

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; 2021-2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that there were no shipments of merchandise subject to the antidumping duty (AD) order on magnesium metal from the People's Republic of China (China) during the period of review (POR), April 1, 2021, through March 31, 2022, from Tianjin Magnesium International Co., Ltd. (TMI) and Tianjin Magnesium Metal Co., Ltd. (TMM). We invite interested parties to comment on these preliminary results.

DATES: Applicable December 21, 2022.

FOR FURTHER INFORMATION CONTACT: John Conniff, 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) 482-1009.

SUPPLEMENTARY INFORMATION:**Background**

On April 1, 2022, 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.¹ On April 15, 2022, we received a timely request from US Magnesium LLC (the petitioner).² On May 16, 2022, TMI and TMM, upon which the petitioner requested a review, objected to the request on the basis that they had not sold merchandise in the United States for more than ten years.³ On June 9, 2022, in response to the petitioner's request, we initiated an administrative review of the *Order* with respect to TMI and TMM, in accordance with section 751(a) of the Tariff Act of 1930, as

amended (the Act), and 19 CFR 351.221(c)(1)(i).⁴

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"⁵ and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as "alloy" magnesium).

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";⁶ (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 (Al₂O₃), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.⁷ 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.⁸ On June 15, 2022, we requested U.S. Customs and Border Protection (CBP) entry data of subject merchandise imported into the United States during the POR, and exported by TMM or TMI.⁹ This query returned no entries during the POR.¹⁰ Additionally, on June 21, 2022, Commerce submitted a no-shipments inquiry to CBP with regard to TMI and TMM, to which CBP did not respond with any contrary information by the expiration of the 10-day deadline on July 1, 2022.¹¹

Accordingly, and consistent with our practice, we preliminarily determine that TMI and TMM had no shipments and, therefore, no reviewable entries

⁷ 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.

⁸ See TMI's Letter, "Magnesium Metal from the People's Republic of China; A-570-896; No Shipment Certification," dated June 13, 2022; see also TMM's Letter, "Magnesium Metal from the People's Republic of China; A-570-896; No Shipment Certification," dated June 13, 2022.

⁹ See Memorandum, "Release of U.S. Customs and Border Protection Data," dated July 5, 2022, at Attachment 1.

¹⁰ *Id.* at Attachment 2.

¹¹ *Id.* at 1 and Attachment 3.

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 19075 (April 1, 2022); see also *Notice of Antidumping Duty Order: Magnesium Metal from the People's Republic of China*, 70 FR 19928 (April 15, 2005) (*Order*).

² See Petitioner's Letter, "Magnesium Metal from the People's Republic of China/Request for Administrative Review," dated April 15, 2022.

³ See TMI and TMM's Letter, "Magnesium Metal from the People's Republic of China; A-570-896; Objection to Request for Review," dated May 16, 2022.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 35165 (June 9, 2022).

⁵ 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.

⁶ 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); see also *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 57936 (November 19, 2001).

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.¹²

Disclosure and Public Comment

Because Commerce has not calculated weighted-average dumping margins for these preliminary results, there are no calculations to disclose to interested parties.

Interested parties are invited to comment on these preliminary results of the review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the **Federal Register**. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the deadline for filing case briefs.¹³ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each brief: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁴ Executive summaries should be limited to five pages total, including footnotes.¹⁵ Case and rebuttal briefs should be filed using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).¹⁶ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁷

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the date of publication of this notice in the **Federal Register**. Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, by the deadline noted above. If a hearing is requested, Commerce will notify interested parties of the hearing date and time. Requests for a hearing should contain: (1) the requesting party's name, address, and telephone

number; (2) the number of individuals from the requesting party's firm that will attend the hearing; and (3) a list of issues the party intends to discuss at the hearing. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

Unless we extend the deadline for the final results of this review, we intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in their briefs, within 120 days of the date of publication of this notice in the **Federal Register**.¹⁸

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.¹⁹ 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.²⁰

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 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 double 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: December 14, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022-27689 Filed 12-20-22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC456]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Offshore of North Carolina and South Carolina

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

¹² 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.

¹³ See 19 CFR 351.309(d).

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ *Id.*

¹⁶ See 19 CFR 351.303.

¹⁷ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19: Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹⁸ See section 751(a)(3)(A) of the Act; see also 19 CFR 351.213(h)(1).

¹⁹ See 19 CFR 351.212(b)(1).

²⁰ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).