

Department") made its final determination that pure magnesium from the Russian Federation was being sold at less than fair value (see *Pure Magnesium and Alloy Magnesium from the Russian Federation* (60 FR 16432, March 30, 1995)). On May 12, 1995, the Department published the antidumping duty order on pure magnesium from the Russian Federation (60 FR 25691). A ministerial error identified by a respondent, Interlink, was not corrected by the Department prior to the time the parties filed suit with the Court of International Trade (CIT). On December 6, 1995, the CIT granted the Department's request for leave to correct the ministerial error. This notice provides the results of that correction.

EFFECTIVE DATE: December 20, 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 this order is pure primary magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this order. 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 this order is 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 2mm 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 1mm. (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 determination that pure magnesium from the Russian Federation was being sold at less than fair value (see *Pure Magnesium and Alloy Magnesium from the Russian Federation* (60 FR 16432, March 30, 1995)). On May 12, 1995, the Department published the

antidumping duty order on pure magnesium from the Russian Federation (60 FR 25691).

On May 11, 1995, respondent exporter, Interlink, alleged that a ministerial error had been made in that the Department incorrectly assigned a margin for its sales of subject merchandise supplied by Russian producer, Solikamsk Magnesium Works (SMW). Interlink requested that the Department clarify the antidumping duty order to show that Interlink is excluded with regard to subject merchandise supplied by SMW. The Department found the allegation constituted a ministerial error (see memo from The Magnesium Team to Barbara Stafford dated October 19, 1995). However, because the petitioner filed suit with the CIT before we could correct this error, we were unable to correct this error and publish the amended final determination and amended antidumping duty order. Subsequently, the CIT granted the Department leave to correct this ministerial error.

Amendment of Final Determination and Antidumping Duty Order

The Department has corrected the ministerial error in Interlink's margin calculation as follows: where the foreign market value (FMV) had been incorrectly based on an average of the factors of production for both SMW and the other Russian producer Avisma Titanium-Magnesium Works, the FMV now is based solely on SMW's factors of production. As a result the Department is amending its final determination and antidumping duty order of pure magnesium from the Russian Federation. The ad valorem weighted-average dumping margin for Interlink is as follows:

Interlink/Avisma—0.00

Interlink/SMW—0.00

Interlink/Other—100.25

This notice constitutes the amended antidumping duty order with respect to pure magnesium from the Russian Federation. 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.

This order are published in accordance with section 736(a) of the Act and 19 CFR 353.28(c).

Dated: December 14, 1995.

Barbara R. Stafford,

Deputy Assistant Secretary for Import Administration.

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