merchandise, not just the FOPs from a single plant. This methodology ensures that the Department’s

<sup>36</sup> See Memorandum “Analysis for the Preliminary Results of Pure Magnesium from the People’s Republic of China: Tianjin Magnesium International, Co. Ltd.” (“TMI’s Analysis Memorandum”), dated April 13, 2010.

calculations are as accurate as possible.<sup>37</sup>

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate surrogate value to value FOPs, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department may value the factor using the actual price paid for the input.<sup>38</sup> TMI reported that it did not purchase any inputs from market economy suppliers for the production of the subject merchandise.<sup>39</sup>

We calculated NV based on FOPs in accordance with section 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used FOPs reported by TMI for materials, energy, labor, by-products, and packing.

TMI stated that it had no by-products or co-products other than magnesium waste and magnesium alloy waste, which are generated during the production of subject merchandise and reintroduced into the production process.<sup>40</sup> However, for these preliminary results, TMI did not request, and we did not grant a by-product offset in our calculation of NV.

#### Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOPs reported by TMI for the POR. To calculate NV, the Department multiplied the reported per-unit factor consumption quantities by publicly available Indian surrogate values. In selecting the surrogate values, the Department considered the quality, specificity, and contemporaneity of the data. The Department adjusted input prices by including freight costs to make them delivered prices, as appropriate. Specifically, the Department added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the

<sup>37</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People’s Republic of China*, 68 FR 61395 (October 28, 2003), and accompanying Issue and Decision Memorandum at Comment 19.

<sup>38</sup> See 19 CFR 351.408(c)(1); see also *Shakeproof Assembly Components, Div. of Ill. Tool Works, Inc. v. United States*, 268 F. 3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department’s use of market-based prices to value certain FOPs).

<sup>39</sup> See TMI’s DQR at D-5.

<sup>40</sup> *Id.* at D-13-14 and D-9.

distance from the nearest seaport to the factory of production. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). A detailed description of all surrogate values used to value TMI’s reported FOPs can be found in the Factor Valuation Memorandum.

The Department calculated surrogate values for the majority of reported FOPs purchased from NME sources using the contemporaneous, weighted-average unit import value derived from the *Monthly Statistics of the Foreign Trade of India*, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at <http://www.gtis.com/wta.htm> (“WTA Indian Import Statistics”).<sup>41</sup> WTA Indian Import Statistics were reported in U.S. dollars<sup>42</sup> and are contemporaneous with the POR to calculate surrogate values for TMI’s material inputs. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department’s practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the period of review, product-specific, and tax-exclusive.<sup>43</sup>

In those instances where the Department could not obtain publicly available information contemporaneous with the POR with which to value FOPs, the Department adjusted the surrogate values using the Indian Wholesale Price Index (“WPI”), as published in the *International Financial Statistics* of the International Monetary Fund.<sup>44</sup>

Furthermore, with regard to Indian import-based surrogate values, we have disregarded prices that we have reason to believe or suspect may be subsidized, such as those from Indonesia, South

<sup>41</sup> See Factor Valuation Memorandum at Attachment 1.

<sup>42</sup> The import data obtained from the WTA as published by Global Trade Information Services (“GTIS”), began identifying the original reporting currency for India as the U.S. dollar. See Memorandum to the file, “Indian Import Statistics Currency Denomination in the World Trade Atlas,” dated March 23, 2010.

<sup>43</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

<sup>44</sup> See Factor Valuation Memorandum at Attachment 2.

Korea, and Thailand. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>45</sup> We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized.<sup>46</sup> Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries in calculating the Indian import-based surrogate values.

The Department used WTA Indian Import Statistics to calculate surrogate values for raw materials, including magnesium metal scrap, magnesium alloy scrap, unalloyed aluminum, alloyed aluminum, flux, sulphur, and zinc, as well as for packing materials, including steel bands and plastic bags.

We valued flux No.2, which consists of magnesium chloride, potassium chloride and sodium chloride, using data from *Chemical Weekly*. We consider both *Chemical Weekly* and WTA Indian Import Statistics to be reliable sources, and as such, the Department has used them in past cases to value chemical component inputs. In the instant case, however, we have determined that *Chemical Weekly* is the best information available for valuing flux because the quantity of the total imports of magnesium chloride in the WTA Indian Import Statistics is very small and thus does not appear to represent commercial quantities.

We valued brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the

2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. We inflated the brokerage and handling rates using the appropriate WPI inflator.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression-based wage rate as reported on Import Administration's website.<sup>47</sup> Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by TMI.

We valued electricity using the updated electricity price data for small, medium, and large industries, as published by the Central Electricity Authority, an *administrative body of the Government of India*, in its publication titled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated March 2008. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to small, medium, and large industries in India. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.

We valued truck freight expenses using an Indian per-unit average rate calculated from data on the following Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. We did not inflate this rate since it is iscontemporaneous with the POR.

We valued marine insurance using the price quote retrieved from RJG Consultants, online at <http://www.rjgconsultants.com/163.html>, a market-economy provider of marine insurance. We did not inflate this rate since it is iscontemporaneous with the POR.

To value steam coal, we used steam coal prices from the December 12, 2007, *CIL's Coal Pricing Circular*. See CIL: S&M: GM(F): Pricing 1124, dated 12

December 2007).<sup>48</sup> Since TMI reports using non-coking coal with a useful heat value (“UHV”) of 5500 kcal/kg,<sup>49</sup> we calculated the surrogate value for steam coal by averaging the prices of grades B and C steam coal from the December 12, 2007, *CIL's Coal Pricing Circular*.<sup>50</sup> We did not inflate this value to the current POR because the steam coal rates represent the rates that were in effect until October 16, 2009,<sup>51</sup> and are therefore contemporaneous with the POR. Finally, we have applied an additional fixed surcharge of 165 rupees (“Rs.”)/metric ton (“MT”) to our calculation of the average of B and C grades of steam coal.

19 CFR 351.408(c)(4) directs the Department to value overhead, general and administrative expenses (“SG&A”), and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. In this administrative review, Petitioner placed the 2008–2009 financial statements on the record for one Indian producer of aluminum products - National Aluminium Company Limited (“NALCO”), and one producer of zinc products - Hindustan Zinc Limited (“Hindustan Zinc”). TMI placed the 2008–2009 financial statements on the record for five Indian producers of aluminum products: Madras Aluminum Company Ltd. (“MALCO”), HINDALCO Industries Limited (“HINDALCO”), Century Extrusions Ltd. (“Century”), Sudal Industries Ltd. (“Sudal”), and Bhoruka Aluminum (“Bhoruka”).

For the following reasons, we have elected not to rely on the 2008–2009 audited financial statements of MALCO, HINDALCO, Century and Bhoruka as surrogate financial statements under section 351.408(c)(4). First, we elected not to rely on MALCO's audited financial statements because MALCO suspended production of aluminum and alumina in November 2008, seven months into its fiscal year (and the POR).<sup>52</sup> In addition, since it suspended aluminum and alumina production, it switched the use of its power generation from captive consumption to external sales.<sup>53</sup> As a result, the financial statements do not reflect the cost

<sup>48</sup> See Factor Valuation Memorandum.

<sup>49</sup> See TMI's DQR at D-12. See also Annexure X of *CIL's Coal Pricing Circular* in the Factor Valuation Memorandum (identifying the range of kcal/kg in each grade of coal).

<sup>50</sup> See Factor Valuation Memorandum.

<sup>51</sup> See <http://www.coalindia.in/Business.aspx?tab=2>.

<sup>52</sup> See The Madras Aluminum Company Limited, 49th Annual report 2008-09, at 4, contained in TMI's Surrogate Value Comments at Exhibit SV-11D. MALCO's fiscal year coincides with the POR.

<sup>53</sup> See *id.* at 4.

<sup>45</sup> See Final Results Of Redetermination Pursuant To Court Remand, dated February 25, 2010, *Jinan Yipin Corp., Ltd. v. United States*, 637 F.Supp.2d 1183 (CIT 2009). See also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005), unchanged in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the First Administrative Review*, 71 FR 14170 (March 21, 2006); and *China Nat'l Mach. Import & Export Corp. v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

<sup>46</sup> See H.R. Rep. No. 100-576 at 590 (1988).

<sup>47</sup> See “Expected Wages of Selected NME Countries,” revised in December 2009, available at <http://ia.ita.doc.gov/wages/07wages/final/final-2009-2007-wages.html>. The source of these wage-rate data is the *Yearbook of Labour Statistics 2007*, ILO (Geneva: 2008), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates are from 2006 and 2007.

experience of producing a comparable product to the subject merchandise for five months of the POR.

Second, we have elected not to rely on the financial statements of HINDALCO, NALCO, Century and Bhoruka because the record indicates that during this period these companies received subsidies the Department has previously determined to be countervailable. Consistent with Department practice, we do not use financial statements of a company that we have reason to believe or suspect may have received subsidies, where there are other sufficient reliable and representative data on the record for purposes of calculating the surrogate financial ratios, because the financial statements of companies receiving actionable subsidies are less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization.<sup>54</sup> In this case, HINDALCO's 2008–2009 financial statements indicate that HINDALCO received benefits under the Duty Free Import Entitlement Scheme (“EPCG Scheme”).<sup>55</sup> Similarly, NALCO's financial statements indicate that NALCO received benefits under the Duty Entitlement Pass Book (“DEPB Premium”)<sup>56</sup> and obtained EPCG licenses.<sup>57</sup> Century's audited financial statements demonstrated that it also received benefits under the EPCG scheme.<sup>58</sup> India's EPCG Scheme and DEPB Premiums each have been found by the Department to provide a countervailable subsidy.<sup>59</sup> Third, we

rejected Bhoruka's audited financial statements because they did not show a profit for the 2008–2009 fiscal year.<sup>60</sup> The Department has an established practice of not relying on financial statements that are incomplete, or that indicate that the company is unprofitable, or designated as “sick” by the Indian government.<sup>61</sup> Fourth, we have determined not to use the 2008–2009 financial statements of Hindustan Zinc because Hindustan Zinc has four captive mines, which indicates that it is at a much higher level of integration than TMI's supplier and so would not accurately reflect TMI's supplier's experience.<sup>62</sup> The Department also has an established practice of rejecting financial statements of surrogate producers whose production process or integration level is not comparable to the respondent's when better information is available.<sup>63</sup>

As a result, we have preliminarily determined to use the 2008–2009 audited financial statements of Sudal as the basis of the financial ratios in this review. Sudal is a secondary aluminum extrusion manufacturer that used, purchased, or imported aluminum metals as raw materials to manufacture aluminum extrusions and fabricated products.<sup>64</sup> Although the aluminum extrusions and fabricated products produced by Sudal require more processing than the magnesium metal ingots and chippings produced by TMI's producer, Sudal begins its respective manufacturing process at a similar level

*Countervailing Duty Administrative Review*, 64 FR 61592 (November 12, 1999); unchanged in *Certain Iron-Metal Castings From India: Final Results of Countervailing Duty Administrative Review* 65 FR 31515 (May 18, 2000); see also <http://ia.ita.doc.gov/esel/eselframes.html>; and *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006), and accompanying Issues and Decision Memorandum at “Benchmarks for Loans and Discount Rate.”

<sup>60</sup> See 29th Annual Report 2008-09, Bhoruka Aluminium Limited, at 31 contained in TMI's Surrogate Value Comments at Exhibit SV-11C.

<sup>61</sup> See OTR Tires at Comment 17A.

<sup>62</sup> See Annual Report 2008-09, Hindustan Zinc Limited, at 10, contained in Petitioner's Surrogate Value Comments at Exhibit 6.

<sup>63</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24,502 (May 10, 2005) at Comment 3 citing e.g., *Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 22183, 22193 (May 3, 2001); *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005) (“PRC Persulfates”) and the accompanying Issues and Decision Memorandum at Comment 1.

<sup>64</sup> See Annual Report 2008-2009, Sudal Industries Limited, at 33 contained in TMI's Surrogate Value Comments at Exhibit SV-11A.

of production as TMI's producer. Moreover, Sudal earned a profit,<sup>65</sup> and there is no record evidence to indicate that it received benefits that the Department has determined to be countervailable.<sup>66</sup> Further, its audited financial statements are complete and are sufficiently detailed to disaggregate materials, labor, overhead, and SG&A expenses.<sup>67</sup> While the Department has not previously determined whether the production process for magnesium metal is similar to that of extruded aluminum products for purposes of calculating surrogate financial ratios, we find that the evidence currently on the record does not establish that it must be considered as too dissimilar. Thus, we preliminarily find that the audited financial statements of Sudal constitutes the best information available on the record on which to base surrogate financial ratios in this review. Accordingly, we invite parties to provide additional information and explanation on the record concerning the comparability of the manufacturing process for magnesium metal and extruded aluminum products.

For a complete listing of all the inputs and a detailed discussion about our surrogate value selections, see the Factor Valuation Memorandum.

### Currency Conversion

The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect as certified by the Federal Reserve Bank on the dates of the U.S. sales.

### Verification

As provided in section 782(i)(3) of the Act, we intend to verify the information from TMI upon which we will rely in making our final determination.

### Weighted-Average Dumping Margins

The preliminary weighted-average dumping margin is as follows:

#### MAGNESIUM METAL FROM THE PRC

Exporter	Weighted-Average Margin (percentage)
Tianjin Magnesium International Co. Ltd.	0.00%

<sup>65</sup> See Annual Report 2008-2009, Sudal Industries Limited, at 19 contained in TMI's Surrogate Value Comments at Exhibit SV-11A. See also Century Extrusions Ltd., at 33 contained in TMI's Surrogate Value Comments at Exhibit SV-11B.

<sup>66</sup> See *id.*

<sup>67</sup> See *id.* See also the appropriate schedules to the financial statements as indicated on page 33 for Century and page 19 for Sudal.

<sup>54</sup> See *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) (“OTR Tires”) at Comment 17A; *Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049, (September 12, 2007) at Comment 2, citing *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, in Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 19174 (April 17, 2007) (“Crawfish from the PRC”), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>55</sup> See Annual Report 2008-2009, Hindalco Industries Limited, at 91 contained in TMI's Surrogate Value Comments at Exhibit SV-11E.

<sup>56</sup> See 28th Annual Report 2008-2009, National Aluminium Company Limited, at 71 contained in Petitioner's Surrogate Value Comments at Exhibit 5.

<sup>57</sup> See *id.* at 72.

<sup>58</sup> See Century Extrusion Limited, Twenty First Annual Report 2008-2009, at pages 35 and 41, in TMI's Surrogate Value Comments at Exhibit SV-11B.

<sup>59</sup> See, e.g., *Certain Iron-Metal Castings From India: Preliminary Results and Partial Rescission of*

## Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results.<sup>68</sup> If a hearing is requested, the Department will announce the hearing schedule at a later date. Interested parties may submit case briefs and/or written comments no later than seven days after the release of the verification report issued in this review.<sup>69</sup> Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs.<sup>70</sup> Further, we request that parties submitting written comments provide the Department with an additional copy of those comments on diskette or CD ROM. The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any comments, and at a hearing, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

## Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.<sup>71</sup> For assessment purposes, we calculated importer- or customer specific assessment rates for merchandise subject to this review. We calculated an *ad valorem* rate for each importer or customer by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer or customer by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an

importer- (or customer-) specific assessment rate is *de minimis* (i.e., less than 0.50 percent) in accordance with the requirement of 19 CFR 351.106(c)(2), the Department will instruct CBP to assess that importer's (or customer's) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

## Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For TMI, which has a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding the cash deposit rate will continue to be the exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 141.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These 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.

This administrative review and notice are in accordance with sections

751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: April 13, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-9178 Filed 4-20-10; 8:45 am]

**BILLING CODE 3510-DS-S**

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## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting Notice

#### AGENCY HOLDING THE MEETING:

Commodity Futures Trading Commission.

**DATE AND TIME:** Tuesday, April 27, 2010 at 9:30 a.m.

**PLACE:** Three Lafayette Centre, 1155 21st St., NW., Washington, DC, Lobby Level Hearing Room (Room 1000).

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Public meeting to consider whether the following contracts offered for trading on the IntercontinentalExchange, Inc. ("ICE"), the Natural Gas Exchange, Inc. ("NGX") or the Chicago Climate Exchange, Inc. ("CCX") perform a significant price discovery function: (1) AECO Financial Basis Contract (ICE); (2) NWP Rockies Financial Basis Contract (ICE); (3) HSC Financial Basis Contract (ICE); (4) PG&E Citygate Financial Basis Contract (ICE); (5) TCO Financial Basis Contract (ICE); (6) Waha Financial Basis Contract (ICE); (7) Permian Financial Basis Contract (ICE); (8) Zone 6-NY Financial Basis Contract (ICE); (9) Malin Financial Basis Contract (ICE); (10) Dominion-South Financial Basis Contract (ICE); (11) TETCO-M3 Financial Basis Contract (ICE); (12) NGPL TXOK Financial Basis Contract (ICE); (13) San Juan Financial Basis Contract (ICE); (14) Chicago Financial Basis Contract (ICE); (15) Socal Financial Basis Contract (ICE); (16) Henry Financial Basis Contract (ICE); (17) Henry Financial Index Contract (ICE); (18) Henry Financial Swing Contract (ICE); (19) Phys, BS, LD1 (US/MM), AB-NIT Contract (NGX); (20) Phys, BS, LD1 (US/MM), Union-Dawn Contract (NGX); (21) Phys, FP, LD1 (CA/GJ), AB-NIT Contract (NGX); (22) Phys, FP, LD1 (US/MM), Union-Dawn Contract (NGX); (23) Phys, ID, 7a (CA/GJ), AB-NIT Contract (NGX); and (24) Carbon Financial Instrument Contract (CCX).

**CONTACT PERSON:** Gregory Price, Industry Economist, Commodity Futures Trading Commission, 202-418-5515.

<sup>68</sup> See 19 CFR 351.310(c).

<sup>69</sup> See 19 CFR 351.309(c)(ii).

<sup>70</sup> See 19 CFR 351.309(d).

<sup>71</sup> See 19 CFR 351.212(b).