

entered value of its U.S. sales, we will calculate customer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate importer-specific or customer-specific *ad valorem* ratios based on the estimated entered value.

Regarding Promarisco, because it reported the entered value of all of its U.S. sales, we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. We will calculate a single importer-specific assessment rate for Promarisco, consistent with our practice in *AR1 Final Results*. See also *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and Singapore: Final Results of the Antidumping Administrative Reviews, Rescission of Administrative Review in part, and Determination Not to Revoke Order in Part*, 68 FR 35623 (June 16, 2003), and accompanying Issues and Decision Memorandum at Comment 9B; and *Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products From Canada*, 69 FR 75921 (December 20, 2004), and accompanying Issues and Decision Memorandum at Comment 13.

For the responsive companies which were not selected for individual review, we will calculate an assessment rate based on the weighted average of the margin rates calculated for the companies selected for individual review excluding any which are *de minimis* or determined entirely on AFA.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific or customer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise

covered by the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

Discontinuation of Cash Deposit Requirements

On August 15, 2007, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the Uruguay Round Agreements Act (URAA), the U.S. Trade Representative, after consulting with the Department and Congress, directed the Department to implement its determination to revoke the antidumping duty order on certain frozen warmwater shrimp from Ecuador. See *Final Results of the section 129 Determination of Certain Frozen Warmwater Shrimp from Ecuador*, 72 FR 48257 (August 23, 2007). Accordingly, the antidumping duty order on certain frozen warmwater shrimp from Ecuador was revoked effective August 15, 2007. As a result, we have instructed CBP to discontinue collection of cash deposits of antidumping duties on entries of the subject merchandise.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2008.

Stephen J. Claeyss,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8-4424 Filed 3-5-08; 8:45 am]

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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

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

SUMMARY: In response to timely request from Tianjin Magnesium International Co., Ltd. (TMI) the Department of Commerce (the Department) is conducting the 2006-2007 administrative review of the antidumping duty order on magnesium metal from the People's Republic of China (PRC). The Department has reviewed shipments of subject merchandise made by TMI and has determined that TMI made sales below normal value (NV) during the period of review (POR). If the preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*. Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4081.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 2005, the Department published an antidumping duty order on magnesium metal from the PRC. See *Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China*, 70 FR 19928 (April 15, 2005). On April 2, 2007, the Department published a notice of opportunity to request an administrative review of the above-referenced order.

See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 15650 (April 2, 2007). Based on timely request for an administrative review, the Department initiated an administrative review of the antidumping duty order on magnesium metal from the PRC with respect to TMI. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 29968 (May 30, 2007).

On May 25, 2007, the Department issued a separate rate certification and the full antidumping duty questionnaire to TMI. We received timely separate rate certification and questionnaire responses from TMI. On August 2, 2007, we received the Petitioner's comments on TMI's sections A, C, and D questionnaire responses. We issued supplemental questionnaires to TMI in August and September 2007, and January 2008. We received timely responses from TMI to these questionnaires on August 31, 2007, October 22, 2007, November 29, 2007, and February 8, 2008, respectively.

On August 22, 2007, the Department determined that India, Sri Lanka, Egypt, Indonesia, and Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Ron Lorentzen, Acting Director, Office of Policy to Mark Manning, Program Manager, Operations, NME unit, Office 4, "Antidumping Duty Administrative Review of Magnesium Metal From the PRC: Request for a List of Surrogate Countries," dated August 22, 2007 (Office of Policy Surrogate Countries Memorandum). On September 6, 2007, the Petitioner requested that the Department conduct verification of the questionnaire responses submitted by respondent TMI in this administrative review.

On September 7, 2007, the Department provided parties with an opportunity to submit publicly available information on surrogate countries and values for consideration in the preliminary results of review. On September 21, 2007, and September 28, 2007, we received comments from TMI and the Petitioner, respectively, in which they requested that the Department select India as the appropriate surrogate country in this review. In their comments, both TMI and the Petitioner argued that India (a) is at a comparable level of economic development with the PRC based on the gross national income (GNI); (b) is a significant producer of comparable merchandise, namely aluminum; and (c) the data necessary to calculate a dumping margin for a Chinese producer

of magnesium metal are readily available in India. On October 5, 2007, we received surrogate value information from the Petitioner and TMI. On October 15, 2007, and November 5, 2007, we received comments from the Petitioner rebutting certain surrogate value information submitted by TMI. On October 23, 2007, TMI submitted comments rebutting the Petitioner's surrogate value information. On February 12, 2008, the Petitioner submitted a request to assign a combination cash deposit rate to TMI and its supplier of subject merchandise in this administrative review.

On December 12, 2007, the Department extended the deadline for the preliminary results of administrative review until February 29, 2008. See *Magnesium Metal from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the 2006–2007 Antidumping Duty Administrative Review*, 72 FR 70567 (December 12, 2007).

Period of Review

The POR is April 1, 2006, through March 31, 2007.

Scope of Order

The product covered by this antidumping duty order is magnesium metal, 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 antidumping duty 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 raspings, granules, turnings, chips, powder, briquettes, and other shapes: 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"¹ and thus are outside the scope of the existing antidumping orders on

magnesium from the PRC (generally referred to as "alloy" magnesium).

The scope of the antidumping duty order excludes the following merchandise: (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";² (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.³

The merchandise subject to this antidumping duty order is currently 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 under investigation is dispositive.

Non-Market-Economy (NME) Treatment

The Department considers the PRC to be an NME country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the Act), any

² This material is already covered by existing antidumping orders. See *Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; 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).

³ This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from the PRC, 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 chemically combined in liquid form and cast into the same ingot.

¹ The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys*.

determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, (TRBs) From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003), (unchanged in *TRBs from the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003)). None of the parties to this proceeding has contested such treatment. Therefore, for the preliminary results of review, we have treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

Selection of a Surrogate Country

When the Department analyzes imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of merchandise comparable to the subject merchandise.

The Department has determined that India, Sri Lanka, Egypt, Indonesia, and the Philippines are countries that are at a level of economic development comparable to that of the PRC. *See Office of Policy Surrogate Countries Memorandum*. While none of these countries are significant producers of magnesium metal,⁴ India does have significant production of aluminum that is comparable to the production of magnesium metal with respect to factory overhead; selling, general, and administrative (SG&A) expenses; and profit. *See Surrogate Country Memorandum* at 5–6. Because India is at a comparable level of economic development, is a significant producer

of comparable merchandise, and provides the best opportunity to use publicly available data to value the factors of production, the Department preliminarily determined that India is an appropriate surrogate country for the purposes of this administrative review. *See Surrogate Country Memorandum* at 7. The sources of the surrogate factor values are discussed under the “Normal Value” section below and in the *Memorandum from Karine Gziryan, Senior Financial Analyst, through Mark Manning, Program Manager, to the File, “Surrogate Values for the Preliminary Results,”* dated February 29, 2008 (*Surrogate Values Memorandum*).

Separate Rate

A designation of a country as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. Accordingly, the Department has a rebuttable presumption that all companies within an NME country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, at Comment 1 (May 6, 1991) (*Sparklers*), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

The Department's separate-rate test determines whether the exporters are independent from government control and does not consider, in general, macroeconomic/border-type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). The test focuses,

rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61757–61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

The evidence provided by TMI supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with TMI's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the formal measures by the government decentralizing control of companies. In its responses, TMI stated that it is an independent legal entity and provided a copy of its business license that allows it to engage in the exportation of magnesium metal. TMI also reported that no export quotas apply to magnesium metal. The following laws, which were placed on the record of this review, also indicate a lack of *de jure* government control. The *Company Law of the People's Republic of China*, made effective on July 1, 1994, states that a company is an enterprise legal person, that shareholders shall assume liability towards the company to the extent of its shareholdings, and that the company shall be liable for its debts to the extent of all its assets. TMI also provided copies of the *Foreign Trade Law* of the PRC, which identifies the rights and responsibilities of organizations engaged in foreign trade, grants autonomy to foreign-trade operators in management decisions, and establishes the foreign trade operator's accountability for profits and losses. Based on our analysis of the foregoing, the Department has preliminarily determined that there is an absence of *de jure* governmental control over the export activities of TMI.

⁴ *See Memorandum to Abdelali Elouaradia, Office Director, AD/CVD Operations, Office 4, through Mark Manning, Program Manager, AD/CVD Operations, Office 4, from Karine Gziryan, Financial Analyst, AD/CVD Operations, Office 4, “Administrative Review of Magnesium Metal from the People's Republic of China: Selection of a Surrogate Country dated October 30, 2007,”* (*Surrogate Country Memorandum*).

Absence of De Facto Control

Typically the Department considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or are subject to the approval of, a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department considers an analysis of *de facto* control to be critical in determining whether a respondent is, in fact, subject to a degree of governmental control that would preclude the Department from assigning the respondent a separate rate.

TMI has asserted that it: (1) Establishes its own export prices; (2) negotiates contracts without guidance from any governmental entities or organizations; (3) makes its own personnel decisions; (4) retains the proceeds of its export sales and uses profits according to its business needs; and (5) has the authority to sell its assets and to obtain loans. The Department has analyzed the information placed on the record by TMI. Based upon its analysis, the Department has preliminarily determined that the information on the record supports TMI's assertion, and that there is an absence of *de facto* governmental control over the export activities of TMI. Because the Department has found that TMI operates free of *de jure* and *de facto* governmental control, it has preliminarily determined that TMI has met the criteria for receiving a separate rate.

Normal Value Comparisons

To determine whether TMI's sales of the subject merchandise to the United States were made at a price below NV, we compared its U.S. price to NV, as described in the "U.S. Price" and "Normal Value" sections of this notice.

United States Price

A. Export Price

In accordance with section 772(a) of the Act, we based TMI's U.S. price on

export price (EP) because the first sales to unaffiliated purchasers were made prior to importation, and constructed export price was not otherwise warranted by the facts on the record. We calculated EP for TMI based on the prices to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, we calculated EP by deducting, where applicable, the following expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States: foreign inland freight from the plant to the port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. customs duties, and inland freight incurred in the United States. See Memorandum from Karine Gziryan, Senior Financial Analyst, to the File, "Analysis for the Preliminary Results of the 2006–2007 Administrative Review of Magnesium Metal from the People's Republic of China: Tianjin Magnesium International Ltd.," dated February 29, 2008 (Preliminary Analysis Memorandum).

B. Surrogate Values for Expenses Incurred in the PRC for U.S. Sales

TMI reported that, for its U.S. sales, foreign inland freight, foreign brokerage and handling, and marine insurance were provided by NME vendors or paid for using an NME currency. We based the deduction of these charges on surrogate values. To value foreign inland freight and foreign brokerage and handling, we applied the same surrogate values used to value these expenses in NV. See Normal Value section below and Surrogate Values Memorandum. We valued marine insurance with a price quote from the website of RJG Consultants, a market-economy provider of marine insurance. See Surrogate Values Memorandum.

For international freight, U.S. brokerage and handling, and U.S. customs duties, TMI reported using market economy vendors and stated that these expenses were paid for in a market economy currency. Where movement services were provided by a market economy vendor and paid for in a market economy currency, we deducted the actual cost per metric ton of the expense. See Surrogate Values Memorandum.

Normal Value

A. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the

available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act and 19 CFR 351.408. The Department uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies. See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006)).

We calculated NV by adding together the value of the FOPs, general expenses, profit, and packing costs.⁵ Specifically, we valued material, labor, energy, and packing by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). We increased the calculated costs of the FOPs for surrogate general expenses and profit. See Surrogate Values Memorandum.

In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market-economy country and pays for it in a market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also *Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs). Where a portion of the input is purchased from a market-economy supplier and the

⁵ We based the values of the FOPs on surrogate values (see Selected Surrogate Values section below).

remainder from an NME supplier, the Department will normally use the price paid for the inputs sourced from market-economy suppliers to value all of the input, provided the volume of the market-economy inputs as a share of total purchases from all sources is "meaningful." See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27366 (May 19, 1997); *Shakeproof v. United States*, 268 F.3d 1376, 1382 (Fed. Cir. 2001). See also 19 CFR 351.408(c)(1).

B. Selected Surrogate Values

In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing public values which are non-export averages, representative of a range of prices in effect during the POR, or over a period as close as possible in time to the POR, product-specific, and tax-exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated (or deflated) the surrogate values using, where appropriate, the Indian Wholesale Price Index (WPI) as published in the *International Financial Statistics* of the International Monetary Fund. See *Surrogate Values Memorandum*.

In calculating surrogate values from import statistics, in accordance with the Department's practice, we disregarded statistics for imports from NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (i.e., Indonesia, South Korea, and Thailand). See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1. See also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television*

Receivers From the People's Republic of China, 68 FR 66800, 66808 (November 28, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004). Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country.

We used the following surrogate values in our preliminary results of review (see *Surrogate Values Memorandum* for details). Except as noted below, we valued raw materials and packing materials using April 2006 through March 2007 weighted-average Indian import values derived from the *World Trade Atlas*, online at <http://www.gtis.com/wta.htm> (WTA). The Indian import statistics that we obtained from the WTA were published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce of India and are contemporaneous with the POR.

We valued truck freight expenses using a per kilometer per kilogram average rate obtained from the Web site of an Indian transportation company, Infreight Technologies India Limited. See <http://www.infreight.com>. We used two sources to calculate the surrogate value for domestic brokerage and handling expenses. We valued TMI's use of foreign brokerage and handling using a simple average of the public version of the brokerage and handling expenses reported by Agro Dutch Industries Ltd., in an administrative review of preserved mushrooms from India, and by Kejriwal Paper Ltd., in an administrative review of certain lined paper products from India. See Agro Dutch Industries Ltd.'s section A–D submission, dated May 24, 2005, at Exhibit B–1 (see *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006)). See the section C submission from Kejriwal Paper Ltd., dated January 9, 2006, at Exhibit C–2, used in *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper*

Products from India, 71 FR 45012 (August 8, 2006)). Because these data were not contemporaneous to the POI, we adjusted them for inflation using the Indian WPI. See *Surrogate Values Memorandum*.

To value electricity, we used the 2000 electricity price data from International Energy Agency, *Energy Prices and Taxes—Quarterly Statistics* (First Quarter 2003), adjusted for inflation. See *Surrogate Values Memorandum*.

Consistent with 19 CFR 351.408(c)(3), we valued direct, indirect, and packing labor, using the most recently calculated regression-based wage rate, which relies on 2004 data. This wage rate can currently be found on the Department's Web site on Import Administration's home page, Import Library, *Expected Wages of Selected NME Countries*, revised in January 2007, available at <http://ia.ita.doc.gov/wages/index.html>. The source of these wage-rate data on the Import Administration's web site is the *Yearbook of Labour Statistics*, ILO, Chapter 5B: *Wages in Manufacturing*. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by TMI.

Lastly, we valued SG&A expenses, factory overhead costs, and profit using the 2006–2007 financial statements of two Indian producers of comparable merchandise, namely aluminum: Hindalco Industries Ltd., and National Aluminum Company Ltd. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy ("ML&E") costs; SG&A as a percentage of ML&E plus overhead (i.e., cost of manufacture); and profit as a percentage of the cost of manufacture plus SG&A. See *Surrogate Values Memorandum*.

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information with which to value FOPs in the final results of review within 20 days after the date of publication of the preliminary results of review.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates can be accessed at the Web site of Import Administration at <http://ia.ita.doc.gov/exchange/index.html>.

Preliminary Results of Review

We preliminarily determine that the following margins exist for TMI during the period April 1, 2006, through March 31, 2007:

MAGNESIUM METAL FROM THE PRC

Company	Weighted-Average Margin (Percent)
Tianjin Magnesium International Co., Ltd.	17.46

Disclosure

The Department will disclose the calculations used in our analysis to parties to this administrative review within five days of the date of publication of this notice. Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. The Department also requests that interested parties provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette.

Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the briefs.

The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all

appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If the preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this 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 the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed review; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, 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 PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 the Secretary's presumption that reimbursement of antidumping duties

occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

Dated: February 29, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8-4416 Filed 3-5-08; 8:45 am]

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DEPARTMENT OF COMMERCE**International Trade Administration**

A-552-802

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Preliminary Partial Rescission and Final Partial Rescission of the Second Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam ("Vietnam"), covering the period of review ("POR") of February 1, 2006, through January 31, 2007. As discussed below, we preliminarily determine that sales have not been made below normal value ("NV") with respect to certain exporters who participated fully and are entitled to a separate rate in this administrative review. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

EFFECTIVE DATE: March 6, 2008.

FOR FURTHER INFORMATION CONTACT:

Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-6905.

SUPPLEMENTARY INFORMATION:**General Background**

On February 1, 2005, the Department published in the **Federal Register** the antidumping duty order on frozen warmwater shrimp from Vietnam. See