



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-832

Pure Magnesium 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 an administrative review of the antidumping duty order on pure magnesium from the People's Republic of China ("PRC"), covering the period May 1, 2015, through April 30, 2016. The Department preliminarily determines that Tianjin Magnesium International, Co., Ltd. ("TMI") and Tianjin Magnesium Metal, Co., Ltd. ("TMM") (collectively "TMI/TMM")¹ 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 published 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.

¹ In the 2011-2012 administrative review of the order, the Department determined TMM and TMI to be collapsed and treated as a single company for purposes of the proceeding and, because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. See *Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 94 (January 2, 2014) and accompanying Issues and Decision Memorandum at Comment 5.

Background

On May 2, 2016, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on pure magnesium from the PRC for the POR.² On May 31, 2016, in response to a timely request from Petitioner,³ and in accordance 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 pure magnesium from the PRC with respect to TMI and TMM.⁴

Scope of the Order

Merchandise covered by the order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

- (1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as “ultra pure” magnesium);
- (2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as “pure” magnesium); and

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 81 FR 26206 (May 2, 2016).

³ See letter from U.S. Magnesium, “Pure Magnesium from the People’s Republic of China: Request for Administrative Review,” dated May 31, 2016.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 44260 (July 7, 2016) (“Initiation Notice”).

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as “off-specification pure” magnesium).

“Off-specification pure” magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (i.e., length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope 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.⁵ 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.⁶ We received none. 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.⁷

Because we have not received information to the contrary from CBP, consistent with our practice, we preliminarily determine that TMI/TMM had no shipments and, therefore, no reviewable entries during the POR. Further, consistent with our practice in non-market economy ("NME") cases, the Department is not rescinding this review, but intends to complete the review with respect to TMI/TMM and issue appropriate instructions to CBP based on the final results of the review.⁸

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*.⁹ 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

⁵ See Letter from TMM, "Pure Magnesium from the People's Republic of China; A-570-832; Certification of No Sales by Tianjin Magnesium Metal Co., Ltd.," dated July 25, 2016, at 1. See letter from TMI, "Pure Magnesium from the People's Republic of China; A-570-832; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.," dated August 1, 2016.

⁶ See No Shipments Memo at Attachment 2. See also CBP message 6273308, dated September 29, 2016.

⁷ See letter from Petitioner, "Pure Magnesium from the People's Republic of China: Response to TMM/TMI's No Shipment Certifications," dated August 15, 2016, at Exhibits 1, 2, and 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.

⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011) and the "Assessment Rates" section, below.

⁹ See 19 CFR 351.309(c)(1)(ii).

case briefs.¹⁰ Parties who submit arguments in this proceeding 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.¹¹ 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").¹² 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 issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case 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, not later than 120 days of publication of this notice in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

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.¹³ We intend to issue

¹⁰ See 19 CFR 351.309(d)(1)(2).

¹¹ See 19 CFR 351.309(c)(2), (d)(2).

¹² See 19 CFR 351.303 (for general filing requirements).

¹³ See 19 CFR 351.212(b)(1).

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 the Department continues to determine in the final results that that TMI/TMM had no shipments of subject merchandise, any suspended entries during the POR from TMI/TMM will be liquidated at the PRC-wide rate.¹⁴

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, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI/TMM, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI/TMM 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, the cash deposit rate will be the PRC-wide rate of 111.73 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(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 off antidumping

¹⁴ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

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).

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

January 24, 2017

Date

[FR Doc. 2017-01955 Filed: 1/27/2017 8:45 am; Publication Date: 1/30/2017]