

will instruct the CBP to terminate the retroactive suspension of liquidation, between August 30, 2003, (90 days prior to the date of publication of the preliminary determination) and November 28, 2003, which was instituted due to the preliminary affirmative critical circumstances finding. The CBP shall also release any bond or other security, and refund any cash deposit required, under section 733(d)(1)(B) of the Act with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 733(e)(2) of the Act. For entries on or after November 28, 2003, the CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Weighted-average margin (in percent)
Haier Electric Appliances International Co .....	21.49
Hisense Import and Export Co., Ltd .....	21.49
Konka Group Company, Ltd .....	11.36
Philips Consumer Electronics Co. of Suzhou Ltd .....	21.49
Shenzhen Chaungwei-RGB Electronics Co., Ltd .....	21.49
Sichuan Changhong Electric Co., Ltd .....	24.48
Starlight International Holdings, Ltd .....	21.49
Star Light Electronics Co., Ltd .....	21.49
Star Fair Electronics Co., Ltd ...	21.49
Starlight Marketing Development Ltd .....	21.49
SVA Group Co., Ltd .....	21.49
TCL Holding Company Ltd .....	22.36
Xiamen Overseas Chinese Electronic Co., Ltd .....	4.35
PRC-wide .....	78.45

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

#### Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of

our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 12, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix—Issues in the Decision Memorandum

##### Comments

##### General Issues

- Market-Oriented Industry (MOI) Claim
- Respondent Selection
- Critical Circumstances
- Updating the PRC Labor Rate
- Indian Imports of Small Quantities
- Surrogate Value for Electricity
- Market Economy Purchases from Indonesia, Korea, and Thailand
- Market-Economy Purchases from Hong Kong Trading Companies
- Surrogate Value Data Obtained from [www.infodriveindia.com](http://www.infodriveindia.com)
- Using Market-Economy Purchases Made by one PRC Respondent to Value the Factors of Production for Other PRC Respondents
- Surrogate Value for 25-inch Curved CPTs
- Surrogate Value for 29-inch CPTs
- Surrogate Value for Speakers
- Selection of the Appropriate Surrogate Financial Statements
- Adjustments to the Surrogate Financial Ratios to Account for Freight, Price Adjustments, Non-Applicable Selling Expenses, Packing, and Taxes

- Adjustments to the Surrogate Factory Overhead Ratios
  - Additional Adjustments to the Surrogate Financial Ratios for BPL, Onida Saka, and Videocon
  - Additional Adjustments to the Surrogate Financial Ratios for Calcom, Kalyani and Matsushita
  - Additional Adjustment to the Surrogate Financial Ratios to Account for Selling, General, and Administrative (SG&A) Labor
  - Treatment of Finished Goods in the Surrogate Financial Ratio Calculations
  - Weighted- vs. Simple-Average Surrogate Financial Ratios
  - Clerical Errors in the Preliminary Determination
  - Corrections Arising from Verification
- Company-Specific Issues*
- New Factual Information in Changhong's Surrogate Value Submission
  - Changhong Market-Economy Purchases
  - Date of Sale for Konka
  - TCL's Unreported U.S. Sales
  - TCL's Brokerage and Handling Expenses
  - Surrogate Value for TCL's Magnetic Circle Inductors
  - Surrogate Value for TCL's Aluminum and Iron Heat Sinks and Heating Plates
  - Distance from TCL's Factory to TCL Hong Kong
  - TCL's Energy Consumption
  - Use of TCL's "Actual" SG&A Rate
  - Use of Total Adverse Facts Available for XOCECO
  - Screen Type Code for XOCECO
  - XOCECO's U.S. Warranty Expenses
  - XOCECO's U.S. Warehousing and Other Transportation Expenses
  - XOCECO's Supplier Distances and Supplier Modes of Transportation
  - Reclassification of Certain of XOCECO's Components as "Miscellaneous"
  - XOCECO's Packed Weights
  - Offset for Sales of Tin Scrap Generated During XOCECO's Production Process
  - Labor Hours for XOCECO's Printed Circuit Board (PCB) Factory
  - XOCECO's Projection Factory Weights
  - XOCECO's Electricity Consumption

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-122-814

#### Pure Magnesium from Canada; Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Review

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

**ACTION:** Notice of Preliminary Results of the 2002-2003 Administrative Review.

**SUMMARY:** In response to requests from interested parties, the Department of

Commerce is conducting an administrative review of the antidumping duty order on pure magnesium from Canada with respect to Norsk Hydro Canada Inc. The period of review is August 1, 2002 through July 31, 2003.

We preliminarily find that, during the period of review, sales of pure magnesium from Canada were not made below normal value. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs and Border Protection not to assess antidumping duties. We invite interested parties to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** April 16, 2004.

**FOR FURTHER INFORMATION CONTACT:** Julie Santoboni or Scott Holland, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-4194 or (202) 482-1279, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 31, 1992, the Department of Commerce ("the Department") published in the **Federal Register** (57 FR 39390) an antidumping duty order on pure magnesium from Canada. On August 1, 2003, the Department published a notice in the **Federal Register** of the opportunity for interested parties to request an administrative review of the antidumping duty order on pure magnesium from Canada. See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspend Investigation* (68 FR 45218). On August 26, 2003, U.S. Magnesium, LLC ("the petitioner") requested an administrative review of imports of the subject merchandise produced by Norsk Hydro Canada, Inc. ("NHCI") and Magnola Metallurgy Inc. ("Magnola"), both Canadian exporters/producers of the subject merchandise.

On September 2, 2003, Magnola reported that it had no shipments of subject merchandise to the United States during the August 1, 2002, through July 31, 2003, period of review ("POR"). See "*Partial Rescission*" section, below.

On September 3, 2003, NHCI requested that the Department reject the petitioner's request for administrative review because the submission failed to meet the minimal requirements as described in 19 CFR 351.213(b)(1). On

October 1, 2003, we determined that the petitioner's review request sufficiently met the Department's requirements pursuant to 19 CFR 351.213(b)(1). See the October 1, 2003, memorandum to Susan Kuhbach, "Petitioner's Request for Initiation in the 2002/2003 Antidumping Administrative Review," which is on file in the Department's Central Records Unit ("CRU").

In accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on September 30, 2003, with respect to NHCI and Magnola. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review*, (68 FR 56262).

On October 9, 2003, the Department issued an antidumping duty questionnaire to NHCI. On November 21, 2003, we received NHCI's questionnaire response. We issued a supplemental questionnaire to NHCI on January 9, 2004, and received the response on February 6, 2004.

On December 11, 2003, in accordance with 19 CFR 351.301(d)(2)(ii), the petitioner filed an allegation that NHCI had made sales below the cost of production ("COP") during the POR. NHCI submitted objections to the allegation in December 2003, and January and February 2004. The petitioner filed responses to NHCI's objections in December 2003 and January 2004. We found that the petitioner did not provide a reasonable basis to believe or suspect that NHCI sold pure magnesium in the home market at prices below the COP during the POR. See the February 18, 2004, memorandum to Susan Kuhbach, "Allegation of Sales Below Cost of Production." Accordingly, we did not initiate a sales-below-COP investigation.

**Scope of the Order**

The merchandise covered by this review is pure magnesium. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope currently classifiable under subheading 8104.11.0000 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

**Partial Rescission**

In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding this review with respect to Magnola, which reported that it made no shipments of subject merchandise during this POR. We examined shipment data furnished by U.S. Customs and Border Protection ("CBP") and are satisfied that the record does not indicate that there were U.S. shipments of subject merchandise from Magnola during the POR.

**Fair Value Comparisons**

To determine whether sales of pure magnesium by NHCI to the United States were made at less than normal value ("NV"), we compared, as appropriate, export price ("EP"), to NV, as described in the "*Export Price*" and "*Normal Value*" sections below. In accordance with 19 CFR 351.414(c)(2), we compared individual EPs to weighted-average NVs, which were calculated in accordance with section 777A(d)(2) of the Tariff Act of 1930, as amended ("the Act").

**Product Comparisons**

In accordance with section 771(16) of the Act, we considered all products produced and sold by NHCI in the home market during the POR that fit the description in the "Scope of the Order" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of identical merchandise in the home market made in the ordinary course of trade. To determine the appropriate product comparisons, we considered the following physical characteristics of the products: ASTM specification code, purity, format, size and grade.

**Export Price**

For sales to the United States, we used EP, as defined in section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. The use of constructed export prices was not warranted based on the facts of the record. EP was based on the packed price to unaffiliated purchasers in the United States. We made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: inland freight from the plant to the distribution warehouse; pre-sale warehousing expense; inland freight from the distribution warehouse to the unaffiliated customer; and foreign brokerage and handling.

## Normal Value

### A. Home Market Viability

In order to determine whether there was a sufficient volume of sales of pure magnesium in the home market to serve as a viable basis for calculating NV, we compared NHCI's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provided a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

We calculated NV based on the price to unaffiliated customers in the home market. We adjusted the starting price for billing adjustments, where appropriate. We made adjustments, consistent with section 773(a)(6)(B)(ii) of the Act, for the following movement expenses: inland freight from the plant to the distribution warehouse; warehousing expense; and inland freight from the plant/warehouse to the customer. In addition, we made adjustments for differences in circumstances of sale ("COS") in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on home market sales (credit expenses) and adding U.S. direct selling expenses (credit expenses). We also deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act. We disregarded two home market sales that were made outside the ordinary course of trade, consistent with section 771(15) of the Act and 19 CFR 351.102, because either the sale was made for non-commercial purposes or the sale was a sample sale that was not made in substantial quantities. See February 6, 2004, Supplemental Questionnaire Response submitted by NHCI.

### 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 reported by the Federal Reserve Bank.

## Preliminary Results of the Review

As a result of this review, we preliminarily find that NHCI's percentage weighted-average margin for the period August 1, 2002, through July 31, 2003, is 0.01 percent, *de minimis*.

### Assessment Rates and Cash Deposit Requirements

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent), the Department will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

Pending the final disposition of a NAFTA panel review, the Department will not order the liquidation of entries of pure magnesium from Canada exported by NHCI on or after August 1, 2000, at this time.<sup>1</sup> Liquidation will occur following the final judgement in the NAFTA panel appeals process.

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of pure magnesium from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required for the company if its weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or a previous review, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is

<sup>1</sup> See January 28, 2003, letter from the Department granting NHCI's October 23, 2002, request for the continuation of suspension of liquidation covering all unliquidated entries of subject merchandise exported by NHCI on or after August 1, 2000.

not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 21 percent, the "all others" rate established on November 29, 1993, in *Pure Magnesium from Canada; Amendment of Final Determination of Sales At Less Than Fair Value and Order in Accordance With Decision on Remand* (58 FR 62643)

### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held 37 days after the publication of this notice, or the first business day thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of the preliminary results.

### 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.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 9, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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