



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-896]

Magnesium Metal from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on magnesium metal from the People's Republic of China ("PRC"), covering the period April 1, 2015, through March 31, 2016. The Department preliminarily determines that Tianjin Magnesium International, Co., Ltd. ("TMI") and Tianjin Magnesium Metal, Co., Ltd. ("TMM") did not have reviewable entries during the period of review ("POR"). We invite interested parties to comment on these preliminary results.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: James Terpstra or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-3965 or (202) 482-5848, respectively.

Background

On April 1, 2016, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on magnesium metal from the PRC for the POR.<sup>1</sup> On April 29, 2016, in response to a timely request from Petitioner,<sup>2</sup> and in accordance

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<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 18826 (April 1, 2016).

with section 751(a) of the Tariff Act of 1930, as amended (the “Act”), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on magnesium metal from the PRC with respect to TMI and TMM.<sup>3</sup>

### Scope of the Order

The product covered by this order is magnesium metal from the PRC, 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; magnesium ground, chipped, crushed, or machined into rasping, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an “ASTM Specification for Magnesium Alloy”<sup>4</sup> and are thus 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

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<sup>2</sup> See letter from U.S. Magnesium LLC (“Petitioner”), “Magnesium Metal from the People’s Republic of China: Request for Administrative Review,” dated April 29, 2016.

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 36268 (June 6, 2016).

<sup>4</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy”<sup>5</sup>; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.<sup>6</sup>

The merchandise subject to this 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.

#### Preliminary Determination of No Shipments

We received timely submissions from TMM and TMI certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.<sup>7</sup> On July 11, 2016, we requested the U.S. Customs and Border Protection (“CBP”) data file of entries

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<sup>5</sup> The 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 (November 19, 2001).

<sup>6</sup> This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000-2001 investigations of magnesium from 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 combined in liquid form and cast into the same ingot.

<sup>7</sup> See letter from TMM, “Magnesium Metal from the People’s Republic of China; A-570-896; Certification of No Sales by Tianjin Magnesium Metal Co., Ltd.,” dated June 24, 2016, at 1. See letter from TMI, “Magnesium Metal from the People’s Republic of China; A-570-896; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.,” dated July 1, 2016, at 1.

of subject merchandise imported into the United States during the POR, and exported by TMM and/or TMI. This query returned no entries during the POR.<sup>8</sup> Additionally, in order to examine TMM's and TMI's claim, we sent an inquiry to CBP requesting that it provide any information contrary to these no-shipments claims.<sup>9</sup> We received no notification from CBP of any entries of subject merchandise concerning these companies. On August 15, 2016, Petitioner, submitted public information it alleged contradicts TMM's and TMI's certifications of no shipments of subject merchandise during the POR.<sup>10</sup>

Because we have not received information to the contrary from CBP, consistent with our practice, we preliminarily determine that TMI and TMM had no shipments and, therefore, no reviewable entries during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies but, rather, to complete the review with respect to TMI and TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy ("NME") cases.<sup>11</sup>

#### Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the *Federal Register*.<sup>12</sup> Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the date for filing

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<sup>8</sup> See Memorandum to the File, "RE: U.S. Customs and Border Protection Data," dated September 29, 2016 ("No Shipments Memo"), at Attachment 1.

<sup>9</sup> See No Shipments Memo, at Attachment 2. See also CBP message 6250303, dated 09/06/2016.

<sup>10</sup> See letter from Petitioner, "Magnesium Metal from the People's Republic of China: Response to TMM/TMI's No Shipment Certifications," dated August 15, 2016, at Exhibits 1-3. We provided the information submitted by Petitioner to CBP on November 4, 2016. See the Department's letter to Alexander Amdur, Director, AD/CVD Policy & Programs Division, Office of International Trade U.S. Customs & Border Protection, from Wendy J. Frankel Director, Customs Liaison Unit, "Pure Magnesium from the People's Republic of China and Magnesium Metal from the People's Republic of China," dated November 4, 2016, at Attachment II.

<sup>11</sup> See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2014-2015*, 81 FR 72567 (October 20, 2016) and the "Assessment Rates" section, below.

<sup>12</sup> See 19 CFR 351.309(c)(1)(ii).

case briefs.<sup>13</sup> Parties who submit arguments are requested to submit with each argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.<sup>14</sup>

Parties submitting briefs should do so pursuant to the Department's electronic filing system: Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").<sup>15</sup> ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days of the date of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

Unless extended, we intend to issue the final results of this administrative review, including our analysis of all issues raised in any written brief, within 120 days of publication of this notice in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

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<sup>13</sup> See 19 CFR 351.309(d)(1)(2).

<sup>14</sup> See 19 CFR 351.309(c)(2), (d)(2).

<sup>15</sup> See 19 CFR 351.303 (for general filing requirements).

### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.<sup>16</sup> We intend to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Pursuant to the Department's practice in NME cases, if we continue to determine in the final results that TMI and TMM had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the PRC-wide rate.<sup>17</sup>

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication 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 date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI in the most recently completed review of the company; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate (including TMM, which claimed no shipments, but has not been found to be separate from the PRC-wide entity), 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

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<sup>16</sup> See 19 CFR 351.212(b)(1).

<sup>17</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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 period. Failure to comply with this requirement may result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: December 29, 2016

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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