

International Trade Administration

[A-821-805, A-823-806, A-570-832]

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

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

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-1769.

Scope of Orders

The product covered by these orders is pure primary magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of these orders. Primary 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 primary magnesium is used as an input in producing magnesium alloy.

Pure primary magnesium encompasses:

- (1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as "ultra-pure" magnesium);
- (2) Products containing less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as "pure" magnesium); and
- (3) Products (generally referred to as "off-specification pure" magnesium) 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.

"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 these orders are alloy primary magnesium, primary magnesium anodes, granular primary magnesium (including turnings and powder), and secondary magnesium.

Granular magnesium, turnings, and powder are classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 8104.30.00. Magnesium granules and turnings (also referred to as chips) are produced by grinding and/or crushing primary magnesium and thus have the same chemistry as primary magnesium. Although not susceptible to precise measurement because of their irregular shapes, turnings or chips are typically produced in coarse shapes and have a maximum length of less than 1 inch. Although sometimes produced in larger sizes, granules are more regularly shaped than turnings or chips, and have a typical size of 2 mm in diameter or smaller.

Powders are also produced from grinding and/or crushing primary magnesium and have the same chemistry as primary magnesium, but are even smaller than granules or turnings. Powders are defined by the Section Notes to Section XV, the section of the HTSUS in which subheading 8104.30.00 appears, as products of which 90 percent or more by weight will pass through a sieve having a mesh aperture of 1 mm. (See HTSUS, Section XV, Base Metals and Articles of Base Metals, Note 6(b).) Accordingly, the exclusion of magnesium turnings, granules and powder from the scope includes products having a maximum physical dimension (*i.e.*, length or diameter) of 1 inch or less.

The products subject to these orders are classifiable under subheadings 8104.11.00, 8104.19.00 and 8104.20.00 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Case History

On March 22, 1995, the Department of Commerce ("the Department") made its final determinations that pure magnesium¹ from the PRC, the Russian Federation, and Ukraine is being sold at less than fair value (see *Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Ukraine; Final Determinations of Sales at Less Than Fair Value: Pure*

¹The companion investigations involving alloy magnesium from the PRC and the Russian Federation ended as a result of the International Trade Commission's final negative injury determinations in those proceedings.

Magnesium and Alloy Magnesium from the People's Republic of China; Final Determinations of Sales at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation (60 FR 16432, March 30, 1995)).

For the determination concerning the Russian Federation, ministerial errors were subsequently alleged by respondent exporter Amalgamet (March 30, 1995) and petitioners² (April 7, 1995). On April 25, 1995, the Department found that none of the allegations constituted a ministerial error with the exception of petitioners' allegation that the "Continuation of Suspension of Liquidation" section of the notice had incorrectly listed Amalgamet as one of the companies excluded from an antidumping duty order. The "Continuation of Suspension of Liquidation" instructions also were incorrect in that they did not specify that the exclusion applicable to AIOC, Gerald Metals, Greenwich Metals, Hochschild Partners, Hunter Douglas, Interlink, MG Metals, Razno Alloys and SMW is limited to instances where these companies source the subject merchandise from the same producer(s) that they sourced from during the POI.

Amendment of Final Determination

The Department is amending its final determination of pure magnesium from the Russian Federation. The "Continuation of Suspension of Liquidation" instructions should read as follows:

Because their sales of pure magnesium were found not to have been sold below fair value, the following exporters are excepted from these instructions where they sell subject merchandise produced by the same producer or producers that produced merchandise from which the exporters' sales were sourced during the original period of investigation: AIOC, Gerald Metals, Greenwich Metals, Hochschild Partners, Hunter Douglas, Interlink, MG Metals, Razno Alloys, or SMW.

Antidumping Duty Orders

In accordance with section 735(a) of the Tariff Act of 1930, as amended ("the Act"), the Department made its final determinations that pure magnesium from the People's Republic of China, Russian Federation and Ukraine is being sold at less than fair value. On May 8, 1995, the International Trade Commission ("ITC") notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United

²Magnesium Corporation of America; Dow Chemical; International Union of Operating Engineers, Local 564; and United Steelworkers of America, Local 8319.

States is materially injured by reason of imports of pure magnesium from the PRC, the Russian Federation and Ukraine. (The ITC also determined that imports of alloy magnesium from the PRC and the Russian Federation did not materially injure, or threaten material injury to, an industry in the United States.)

Therefore, all unliquidated entries of pure magnesium from the People's Republic of China, the Russian Federation and Ukraine that are entered, or withdrawn from warehouse for consumption, on or after November 7, 1994, the date of publication of the Department's preliminary determination, are liable for the assessment of antidumping duties.

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value exceeds the United States price for all relevant entries of pure magnesium from the People's Republic of China, the Russian Federation, and Ukraine. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "PRC-wide," "Russia-wide" and "Ukraine-wide" rates apply to all exporters of PRC, Russian and Ukrainian pure magnesium not specifically listed below.

The *ad valorem* weighted-average dumping margins are as follows:

| Manufacturer/producer/exporter | Weighted-average margin percentage |
|---|------------------------------------|
| The People's Republic of China: PRC-wide Rate | 108.26 |
| The Russian Federation: | |
| AIOC/Avisma | 0.00 |
| AIOC/SMW | 0.00 |
| AIOC/Other | 100.25 |
| Gerald Metals/Avisma | 0.00 |
| Gerald Metals/SMW | 0.00 |
| Gerald Metals/Other | 100.25 |
| Greenwich Metals/Avisma | 0.00 |
| Greenwich Metals/SMW | 0.00 |
| Greenwich Metals/Other | 100.25 |
| Hochschild Partners/Avisma | 0.00 |
| Hochschild Partners/SMW | 0.00 |
| Hochschild Partners/Other | 100.25 |
| Hunter Douglas/SMW | 0.00 |
| Hunter Douglas/Other | 100.25 |
| Interlink/Avisma | 0.00 |
| Interlink/Other | 100.25 |
| MG Metals/Avisma | 0.00 |
| MG Metals/SMW | 0.00 |
| MG Metals/Other | 100.25 |
| Razno Alloys/SMW | 0.00 |
| Razno Alloys/Other | 100.25 |

| Manufacturer/producer/exporter | Weighted-average margin percentage |
|--------------------------------|------------------------------------|
| SMW/SMW | 0.00 |
| SMW/Other | 100.25 |
| Russia-wide Rate | 100.25 |
| Ukraine: | |
| Gerald Metals | 103.27 |
| MG Metals | 79.87 |
| Hochschild Partners | 92.21 |
| Ukraine-wide Rate | 104.27 |

This notice constitutes the antidumping duty orders with respect to pure magnesium from the PRC, the Russian Federation and Ukraine. Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: May 8, 1995.
Susan G. Esserman,
Assistant Secretary for Import Administration.
 [FR Doc. 95-11808 Filed 5-11-95; 8:45 am]
BILLING CODE 3510-DS-P

[A-834-802]

Agreement Suspending the Antidumping Investigation on Uranium From Kazakhstan

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

ACTION: Notice of Amendment to the Agreement Between the United States Department of Commerce and the Republic of Kazakhstan Suspending the Antidumping Investigation on Uranium from Kazakhstan.

SUMMARY: The Department of Commerce (the Department) and the Republic of Kazakhstan (Kazakhstan) have signed an Amendment (the Amendment) to the Agreement Suspending the Antidumping Investigation on Uranium from Kazakhstan (the Agreement).

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Beth Chalecki or Maureen Price, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2312 or (202) 482-0159, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1992, the Department and Kazakhstan signed the Agreement and, on October 30, 1992, the Agreement was published in the **Federal Register** (57 FR 49220, 49222). On November 9, 1994, the Department and Kazakhstan initialed an Amendment to modify the Appendix A price-tied quota contained in the original Agreement. The Amendment was then released to interested parties for comment. The Department carefully considered these comments and held further consultations with Kazakhstan.

Subsequently, the Department and Kazakhstan negotiated an Amendment based upon a different concept than the one previously initialed. This Amendment modifies the original price-tied quota mechanism by lowering the threshold price from \$13 to \$12, and redefines Kazakhstani-origin uranium to include uranium mined in Kazakhstan and enriched in a third country. On March 24, 1995, the Department and Kazakhstan signed a final Amendment, which was to take effect when the final signature was added on March 27, 1995. The text of the final Amendment follows this notice.

Dated: April 25, 1995.
Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.

Amendment to the Agreement Suspending the Antidumping Investigation on Uranium From Kazakhstan, as Amended

Pursuant to Section X.B. of the Agreement Suspending the Antidumping Investigation on Uranium from Kazakhstan, as amended on February 7, 1995 ("Amended Agreement"), the parties have consulted to ensure that exports of Kazakhstani ore enriched in U235 in another country prior to direct or indirect importation into the United States do not undermine the Amended Agreement. As a result of these consultations, and to ensure that such exports do not undermine the Amended Agreement, the parties agree as follows:

1. The following definitions are added to Section II:

(e) "For consumption" means for further processing (as necessary) and use as nuclear fuel. Consumption may include such uses as swaps or exchanges of material, only where such swaps or exchanges are documented to be conducted solely for the purpose of facilitating the further processing and use as nuclear fuel by the end-user. The material shall not be loaned. The