

period December 1, 2004 to November 30, 2005.

Notification to Parties

This notice serves as a reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of time. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties. 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 section 351.305(a)(3) of the Department's regulations. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with section 351.213(d)(4) of the Department's regulations and sections 751(a) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: April 4, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-5192 Filed 4-7-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-832

Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") is conducting the administrative review of the antidumping duty order on pure magnesium from the People's Republic of China ("PRC") covering the period May 1, 2004, through April 30, 2005. We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs

and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("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.

EFFECTIVE DATE: April 10, 2006.

FOR FURTHER INFORMATION CONTACT: Hua Lu or Eugene Degnan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6478 and (202) 482-0414, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on pure magnesium from the PRC for the period May 1, 2004, through April 30, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 70 FR 22631. On May 26, 2005, Tianjin Magnesium International, LTD ("TMI") requested that the Department conduct a new shipper review and an administration review of the antidumping duty order covering pure magnesium from the PRC for entries of subject merchandise produced and exported by TMI. On June 28, 2005, the Department determined that TMI did not meet the requirements under which the Department can initiate a new shipper review. *See Letter from Wendy Frankel to David A. Riggle* (June 28, 2005). On June 30, 2005, the Department published in the **Federal Register** a notice of initiation of the antidumping duty administrative review of pure magnesium from the PRC for the period May 1, 2004, through April 30, 2005, with respect to TMI. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 37749 ("Initiation Notice"). On July 20, 2005, the Department issued its antidumping duty questionnaire to TMI.

In August and September 2005, TMI submitted its questionnaire responses. The Department issued a letter seeking comments on surrogate country selection and surrogate value on August 9, 2005, to which TMI responded on September 28, 2005. On December 7, 2005, the Department selected India as the primary surrogate country. The

Department issued a supplemental questionnaire to TMI in November 2005, to which TMI responded in December 2005. On December 19, 2005, TMI submitted additional surrogate value data. The Department issued a second supplemental questionnaire to TMI and received a response in February 2006.

On January 13, 2006, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review from January 31, 2006, until April 3, 2006. *See Pure Magnesium from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 2188 (January 13, 2006).

Period of Review

The POR is May 1, 2004, through April 30, 2005.

Scope of Order

Merchandise covered by this order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this order. Pure 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 magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as "ultra pure" magnesium);

(2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as "pure" magnesium); and

(3) Products 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 (generally referred to as "off-specification pure" 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 are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.*, length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by this order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Surrogate Value Information

On September 28, 2005, US Magnesium LLC ("Petitioner") and TMI submitted comments on the appropriate surrogate values to be applied to the factors of production ("FOP") in this review. On October 11, 2005, Petitioner submitted comments rebutting certain factual information concerning valuation of the FOP information submitted by TMI. On December 19, 2005, TMI submitted additional surrogate value data. No other party to the proceeding provided comments on surrogate values during the course of this review.

Nonmarket-Economy-Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended ("the Act"), any determination that a foreign 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, From the People's Republic of China: Preliminary Results 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value ("NV") in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV on the NME producer's FOP, 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 FOP, the Department shall utilize, to the extent possible, the prices or costs of FOP 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 comparable merchandise. The sources of the surrogate factor values used in this review are discussed under the "Normal Value" section below and in the memorandum to the file from Hua Lu, Case Analyst, through Robert Bolling, *Preliminary Results of Review of Pure Magnesium from the People's Republic of China: Factors of Production Valuation Memorandum for the Preliminary Results of Review*, dated April 3, 2006 ("Factor Valuation Memorandum").

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See Memorandum from Ron Lorentzen to Robert Bolling: Administrative Review of Pure Magnesium from the People's Republic of China (PRC): Request for a List of Surrogate Countries*, dated July 15, 2005 ("Policy Memo"). Customarily, the Department selects an appropriate surrogate country from the *Policy Memo* based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. In this case, the Department found that India is a significant producer of comparable merchandise. *See Memorandum from Hua Lu through Robert Bolling to Wendy Frankel, Antidumping Administrative Review of Pure Magnesium from the People's Republic of China: Selection of a Surrogate Country*, dated December 7, 2005 ("Surrogate Country Memorandum").

The Department used India as the primary surrogate country, and, accordingly, has calculated NV using Indian prices to value the PRC producers' FOP, when available and appropriate. *See Surrogate Country Memorandum* and *Factor Valuation Memorandum*. The Department has obtained and relied upon publicly available information to value FOP.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in

an antidumping administrative review, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of the preliminary results of review.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

The Department has considered whether each reviewed company based in the PRC is eligible for a separate rate. The Department's separate-rate test to determine whether the exporters are independent from government control 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. The test focuses, rather, on controls over the investment, pricing, and the output decision-making process at the individual firm level. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997), and *Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 60 FR 14725 (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified by *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*"). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. *See Silicon Carbide and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's*

Republic of China, 60 FR 22544 (May 8, 1995).

TMI provided company-specific separate-rates information and stated that it met the standards for the assignment of separate rates. Consequently, the Department analyzed whether TMI should receive a separate rate.

A. 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; or (3) any other formal measures by the government decentralizing control of companies. See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991).

B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998). Therefore, the Department has preliminarily determined that an analysis of *de facto* control is critical in determining whether respondent is, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (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 its 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 *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544 (May 8, 1995).

C. Analysis

TMI placed on the record statements and documents to demonstrate absence of *de jure* control. In its questionnaire responses, TMI reported that it operated on market principles and was run independently and separately from the national, provincial, or local governments, including ministries, or offices of those governments. See TMI's August 10, 2005, Section A questionnaire response ("TMI AQR") at 2. TMI submitted a copy of its business license and stated it is renewed upon expiration of the term by filing an application to renew as long as the company maintains its status, as per the initial certificate. TMI reported that the subject merchandise did not appear on any government list regarding export provisions or export licensing, and the subject merchandise is not subject to export quotas or export control licenses imposed by the PRC government. See TMI AQR at 5. TMI explained that the license imposed no limitations on the operations of TMI, nor created special entitlements to TMI. Furthermore, TMI stated that the Chamber of Commerce played no role in coordinating the export activities of TMI. See TMI AQR at 7. TMI submitted a copy of the Trade Law of the People's Republic of China to demonstrate that it had full rights to import and export. Based upon an examination of TMI's applicable laws and questionnaire responses, and TMI's business license, the Department preliminarily finds that TMI has demonstrated the absence of *de jure* government control over its export activities.

In support of its assertion of an absence of *de facto* government control, TMI reported the following: (1) During the POR, TMI sold the subject merchandise directly to unaffiliated U.S. customers and negotiated prices directly with its customers, and these prices were not subject to review by, or guidance from, any government organization; (2) No organization outside of TMI reviewed, or approved, any aspect of its sales transactions; (3) TMI's owners selected the management, and no government authorities controlled the selection process, or had power to veto selections; and (4) TMI's profits may be retained in the company for further business purposes, or distributed to the shareholders. See TMI AQR at 9. Additionally, TMI explained that the owners of TMI decided how profits were used. Furthermore, TMI stated that it is not required to sell foreign currency earned (or some portion of it) to the government and that it may freely control and use the foreign

currency it earned on sales of the subject merchandise to the United States by further investing the profit in the business, or distributing it to the owners. See TMI AQR at 10. The Department preliminarily finds that TMI has demonstrated the absence of *de facto* government control over its export activities.

The evidence placed on the record of this administrative review by TMI demonstrates the absence of government control, both in law and in fact, with respect to TMI's exports of the merchandise under review. As a result, for the purposes of these preliminary results, the Department is granting a separate, company-specific rate to TMI, the exporter which shipped the subject merchandise to the United States during the POR.

Date of Sale

19 CFR 351.401(i) states that "in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1093 (CIT 2001).

After examining the questionnaire responses and the sales documentation that TMI placed on the record, we preliminarily determine that the invoice date is the most appropriate date of sale for TMI. We made this determination based on record evidence which demonstrates that TMI's invoices establish the material terms of sale. Thus, the record evidence does not rebut the presumption that the invoice date is the proper date of sale. See *Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 67 FR 79054 (December 27, 2002).

Normal Value Comparisons

To determine whether sales of pure magnesium to the United States by TMI were made at less than NV, we compared Export Price ("EP") to NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of

importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for TMI's U.S. sales because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated.

We compared NV to individual EP transactions, in accordance with section 777A(d)(2) of the Act.

We calculated EP for TMI based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, and where applicable, ocean freight and marine insurance. No other adjustments to EP were reported or claimed. See memorandum from Hua Lu, Case Analyst, through Robert Bolling, Program Manager, to the file, *Preliminary Results of Review of the Order on Pure Magnesium from the People's Republic of China: Program Analysis for the Preliminary Results of Review*, dated April 3, 2006.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from a non-market economy country; and (2) the 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. The Department will base NV on FOP because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies.

FOP includes: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used the FOP reported by respondent for materials, energy, labor, by-product, and packing.

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that the Department has reason to believe or suspect may be subsidized. The Department has reason to believe or suspect that prices of inputs from Indonesia, South Korea, and

Thailand may have been subsidized. The Department has found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies; therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), *aff'd*, 104 Fed. Appx. 183 (Fed. Cir. 2004); *Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Administrative Review*, 61 FR 66255 (December 17, 1996), at Comment 1; and *Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review*, 69 FR 61790 (October 21, 2004). The Department is also guided by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100-576 (1988) at 590. Rather, Congress instructed the Department to base its decision on information that is available to it at the time it is making its determination. Therefore, the Department has not used prices from these countries in calculating the Indian import-based surrogate values.

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP reported by respondent for the POR. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, the Department considered the quality, specificity, and contemporaneity of the data. As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for TMI, see *Factor Valuation Memorandum*.

The Department valued the following raw material inputs: ferrosilicon, dolomite, flux, fluorite and sulfur using the weighted-average unit import values derived from the World Trade

Atlas® online ("Indian Import Statistics"), which are published by the Directorate General of Commercial Intelligence and Statistics ("DGCI&S"), Ministry of Commerce of India, are reported in rupees, and are contemporaneous with the POR. See *Factor Valuation Memorandum*. Where the Department could not obtain publicly available information contemporaneous with the POR with which to value FOP, the Department adjusted the surrogate values using the Indian Wholesale Price Index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund.

To value electricity, the Department used values from the International Energy Agency Key World Energy Statistics (2003 edition). Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation. See *Factor Valuation Memorandum*.

The Department valued steam coal using the 2003/2004 Tata Energy Research Institute's Energy Data Directory & Yearbook ("TERI Data"). The Department was able to determine, through its examination of the 2003/2004 TERI Data, that: a) the annual TERI Data publication is complete and comprehensive because it covers all sales of all types of coal made by Coal India Limited and its subsidiaries, and b) the annual TERI Data publication prices are exclusive of duties and taxes. Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation. See *Factor Valuation Memorandum* at page 5.

The Department used Indian transport information in order to value the inland freight cost of the raw materials. The Department determined the best available information for valuing truck freight to be from www.infreight.com. This source provides daily rates from six major points of origin to five destinations in India during the POR. The Department obtained a generally publicly available price quote on the first day of each month of the POR from each point of origin to each destination and averaged the data accordingly. See *Factor Valuation Memorandum* at page 6.

The Department used two sources to calculate a surrogate value for domestic brokerage expenses. The Department averaged December 2003–November 2004 data contained in Essar Steel's February 28, 2005, public version response submitted in the antidumping administrative review of hot-rolled carbon steel flat products from India with February 2004–January 2005 data

contained in Agro Dutch's May 24, 2005, public version response submitted in the antidumping investigation of certain preserved mushrooms from India. The brokerage expense data reported by Essar Steel and Agro Dutch in their public versions is ranged data. The Department first derived an average per-unit amount from the source. Then, the Department averaged the two per-unit amounts to derive an overall average rate for the POR. See *Factor Valuation Memorandum* at page 7.

To value marine insurance, the Department obtained a generally publicly available price quote from <http://www.rjgconsultants.com/insurance.html>, a market-economy provider of marine insurance. See *Factor Valuation Memorandum* at page 7.

To value international freight, the Department obtained a generally publicly available price quote from <http://www.maersksealand.com/HomePage/appmanager/>, a market-economy provider of international freight services. See *Factor Valuation Memorandum* at page 7.

For direct labor, indirect labor, selling, general and administrative expenses ("SG&A") labor, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression-based wage rate as reported on the Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2005, <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 2003, ILO, (Geneva: 2003), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1996 to 2003. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by each respondent.

To value factory overhead, depreciation, SG&A and profit, the Department used the 2004 audited financial statements for an Indian producer of aluminum, Hindalco Industries Limited ("Hindalco"). See *Factor Valuation Memorandum* at page 6 for a full discussion of the calculation of these ratios from Hindalco's financial statements.

TMI reported that it recovered cement clinker from the production of pure magnesium for resale. The Department offset TMI's NV by the amount of cement clinker that TMI sold. See *Factor*

Valuation Memorandum at page 6 for a complete discussion of this issue.

Finally, the Department used Indian Import Statistics to value material inputs for packing which, for TMI, are steel bands and plastic bags. The Department used Indian Import Statistics data for the POR for packing materials. See *Factor Valuation Memorandum* at page 6.

Currency Conversion

The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect as certified by the Federal Reserve Bank on the dates of the U.S. sales.

Weighted-Average Dumping Margins

The weighted-average dumping margin for TMI is as follows:

Exporter/Manufacturer	Weighted-Average Margin (percentage)
TMI	89.05

Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication of this notice. See 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. See 19 CFR 351.309(d). The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette. 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 these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment

instructions directly to CBP upon completion of this review. If these preliminary results are adopted in our final results of review, the Department will direct CBP to assess the resulting rate against the entered customs value for the subject merchandise on each importer's/customer's entries during the POR. Additionally, the Department will instruct CBP to assess antidumping duties for rescinded companies at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(I).

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed in the final results of review (except where the rate for a particular company is *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 108.26 percent, the current PRC-wide rate; and (4) the cash deposit rate for all non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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.

The Department is issuing and publishing these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b).

Dated: April 3, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-5191 Filed 4-7-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-122-838

Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada

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

SUMMARY: In response to a request from Ivis Partners Ltd. (IVIS), the Department of Commerce is initiating a changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada.

EFFECTIVE DATE: April 10, 2006.

FOR FURTHER INFORMATION CONTACT:

Constance Handley or David Layton, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0631 or (202) 482-0371, respectively.

SUPPLEMENTARY INFORMATION:

Background:

On May 22, 2002, the Department of Commerce (Department) issued the antidumping duty order on certain softwood lumber products from Canada. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products From Canada*, 67 FR 36067 (May 22, 2002). On February 16, 2006, IVIS requested that the Department initiate a changed circumstances review, in accordance with section 351.216 of the Department's regulations, to confirm that IVIS is the successor-in-interest to Ivis Wood. In its request, IVIS stated that it purchased Ivis Wood, including equipment and inventory, and provided supporting documentation.

Scope of the Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under subheadings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the

United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

- (1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;
- (2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;
- (3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and
- (4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise subject to this order is dispositive.

As specifically stated in the Issues and Decision Memorandum accompanying the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) (see comment 53, item D and comment 57, item B-7) available at www.ia.ita.doc.gov/frn, drilled and notched lumber and angle cut lumber are covered by the scope of this order.

The following softwood lumber products are excluded from the scope of this order provided they meet the specified requirements detailed below:

- (1) *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.
- (2) *Box-spring frame kits*: if they contain the following wooden pieces - two side rails, two end (or top) rails and varying numbers of

slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1" in actual thickness or 83" in length.

- (3) *Radius-cut box-spring-frame components*, not exceeding 1" in actual thickness or 83" in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.
- (4) *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1" or less in actual thickness, up to 8" wide, 6' or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4 inch or more.
- (5) *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: 1) the processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and 2) if the importer establishes to the satisfaction of U.S. Customs and Border Protection (CBP) that the lumber is of U.S. origin.
- (6) *Softwood lumber products contained in single family home packages or kits*¹, regardless of tariff classification, are excluded from the scope of this order if the importer certifies to items 6 A, B, C, D, and requirement 6 E is met:
 - A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;
 - B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams,

¹ To ensure administrability, we clarified the language of exclusion number 6 to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.