

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-864]

Pure Magnesium in Granular Form From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2010-2011

AGENCY: Import Administration, International Trade Administration, Commerce.

SUMMARY: On August 2, 2012, the Department of Commerce ("Department") published the preliminary results of the administrative review of the antidumping duty order on pure magnesium in granular form from the People's Republic of China. The period of review ("POR") is November 1, 2010, through October 31, 2011. We gave interested parties an opportunity to comment on the preliminary results, but none were received. The final dumping margin applicable to China Minmetals Non-Ferrous Metals Co., Ltd. ("CMN") is listed below in the "Final Results of the Review" section of this notice.

DATES: Effective December 3, 2012.

FOR FURTHER INFORMATION CONTACT: Eve Wang, 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) 482-6231.

SUPPLEMENTARY INFORMATION:**Background**

On August 2, 2012, the Department published the preliminary results of the administrative review of the antidumping duty order on pure magnesium in granular form.¹

We invited interested parties to comment on the *Preliminary Results*, but none were received.

The Department has conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended ("the Act"). As explained in the memorandum from the 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 October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days.² The revised deadline for the final

results of this review is now December 2, 2012.³

Scope of the Order

The merchandise covered by the order includes imports of pure magnesium products, subject to certain exemptions. The merchandise is currently classifiable under item 8104.30.00 of the Harmonized Tariff Schedule of the United State ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.⁴

Final Results of the Review

We have made no changes to our findings announced in the *Preliminary Results*. As a result of our review, we determine that CMN has not demonstrated entitlement to a separate rate and so it remains part of the People's Republic of China (PRC)-wide entity. A dumping margin of 305.56 percent exists for the PRC-wide entity (which includes CMN) for the period November 1, 2010, through October 31, 2011.

The weighted-average dumping margins for the POR are as follows:

Exporter	Weighted-average margin (percent)
PRC-wide Entity	305.56

Assessment Rates

Consistent with these final results, and pursuant to section 751(a)(2)(B) of the Act, and 19 CFR 351.212(b)(1), the Department will direct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually

"Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Hurricane," dated October 31, 2012, and placed on the record of this review on November 6, 2012.

³ As December 2, 2012, is a Sunday, the signature day will be the next business day, December 3, 2012, in accordance with our practice. See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

⁴ See *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 57936 (November 19, 2001).

examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate.⁵

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise, including CMN, which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide entity rate of 305.56 percent; and (3) 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 requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a 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.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial

⁵ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (Oct. 24, 2011).

¹ See *Pure Magnesium in Granular Form From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 46030 (August 2, 2012) ("Preliminary Results").

² See Memorandum to the Record from Paul Piquado, AS for Import Administration, regarding

protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: November 21, 2012.

Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

[FR Doc. 2012-29040 Filed 11-30-12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-833]

Polyester Staple Fiber From Taiwan: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Amended Final Results of Antidumping Duty Order Administrative Review

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

SUMMARY: On November 14, 2012,¹ the United States Court of International Trade (“CIT”) sustained the Department of Commerce’s (“the Department”) results of redetermination² pursuant to the CIT’s *FENC Remand Order*.³

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken*,⁴ as clarified by *Diamond Sawblades*,⁵ the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s *Final Results*⁶ and is amending the final results of the administrative review of the antidumping duty order on polyester staple fiber from Taiwan covering the period of review (“POR”) May 1, 2009, through April 30, 2010, with respect to the margin assigned to Far Eastern New Century Corporation (“FENC”).

¹ See *Far Eastern New Century Corporation v. United States*, Slip-Op. 12-136 (CIT 2012).

² See *Results of Redetermination Pursuant to Remand Order*, CIT Court No. 11-00415, Slip Op. 12-110 (August 29, 2012) (*Remand Results*).

³ See *Far Eastern New Century Corporation v. United States*, Slip-Op. 12-110 (CIT 2012) (*FENC Remand Order*).

⁴ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁵ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

⁶ See *Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review*, 76 FR 57955 (September 19, 2011).

DATES: *Effective Date:* November 26, 2012.⁷

FOR FURTHER INFORMATION CONTACT: Michael A. Romani or Mino Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0198 or (202) 482-1690.

SUPPLEMENTARY INFORMATION:

Background

Subsequent to completion of its administrative review under the antidumping duty order on polyester staple fiber from Taiwan, FENC challenged certain aspects of the Department’s *Final Results* at the CIT. On August 29, 2012, the CIT remanded to the Department its calculation of FENC’s dumping margin to correct certain ministerial errors.⁸ The Department filed its *Remand Results* on October 15, 2012. On November 14, 2012, the CIT upheld the Department’s *Remand Results* wherein we recalculated FENC’s dumping margin employing the results of the *Final Results*’ comparison market calculations rather than those calculated for the *Preliminary Results*.⁹

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC has held that, pursuant to section 516(e) of the Tariff Act of 1930, as amended (“the Act”), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision.¹⁰ The CIT’s November 14, 2012, judgment sustaining the *Remand Results* constitutes a final decision of that court that is not in harmony with the *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court

⁷ Because the deadline, November 24, 2012, falls on a Saturday, the deadline is postponed until the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended*, 70 FR 24533 (May 10, 2005).

⁸ See *FENC Remand Order*.

⁹ See *Certain Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 22366 (April 21, 2011).

¹⁰ See *Timken*, 893 F.2d at 341.

decision. The cash deposit rate will remain the company-specific rate established for the subsequent and most recent period during which the respondent was reviewed.

Amended Final Results

Because there is now a final court decision with respect to FENC, we are amending the *Final Results* with respect to the margin for FENC. The revised dumping margin is as follows:

Producer and exporter	Weighted-average margin (percent)
Far Eastern New Century Corporation	0.75

If the CIT’s ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise produced and exported by FENC during the POR at 0.75 percent.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: November 23, 2012.

Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (“the Act”), may request, in accordance with 19 CFR