



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-896]

Magnesium Metal from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2019-20

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

SUMMARY: The Department of Commerce (Commerce) is conducting the administrative review of the antidumping duty (AD) order on magnesium metal from the People's Republic of China (China). The period of review (POR) is April 1, 2019, through March 31, 2020.

Commerce preliminarily determines that Tianjin Magnesium International Co., Ltd. (TMI) and Tianjin Magnesium Metal Co., Ltd. (TMM) did not have reviewable entries during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, 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) 482-5449.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on magnesium metal from China for the POR.<sup>1</sup>

On June 8, 2020, in response to a timely request from the petitioner,<sup>2</sup> and in accordance with

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<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 85 FR 18191 (April 1, 2020); see also *Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China*, 70 FR 19928 (April 15, 2005)(*Order*).

<sup>2</sup> See US Magnesium LLC's Letter, "Magnesium Metal from the People's Republic of China/Request for Administrative Review," dated April 30, 2020.

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 *Order* with respect to TMI and TMM.<sup>3</sup> On April 24, 2020, Commerce tolled all deadlines for administrative reviews by 50 days.<sup>4</sup> On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.<sup>5</sup> The deadline for the preliminary results of this review is now March 1, 2021.

### Scope of the *Order*

The product covered by the *Order* is magnesium metal from China, 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 the *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>6</sup> and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as “alloy” magnesium).

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<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 35068 (June 8, 2020).

<sup>4</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19,” dated April 24, 2020.

<sup>5</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

<sup>6</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.

The scope of the *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>7</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>8</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 TMI and TMM certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.<sup>9</sup> On February 2, 2021, we requested the U.S. Customs and Border Protection (CBP) data file of entries of subject merchandise imported into the United States during the POR, and exported by

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<sup>7</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>8</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); see also *Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001); and, *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>9</sup> See TMI's Letter, “Magnesium Metal from the People's Republic of China; A-570-896; No Shipment Certification,” dated June 15, 2020; see also TMM's Letter, “Magnesium Metal from the People's Republic of China; A-570-896; No Shipment Certification,” dated June 15, 2020.

TMM and/or TMI.<sup>10</sup> This query returned no entries during the POR.<sup>11</sup> Additionally, on February 4, 2021, Commerce submitted a no-shipments inquiry to CBP with regard to TMI and TMM, to which CBP responded that it found no shipments of subject merchandise by TMI and TMM during the POR.<sup>12</sup>

Accordingly, and 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>13</sup>

#### Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments, filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), within 30 days after the date of publication of these preliminary results of review.<sup>14</sup> ACCESS is available to registered users at <https://access.trade.gov>. Rebuttal briefs, limited to issues raised in the case briefs, must be filed within seven days after the time limit for filing case briefs.<sup>15</sup> Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities.<sup>16</sup>

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<sup>10</sup> See Memorandum, "2019-2020 Administrative Review of Magnesium Metal from the People's Republic of China, U.S. Customs and Border Protection Data," dated February 19, 2021 at Attachment 1.

<sup>11</sup> *Id.* at Attachment 2.

<sup>12</sup> *Id.* at Attachment 3; see also "Magnesium Metal from China; No Shipment Inquiry for Tianjin Magnesium International Co., Ltd and Tianjin Magnesium Metal Co., Ltd. during the period 04/01/2019 through 03/31/2020," dated February 24, 2021.

<sup>13</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>14</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>15</sup> See 19 CFR 351.309(d)(1) and (2); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>16</sup> See 19 CFR 351.309(c) and (d); see also 19 CFR 351.303 (for general filing requirements).

Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.<sup>17</sup>

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to Commerce within 30 days of the date of publication of this notice.<sup>18</sup> Requests should contain: (1) the party's name, address, the telephone number; (2) the number of participants; and (3) a list of issues to be discussed. 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 for the hearing to be held.<sup>19</sup> Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, unless extended, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP will assess, antidumping duties on all appropriate entries covered by this review.<sup>20</sup> Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication). Pursuant to Commerce'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 China-wide rate.<sup>21</sup>

#### Cash Deposit Requirements

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<sup>17</sup> See *Temporary Rule*.

<sup>18</sup> See 19 CFR 351.310(c).

<sup>19</sup> See 19 CFR 310(d).

<sup>20</sup> See 19 CFR 351.212(b)(1).

<sup>21</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

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 Chinese and non-Chinese 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 Chinese 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 China-wide entity), the cash deposit rate will be China-wide rate of 141.49 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese 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 review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: February 25, 2021.

Christian Marsh,  
Acting Assistant Secretary

for Enforcement and Compliance.  
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