

received in the home market and are not changing our *Final Results*.

With regard to the Petitioners similar argument regarding sales where there was no date of payment (PAYDTU) in the U.S. market, we disagree. We agree with UGINE that the date of payment reported was based on an accounts-receivable turnover methodology because Hague was not able to identify the date of payment on a sales-specific basis. Furthermore, the credit period for sales made by Hague was determined

based on this same methodology. At the U.S. market verification, we verified this methodology and found no discrepancies. See *U.S. Market Verification Report* at 18. This fact was not disputed by the Petitioners. Therefore, for the *Final Results*, we have not changed the date of payment used by Hague.

Therefore, we are amending the *Final Results* to reflect the correction of the above-cited ministerial errors. All changes made to the arm's length test,

model match and margin program can be found in the analysis memorandum. See *Memorandum to the File from Alex Villanueva, Senior Case Analyst to James C. Doyle, Program Manager, Final Analysis for UGINE S.A. for the Amended Final Results of the 2nd Administrative Review Stainless Steel Sheet and Strip in Coils from France for the period July 1, 2000 through June 30, 2001*, dated January 20, 2003.

The weighted-average dumping margin is as follows:

Producer/Manufacturer Exporter	Final Weighted-Average Margin (percent)	Amended Final Weighted Average Margin (percent)
UGINE, S.A.	1.47	1.44

Consequently, we are issuing and publishing these amended final results and notice in accordance with sections 751(a)(1) of the Act.

Dated: January 17, 2002.

Faryar Shirzad,
Assistant Secretary for Import Administration.

[FR Doc. 03-1902 Filed 1-27-03; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-815]

Alloy Magnesium from Canada: Preliminary Results of Countervailing Duty New Shipper Review

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

ACTION: Notice of Preliminary Results of Countervailing Duty New Shipper Review.

SUMMARY: In response to a request from Magnola Metallurgy, Inc., the Department of Commerce is conducting a new shipper review of the countervailing duty order on alloy magnesium from Canada for the period January 1, 2001 through December 31, 2001. In these preliminary results, we find that Magnola Metallurgy, Inc. received countervailable subsidies during the period of review. *The ad valorem* rate is shown in the "Preliminary Results of Review" section of this notice. If these preliminary results are adopted in our final results, we will instruct the Customs Service to assess countervailing duties.

Interested parties are invited to comment on these preliminary results (see the Public Comment section of this notice).

EFFECTIVE DATE: January 28, 2003.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, Office 1, Group 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-4987.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1992, the Department of Commerce ("Department") published in the **Federal Register** the countervailing duty orders on pure magnesium and alloy magnesium from Canada. See *Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 39392 (July 13, 1992) ("*Investigation Final*"). On February 28, 2002, the Department received a timely request for a new shipper review from Magnola Metallurgy, Inc. ("Magnola") pursuant to 19 CFR 351.214(d). On March 27, 2002, the Department initiated the new shipper review for the period January 1, 2001 through December 31, 2001. See *Pure and Alloy Magnesium From Canada: Notice of Initiation of New Shipper Countervailing Review*, 67 FR 15794 (April 3, 2002). On May 8, 2002, U.S. Magnesium,¹ ("the petitioner") submitted allegations of countervailable subsidies received by Magnola. Magnola commented on these allegations on May 15, 2002.

On July 10, 2002, the Department issued its initial countervailing questionnaires to Magnola, the Government of Québec ("GOQ"), and the Government of Canada ("GOC"). We received questionnaire responses from

the GOQ and the GOC on August 15, 2002, and from Magnola on August 16, 2002. Subsequent to the receipt of the initial questionnaire responses, we issued supplemental questionnaires, received comments from the petitioners, and received supplemental questionnaire responses from the GOQ, the GOC, and Magnola.

On September 13, 2002, the Department found that because of the complexity of the issues involved in this case it was not practicable to complete the review in the time allotted. Therefore, we published an extension of the time limit for the completion of the preliminary results of this review to no later than January 21, 2003, in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(h)(2). We also rescinded the review with respect to pure magnesium because Magnola's request for the new shipper review was for Magnola's sales of alloy magnesium from Canada only. See *Alloy Magnesium from Canada: Extension of Time Limit for the Preliminary Results of the Countervailing Duty New Shipper Review and Pure Magnesium from Canada; Rescission of Countervailing Duty New Shipper Review*, 67 FR 50819 (September 13, 2002).

New Subsidy Allegation

On August 9, 2002, the petitioner submitted a new subsidy allegation and documentation supporting the allegation. On August 19 and September 3, 2002, Magnola submitted comments objecting to the consideration of new subsidies. We considered the information on the record and initiated an investigation on one additional program allegedly operated by the GOQ: Emploi-Québec Manpower Training Mandate ("MTM"). For more information, see the memorandum to Richard Moreland, Deputy Assistant Secretary entitled, "New Subsidy

¹The original petition was filed by Magnesium Corporation of America, ("Magcorp"). On July 31, 2002, the petitioner informed the Department that Magcorp had been sold to U.S. Magnesium.

Allegation - Canadian Magnesium New Shipper Review," dated September 6, 2002, which is on file in the Commerce Department's Central Records Unit in Room B-099 of the main Commerce Department Building ("CRU").

Scope of the Review

The products covered by this review are shipments of alloy magnesium from Canada. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes. The alloy magnesium subject to review is currently classifiable under item 8104.19.0000 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Secondary and granular magnesium are not included in the scope of this order. Our reasons for excluding granular magnesium are summarized in *Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada*, 57 FR 6094 (February 20, 1992).

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life ("AUL") of the renewable physical assets used to produce the subject merchandise. Section 351.524(d)(2) of the regulations creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System ("the IRS Tables"). For magnesium, the IRS Tables prescribe an AUL of 14 years.

In order to rebut the presumption in favor of the IRS Tables, the challenging party must show that the IRS Tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry in question, and that the difference between the company-specific or country-wide AUL and the IRS tables is significant. (See 19 CFR 351.524(d)(2)(i).) For this difference to be considered significant, it must be one year or greater. (See 19 CFR 351.524(d)(2)(ii).)

Late in these proceedings, Magnola claimed a 28-year company-specific AUL. The company was unable to provide historical or actual depreciation costs because it was still in its start-up phase and not yet operating at commercial levels. Instead, Magnola

provided an AUL calculation based on a prediction of future depreciation expenses and asset values (based on pre-production costs) over a 40-year horizon. Therefore, we preliminarily find that Magnola has not satisfied the requirements of section 351.524(d)(2)(iii) of our regulations and has not demonstrated that its proposed company-specific AUL reflects actual depreciation expenses and asset values for magnesium. We therefore have allocated Magnola's non-recurring benefits over 14 years as prescribed in the IRS Tables.

For non-recurring subsidies, we applied the "0.5 percent expense test" described in section 351.524(b)(2) of our regulations. In this test, we compare the amount of subsidies approved under a given program in a particular year to sales (total or export, as appropriate) in that year. If the amount of subsidies is less than 0.5 percent of sales, the benefits are expensed in their entirety in the year of receipt rather than allocated over the AUL period.

Discount Rates

In accordance with section 351.524(d)(3) of the regulations, it is the Department's preference to use a company's long-term fixed-rate cost of borrowing in the same year a grant was approved as the discount rate. However, where a company does not have a loan that could be used as a discount rate, the Department's next preference is to use the average cost of long-term fixed-rate loans in the country in question.

Magnola did not have long-term, fixed-rate, Canadian dollar loans or other debt obligations during 1998 or 2000, the years in which the MTM grants were approved. Therefore, we used the Canadian average rate of return on long-term commercial bonds as discount rates for the years 1998 and 2000.

Analysis of Programs

I. Program Preliminarily Found to Confer Countervailable

• Subsidies Emploi-Québec Manpower Training Mandate ("MTM")

Emploi-Québec ("E-Q") is a labor-focused government unit created under the laws of Québec that administers the manpower and employment policies on behalf of Québec's Ministry of Employment and Solidarity (*Ministère de L'Emploi et de la Solidarité sociale*). The goal of the E-Q is to improve and develop the labor market in the region of Québec. To accomplish this goal, in 1998 the MTM program was established to provide financial support, in the form of grants, to companies with approved

training programs. Up to 50 percent of a company's training expenses, normally over a period of 24-months, are reimbursed under the MTM program with funding from the Labor Market Development Fund (*Fonds de développement du marché du travail*) ("LMDF"), a central fund established by the Government of Québec to finance the labor objectives of the E-Q. With the exception of government-affiliated agencies, companies in all industries are eligible for these benefits.

Under the MTM program, there are two funding levels under which companies may receive reimbursement of labor training expenses: small-scale economic projects and major economic projects. Projects at both funding levels must satisfy the E-Q's five policy objectives of job preparation, job integration, job management, job stabilization, and job creation, before becoming eligible for reimbursement. Once the five objectives are met, companies are eligible to receive reimbursement of 50 percent of their labor training expenses. Small-scale project recipients are eligible to receive a maximum reimbursement of \$100,000.

The \$100,000 reimbursement limit does not apply to major economic projects. However, major economic projects are required to: 1) create either 50 jobs or 100 jobs in 24 months, depending on whether the company is a new company or a company that has been in operation; 2) have the approval of the Ministry's *Commission des partenaires du marché du travail* ("CPMT"); and 3) agree to close monitoring by the E-Q. The LMDF sets aside \$40 million annually to finance major economic projects and while all industries are eligible to receive funding, priority is given to manufacturing sectors where exporting is a priority and to projects from the service, commerce and accommodation sectors, if they have the potential to attract an international clientele or foreign business to Québec.

In 1998, Magnola submitted a human resource development plan to the E-Q that described its new magnesium plant, the new technology it would be using and the training programs that Magnola needed to develop a sufficiently skilled workforce. Magnola met the criteria for eligibility as a major economic project. In 1998 and 2000, the E-Q approved grants to reimburse 50 percent of Magnola's training expenses.

Because there are two funding levels in the MTM program, we are conducting an analysis to determine if the two levels are integrally linked and should be treated as one program. According to § 351.502(c) of the Department's

regulations, the Secretary may find two or more programs integrally linked if: 1) the subsidy programs have the same purpose, 2) the subsidy programs bestow the same type of benefit, 3) the subsidy programs confer similar levels of benefits on similarly situated firms, and 4) the subsidy programs were linked at inception.

In the instant review we find that both the small-scale economic projects and the major economic projects were established under the MTM program to improve the labor conditions in Québec and hence, have the same purpose. Second, the benefit bestowed at both funding levels is the same because at both funding levels recipients are reimbursed for 50 percent of training expenses in the form of grants. Moreover, at both funding levels, the projects confer similar levels of benefits on similarly situated firms because firms with similar levels of training expenses are treated equally. Finally, with respect to the fourth criteria, the two funding levels were linked at the inception of the MTM program. Based on the above, we find that the two funding levels of the MTM program meet the integral linkage requirements. Consequently, for purposes of this review, we find that the MTM program for small-scale economic projects and major economic projects are integrally linked and consider them to be a single program.

We find that the MTM grants Magnola received in 1998 and 2000 constitute countervailable subsidies within the meaning of section 771(5) of the Act. We find a financial contribution under section 771(5)(D)(i) because the grants are a direct transfer of funds from the GOQ that confer a financial benefit to Magnola in the amount of the grants. In order to determine whether the MTM program is *de facto* specific, we conducted a "disproportionate benefit" analysis on an industry-specific and on a company-specific basis according to section 771(5A)(D)(iii)(III) of the Act. We reviewed the information available on the industry of recipients in the MTM program and compared the benefit amount received by the metals industry to the amounts received by all other recipient industries. We found that from 1998 through 2001, the metals industry received a disproportionately large amount of MTM benefits compared to other industries.

We then conducted a company-specific analysis by comparing the benefits received by Magnola to those received by other major economic project recipients, the only recipients for which we had company-specific data. We found that from 1998 through

2001, Magnola received a disproportionately large amount of benefits compared to other major economic project recipients. While the company-specific analysis was based on major economic project recipients only, we note that based on the amount of funding received by small-scale project recipients, the inclusion of small scale projects would not have had a significant impact on our analysis. Taken together, these facts support a finding under section 771(5A)(D)(iii)(III) of the Act, that the MTM program assistance received by Magnola was disproportionate on an industry-specific and company-specific basis.

Concerning whether this program is an export subsidy, section 771(5A) of the Act states that an export subsidy "is a subsidy that is, in law or in fact, contingent upon export performance, alone or as one of two or more conditions." In this review, the petitioner alleged the MTM program is export specific, citing to language in the MTM regulations that state that funding for projects "from the manufacturing sector, where production is mainly destined to export is given priority...."

We reviewed this information with respect to section 771(5A)(B) of the Act and found that the MTM regulations do not meet the requirements of an export subsidy because MTM assistance was not contingent upon exportation. In this instance, we find that the term "export" used in the MTM regulations refers to exports outside the province of Québec and not to exports outside Canada. Moreover, there is no evidence on the record to support the finding that eligibility for MTM assistance was contingent upon exportation, whether provincially or outside Canada. The fact that a subsidy is awarded to a company that exports does not, by itself, make the subsidy an export subsidy within the meaning of the Act. *See Preliminary Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring from Canada*, 61 FR 59079 (November 20, 1996). Therefore, we preliminarily find that the MTM program is neither *de facto* nor *de jure* export specific.

In accordance with 19 CFR 351.524(c)(1) and (2), we have treated these grants as non-recurring subsidies because separate, project specific government approval was required to receive benefits, and funding for all projects under the MTM program was generally limited to 24 months. To calculate the benefit, we performed the expense test, as explained in the AUL section above, and found that the benefits approved in each year were more than 0.5 percent of Magnola's total

sales. Therefore, we allocated the benefits over time. We used the grant methodology described in section 351.524(d) of the regulations to calculate the amount of benefit allocable to the POR. We then divided the benefit in the POR by Magnola's sales in the POR.

On this basis, we preliminarily find the net subsidy rate from the MTM program to be 7.00 percent *ad valorem* for Magnola.

II. Programs under which no benefit was received during the POR

• Federal Funding for a Feasibility Study under the Canada-Quebec Subsidiary Agreement on Industrial Development

The Department examined this program in the original investigations of pure and alloy magnesium and found that the GOC-provided assistance conferred a countervailable benefit. (*See Investigation Final*). Magnola received repayable contributions in 1996 and 1997, which were repaid to the GOC in 1998, with interest. Therefore, since Magnola repaid the benefits received prior to the POR, and no new funds were received during the POR, we find there is no benefit from this program during the POR.

III. Programs Preliminarily Found To Be Not Used

We examined the following programs and preliminarily find that Magnola did not apply for or receive benefits under these programs during the POR:

- St. Lawrence River Environment Technology Development Program
- Program for Export Market Development
- The Export Development Corporation
- Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec
- Opportunities to Stimulate Technology Programs
- Development Assistance Program
- Industrial Feasibility Study Assistance Program
- Export Promotion Assistance Program
- Creation of Scientific Jobs in Industries
- Business Investment Assistance Program
- Business Financing Program
- Research and Innovation Activities Program
- Export Assistance Program
- Energy Technologies Development Program
- Financial Assistance Program for Research Formation and for the Improvement of the Recycling Industry
- Transportation Research and Development Assistance Program

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated a subsidy rate for Magnola, the sole producer/exporter subject to this new shipper review. For the period January 1, 2001, through December 31, 2001, we preliminarily find the net subsidy rate for Magnola to be 7.00 percent *ad valorem*. We will disclose our calculations to the interested parties pursuant to section 351.224(b) of the regulations.

Upon completion of this new shipper review, the Department will determine, and the Customs Service shall assess, countervailing duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(2), we have calculated a company-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the company's entries during the review period. The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties at the rate of 7.00 percent on the f.o.b. value of all shipments of the subject merchandise from Magnola entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this new shipper review.

Public Comment

Interested parties may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs (*see below*). Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. Parties who submit briefs in these proceedings should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later

than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due.

The Department will publish a notice of the final results of this new shipper review within 90 days of the publication of these preliminary results.

This new shipper review and notice is in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: January 21, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03-1898 Filed 1-27-03; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011503A]

Marine Mammals and Endangered Species; File No 369-1440-01 and 1409

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

ACTION: Receipt of application for amendment and receipt of application for permit.

SUMMARY: Notice is hereby given that:

Dr. Bruce R. Mate, Oregon State University, has requested an amendment to scientific research Permit No. 369-1440-01; and

Karen G. Holloway-Adkins, Executive Director of East Coast Biologists, Inc., Indialantic, FL 32903, has applied for a scientific research permit.

DATES: Written or telefaxed comments must be received on or before February 27, 2003.

ADDRESSES: The amendment request, application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376;

(Permit 369-1440) - Assistant Regional Administrator for Protected Resources, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9346; fax (978)281-9371; and

(Permit 369-1440 and File No. 1409) - Assistant Regional Administrator for Protected Resources, Southeast Region,

NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432; phone (727)570-5312; fax (727)570-5517.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT:

Ruth Johnson, Carrie Hubard or Amy Sloan (301)713-2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 369-1440-01, issued on September 18, 1998 (63 FR 52686) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

Permit No. 369-1440-01 (Dr. Mate) authorizes the permit holder to: (1) approach to tag/biopsy sample, photograph and evaluate tag attachment on seven species of large whales; (2) opportunistically photograph an unlimited number of cetaceans and pinnipeds; (3) conduct research in the North Pacific, North Atlantic and International waters thereof; and (4) import/export samples for genetic analysis. The permit holder now requests authorization to conduct tagging/biopsy sampling on up to 24 fin whales (*Baleanoptera physalus*) in the Mediterranean Sea.

Ms. Holloway-Adkins (File No. 1409) requests a permit to take 100 green sea turtles (*Chelonia mydas*) and 10 loggerhead sea turtles (*Caretta caretta*) annually for scientific research. Turtles will be captured, handled, measured, weighed, flipper and PIT tagged, and lavaged. The research will characterize the turtle aggregations using the nearshore reefs in central Brevard County as developmental habitat, their