survey protocols and other information provided by Brazil relative to its system to establish freedom, phytosanitary measures to maintain freedom, and system for the verification of the maintenance of freedom. We solicited comments on the notice for 60 days ending on May 2, 2008. We received five comments by that date, from a produce wholesaler, a fresh fruit importer, two melon producers/exporters, and the director of a Brazilian fruit fly rearing facility. All of the commenters supported the recognition of the 7 municipalities in the State of Ceará and 13 municipalities in the State of Rio Grande do Norte as pest-free areas for the South American cucurbit fly (*Anastrepha grandis*).

In accordance with § 319.56–5(c), we are announcing the Administrator's determination that the municipalities of Aracati, Icapuí, Itaiçaba, Jaguaruana, Limoeiro do Norte, Quixeré, and Russas in the State of Ceará and the municipalities of Açu, Afonso Bezerra, Alto do Rodrigues, Areia Branca, Baraúna, Camaubais, Grossos, Ipanguaçu, Mossoró, Porto do Mangue, Serra do Mel, Tibau, and Upanema in the State of Rio Grande do Norte meet the criteria of § 319.56–5(a) and (b) with respect to freedom from *A. grandis*. Accordingly, we are recognizing those municipalities as pest-free areas for *A. grandis* and have added them to the list of pest-free areas. You may view the list of pest-free areas on the Internet by going to *http://www.aphis.usda.gov/import_export/plants/manuals/ports/index.shtml* and selecting the link for designated pest-free areas under the heading ''Plant Importation Manuals.''

Done in Washington, DC, this 3rd day of June 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–12855 Filed 6–6–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration (EDA).

Title: Revolving Loan Fund Reporting and Compliance Requirements.

Form Number(s): ED–209 (replaces ED–209S and ED–209A), ED–209I.

OMB Approval Number: 0610–0095.

Type of Review: Regular submission.

Burden Hours: 3,679.

Number of Respondents: 584.

Average Hours Per Response: ED–209, 2 hours and 54 minutes; and ED–209I, 15 minutes.

Needs and Uses: The mission of the Economic Development Administration (EDA) is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. One of EDA's seven economic development programs is the Revolving Loan Fund (RLF) Program. EDA may award competitive grants to units of local government, state governments, institutions of higher education, public or private non-profit organizations, district organizations, and tribal governments to establish RLFs. Following grant award and fulfillment of EDA's pre-disbursement requirements, an RLF grantee may disburse grant funds to make loans at interest rates that are at or below current market rate to small businesses or to businesses that cannot otherwise borrow capital. As the loans are repaid, the grantee uses a portion of interest earned to pay for administrative expenses and adds remaining principal and interest repayments to the RLF's capital base to make new loans. The information contained in the ED–209, ED–209I, and RLF Plan, submitted by the grantee, will be used by EDA personnel to monitor the compliance of RLF grantees with legal and programmatic requirements, and to ensure that EDA exercises adequate fiduciary responsibility over its portfolio.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; state, local or tribal government.

Frequency: Semi-annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Roster, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 4, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–12801 Filed 6–6–08; 8:45 am]

BILLING CODE 3510–34–P

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, 2006, through April 30, 2007. 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 intend to issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: June 9, 2008.

FOR FURTHER INFORMATION CONTACT: Eugene Degnan or Robert Bolling, 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) 482–0414 and (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2007, 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, 2006, through April 30, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request*

Administrative Review, 72 FR 23796. On May 25, 2005, US Magnesium LLC (''US Magnesium'' or ''Petitioner'') requested that the Department conduct an administrative review of Tianjin Magnesium International, Co.'s (''TMI's'') exports of pure magnesium to the United States during the period May 1, 2006, through April 30, 2007. On May 30, 2007, TMI filed a request for review of its exports, and requested a one–year deferral[1] of initiation contending that because TMI began shipping late in the POR, consolidating its shipments with the next review would be more efficient than conducting two reviews. On May 31, 2007, Shanxi Datuhe Coke & Chemicals Co., Ltd. (''Datuhe'') requested that the Department conduct an administration review of its sales of pure magnesium to the United States during the POR. On June 20, 2007, TMI filed a letter stating the deferral should be granted as there was no objection by any party within the 15–day regulatory deadline. On June 28, 2007, Economic Consulting Services LLC (''ECS'') submitted a letter stating that, as the lead firm representing Petitioner, it had not been served with TMI's request for an administrative review and deferral of that review, and was not aware of this request until TMI's June 20, 2007, submission. ECS stated it has long been the lead representative for Petitioner and, because it was not notified of TMI's deferral request, asked that the Department: (1) reject TMI's request for the deferral as improperly served; or (2) grant US Magnesium an extension of time to file an objection to TMI's deferral request. On June 29, 2007, we initiated an administrative review of the order on pure magnesium with respect to Datuhe, but deferred initiating a review with respect to TMI because no party objected to TMI's deferral request within 15 days. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 35690. On July 6, 2007, TMI responded to ECS's request, stating that: (1) it properly served the *legal* representative of US Magnesium (*i.e.*, King & Spalding); as ECS is not the *legal* representative, it has no standing to make a valid claim regarding service; and (2) as the May 25, 2007, request for review was submitted by ECS, not a legal representative of the domestic party, the request should be removed from the record. On September 26, 2008, the Department issued a memorandum granting Petitioner an extension of time to file an objection to the request of TMI to defer the initiation of the administrative review with respect to TMI. *See* Memorandum to the File: ''Granting Petitioner an Extension of Time to File an Objection to Respondent's Deferral Request,'' dated September 26, 2007. On September 28, 2007, Petitioner objected to TMI's deferral request. On January 28, 2008, 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, 2006, through April 30, 2007, with respect to TMI. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 4831.

On September 4, 2007, the Department issued its antidumping duty questionnaire to Datuhe. On October 2, 2007, and October 25, 2007, Datuhe submitted its questionnaire responses. The Department issued a supplemental questionnaire to Datuhe on January 8, 2008, to which Datuhe responded on February 8, 2008. On May 9, 2008, the Department issued the second supplemental questionnaire to Datuhe and received a response on May 15, 2008.

On September 27, 2007, the Department issued its antidumping duty questionnaire to TMI. On November 8, 2007, and December 11, 2007, TMI submitted its questionnaire responses. The Department issued a supplemental questionnaire to TMI on January 31, 2008, to which TMI responded on March 6, 2008.

On January 18, 2008, the Department issued a request for interested parties to submit comments on surrogate country selection and surrogate values (''SV''). TMI and Datuhe submitted surrogate country comments on February 15, 2008. Additionally, Petitioner submitted surrogate country comments on February 15, 2008. TMI, Datuhe and Petitioner submitted surrogate value comments on March 3, 2007. In March and April 2008, TMI, Datuhe and Petitioner submitted additional and rebuttal surrogate value information.

On February 6, 2008, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review from January 31, 2008, until no later than April 30, 2008. *See Pure Magnesium from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 6931 (February 6, 2008). Additionally, on May 5, 2008, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review from April 30, 2008, until no later May 30, 2008. *See Pure Magnesium from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 24572 (May 5, 2008).

Period of Review

The POR is May 1, 2006, through April 30, 2007.

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

[1] Under 19 CFR 351.213(c), ''the Secretary may defer the initiation of an administrative review, in whole or in part, for one year if: the review request is accompanied by a request to defer, and no party (i.e., exporter, producer, importer or domestic interested party) objects to the deferral.'' Additionally, 19 CFR 351.213(c)(2), states objections to deferrals must be submitted within 15 days after the end of the anniversary month.

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.

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 Factors of Production (''FOP''). The Act further instructs that valuation of the FOPs shall be based on the best available information in a surrogate market economy country or countries considered to be appropriate by the Department. *See* Section 773(c)(1) of the Act. When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. *See* Section 773(c)(4) of the Act. Further, the Department normally values all FOPs in a single surrogate country. *See* 19 CFR 351.308(c)(2). The sources of the surrogate values (''SV'') are discussed under the ''Normal Value'' section below and in the Memorandum to the File, ''Factors Valuations for the Preliminary Results of the Administrative Review,'' dated May 30, 2008 (''Factor Valuation Memorandum''), which is on file in the Central Records Unit (''CRU''), Room 1117 of the main Department building.

In examining which country to select as its primary surrogate for this proceeding, the Department first determined that India, Indonesia, the Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development. *See* Memorandum to Robert Bolling, Program Manager, From Ron Lorentzen, Director, Office of Policy, ''Administrative Review of Pure Magnesium from the People's Republic of China (PRC): Request for a List of Surrogate Countries,'' dated December 20, 2007, which is on file in the CRU. Once the economically comparable countries have been identified, we select an appropriate surrogate country by determining whether one of these countries is a significant producer of comparable merchandise and whether the data for valuing FOPs is both available and reliable.

On January 18, 2008, the Department issued a request for interested parties to submit comments on surrogate country selection. TMI submitted surrogate country comments on February 15, 2008. Datuhe also submitted surrogate country comments on February 15, 2008 (''Datuhe's Surrogate Country Letter''). Additionally, Petitioner submitted surrogate country comments on February 15, 2008 (''Petitioner's Surrogate Country Letter'').

TMI argues that India is the appropriate surrogate country for the PRC because India is comparable to the PRC in terms of overall economic development as is demonstrated by the Department's consistent use of India as a surrogate country in recent antidumping investigations and reviews involving the PRC. TMI also states India has been consistently found to be a ''significant producer'' of comparable merchandise, and the existence of a well–developed comparable industry in India producing comparable merchandise supports the selection and use of India as the appropriate surrogate country.

Datuhe asserts that India is the appropriate surrogate country for the PRC because India is comparable to the PRC in terms of economic development based on per–capita gross national income (''GNI''). Datuhe also stated that while India is not a significant producer of the identical merchandise, pure magnesium, neither are any of the other potential surrogates as identified by the Department. Datuhe continues by stating that India is a significant producer of aluminum, which it claims is comparable merchandise, based on the fact that both products: (a) are light metals; (b) are electricity–intensive; (c) are produced by similar processes; and (d) share some common end uses.[2] Datuhe points out that, by contrast, three of the other potential surrogate countries are not recognized as producers of aluminum and the fourth country, Indonesia, only produces a fraction of India's production. Finally, Datuhe claims that factors data from India are available, reliable, and contemporaneous.

Petitioner contends that the Department should select India as the surrogate country in this administrative review because India is at a level of economic development that is comparable to the PRC based on per–capita GNI and India is a significant producer of comparable merchandise. Petitioner states that among the five countries considered to be comparable to China in terms of economic development, the only possible producer of primary magnesium is Southern Magnesium & Chemicals Ltd (''Southern Magnesium''), which is located in India. However, Petitioner notes that Southern Magnesium has either downsized or ceased its magnesium production operations. Petitioner continues by stating that to the best of its knowledge, none of the other four countries identified by the Department are producers of magnesium. However, Petitioner notes that India is a significant producer of aluminum, and the Department previously has determined aluminum production to be ''most comparable'' to magnesium production.[3] Further, Petitioner claims that while Indonesia produced aluminum, the production level was far below that of India. The remaining potential surrogate countries (Philippines, Colombia, and Thailand) are not aluminum producers. Finally, Petitioner concludes that India is the best available surrogate country because of the availability and quality of data to value the FOPs.

After evaluating interested parties' comments, the Department determined that India is the appropriate surrogate country to use in this review pursuant to section 773(c)(4) of the Act based on the following facts: 1) India is at a level

[2] Datuhe's Surrogate Country Letter at 3.

[3] Petitioner's Surrogate Country Letter at 4.

of economic development comparable to that of the PRC; and 2) India is a significant producer of comparable merchandise. Furthermore, we have reliable data from India that we can use to value the FOPs.[4] We have obtained and relied upon publicly available information wherever possible.[5]

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping review, interested parties may submit within 20 days after the date of publication of the preliminary results additional publicly available information to value the FOPs.[6]

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as further developed in the *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*''). However, if the Department determines that a company is wholly foreign–owned or located in a market economy, then a separate–rate analysis is not necessary to determine whether it is independent from government control.

Both respondents stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese–owned companies. Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

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; and (3) other formal measures by the government decentralizing control of companies.[7]

The evidence provided by the respondents supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) and there are formal measures by the government decentralizing control of companies.

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[8] The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department conducted separate–rates analyses for Datuhe and TMI. The evidence placed on the record of this review by the respondents demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporters' exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, we have determined that Datuhe and TMI have demonstrated their eligibility for a separate rate.

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'') and Constructed *Export Price* (''CEP'') 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.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772 (c) and (d). In accordance with section 772(b) of the Act, we used CEP for Datuhe's sales because it sold subject merchandise to its affiliated company in the United States, which in turn sold subject

[4] *See* Letter from TMI dated March 17, 2008, Surrogate Value Data Submission at Exhibit SV-21G.

[5] *See* Factor Valuation Memorandum.

[6] In accordance with 19 CFR 351.301(c)(1), for the final results of this review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative SV information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[7] *See Sparklers*, 56 FR at 20589.

[8] *See Silicon Carbide*, 59 FR at 22586-87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

merchandise to unaffiliated U.S. customers.

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

Datuthe

We calculated CEP for Datuhe 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, ocean freight, marine insurance, U.S. Customs duty, where applicable, U.S. inland freight from port to the warehouse and U.S. inland freight from the warehouse to the customer. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In accordance with section 773(a) of the Act, we calculated Datuhe's credit expenses and inventory carrying costs based on the Federal Reserve short–term rate, where applicable. Finally, we deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act. *See* Memorandum to The File Through Robert Bolling, Program Manager, China/NME Group, from Hua Lu, Case Analyst, ''Analysis for the Preliminary Results of Pure Magnesium from the People's Republic of China: Shanxi Datuhe Coke & Chemicals Co., Ltd. (''Datuhe''),'' dated May 30, 2008.

TMI

For TMI's EP sales, we based the EP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for movement expenses. Movement expenses included expenses for foreign inland freight from the plant to the port of exportation, domestic brokerage and handling, and where applicable, international freight and marine insurance. No other adjustments to EP were reported or claimed. *See* Memorandum to The File Through Robert Bolling, Program Manager, China/NME Group, from Hua Lu, Case Analyst, ''Analysis for the Preliminary Results of Pure Magnesium from the People's Republic of China: Tianjin Magnesium International, Co. (''TMI''),'' dated May 30, 2008.

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 an NME 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. When determining NV in an NME context, the Department will base NV on FOPs 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. Under section 773(c)(3) of the Act, FOPs include but are not limited to: (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 FOPs reported by respondents for materials, energy, labor and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market–economy currency, the Department may value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *see also Shakeproof Assembly Components Div of Ill v. United States*, 268 F. 3d 1376, 1382–1383 (Fed. Cir. 2001) (affirming the Department's use of market–based prices to value certain FOPs).

With regard to both import–based surrogate values and market–economy import values, it is the Department's consistent practice that, where the facts developed in the United States or third country countervailing duty findings include the existence of subsidies that appear to be used generally (in particular, broadly available, non–industry-specific export subsidies), it is reasonable for the Department to find that it has particular and objective evidence to support a reason to believe or suspect that prices of the inputs from the country granting the subsidies may be subsidized. *See Brake Rotors and China National Machinery Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1338–39 (CIT 2003).

In avoiding the use of prices that may be subsidized, the Department does not conduct a formal investigation to ensure that such prices are not subsidized, but rather relies on information that is generally available at the time of its determination. *See* H.R. Rep. 100–576, at 590 (1988), reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24. The Department has reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. Through other proceedings, the Department has learned that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, preliminarily finds it reasonable to infer that all exports to all markets from these countries may be subsidized. *See Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005–2006 Administrative Review*, 72 FR 42386 (August 2, 2007) (''Brake Rotors''), and accompanying Issues and Decision Memorandum at Comment 1. Accordingly, the Department has disregarded prices from Indonesia, South Korea and Thailand in calculating NV because the Department has reason to believe or suspect such prices may be subsidized.

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOPs reported by respondents for the POR. To calculate NV, the Department multiplied the reported per–unit factor consumption quantities by publicly available Indian SVs (except as noted below). In selecting the SVs, 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 SVs 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 U.S. Court of appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). For a detailed description of all SVs used to value the respondents' reported FOPs, *see* Factor Valuation Memorandum.

The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the POR or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. In these cases, unless case–specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted–

average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight average the weighted–average market economy purchase price with an appropriate SV according to their respective shares of the total volume of purchases, unless case–specific facts provide adequate grounds to rebut the presumption. When a firm has made market economy input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33–percent threshold. *See Antidumping Methodologies: Market Economy Inputs, Expected Non–Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717–18 (October 19, 2006). Also, where the quantity of the input purchased from market–economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market–economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. During the POR, neither Datuhe or TMI purchased any inputs from a market economy supplier.

The Department used contemporaneous import data from the World Trade Atlas (''WTA'') online, published by the Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India, to calculate SVs for the reported FOPs purchased from NME sources. Among the FOPs for which the Department calculated SVs using Indian Import Statistics are ferrosilicon, flux, fluorite and sulfur. However, for dolomite, in reviewing the record evidence, we have found that it is reasonable to conclude that WTA data represent prices of imported dolomite in the high–end value–added product range while the dolomite used to produce subject merchandise is the high–bulk, low value commodity. *See Pure Magnesium from the People's Republic of China: Final Results of 2004–2005 Antidumping Duty Administrative Review*, 71 FR 61019 (October 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1. Therefore, for the preliminary results, we have determined to average the dolomite values from Indian Iron & Steel and Tata Sponge Iron Ltd. to calculate the surrogate value for dolomite. Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation. For a complete listing of all the inputs and the valuation for each mandatory respondent *see* Factor Value Memorandum.

Where the Department could not obtain publicly available information contemporaneous with the POR with which to value FOPs, the Department adjusted the SVs using, where appropriate, the Indian Wholesale Price Index (''WPI'') available at the website of the Office of the Economic Adviser, Ministry of Commerce and Industry, Government of India, http://eaindustry.nic.in/. *See* Factor Valuation Memorandum.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression–based wage rate as reported on Import Administration's website, Import Library, Expected Wages of Selected NME Countries, revised in May 2008, http://ia.ita.doc.gov/wages/04wages/04wages–010907.html. The source of these wage–rate data is the Yearbook of Labour Statistics 2006, ILO (Geneva: 2006), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 2004 and 2005. 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 the respondents. *See* Factor Valuation Memorandum.

To value electricity, the Department used data from the International Energy Agency (''IEA'') *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 water using data from the Maharashtra Industrial Development Corporation (www.midcindia.org) because it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 for the ''inside industrial areas'' usage category and 193 for the ''outside industrial areas'' usage category. Because the value was not contemporaneous with the POR, we adjusted the rate for inflation.

To calculate the value for domestic brokerage and handling, the Department used information available to it contained in the public version of two questionnaire responses placed on the record of separate proceedings. The first source was December 2003–November 2004 data contained in the public version of Essar Steel's February 28, 2005, questionnaire submitted in the antidumping duty administrative review of hot–rolled carbon steel flat products from India. *See Certain Hot–Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006)(unchanged in final results). This value was averaged with the February 2004–January 2005 data contained in the public version of Agro Dutch Industries Limited's (''Agro Dutch'') May 24, 2005, questionnaire response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India. *See Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005). The brokerage expense data reported by Essar Steel and Agro Dutch in their public versions are ranged data. The Department derived an average per–unit amount from each source and then adjusted each average rate for inflation using the WPI. The Department then averaged the two per–unit amounts to derive an overall average rate for the POR. *See* Factor Valuation Memorandum.

The Department used Indian transport information in order to value the freight–in cost of the raw materials. The Department determined the best available information for valuing truck and rail 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 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.

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.

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.

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.

To value factory overhead, depreciation, selling, general and administrative expenses (''SG&A'') and profit, the Department used a audited financial statement for the year ended March 31, 2007, for an Indian producer of aluminum, Sterlite Industries (India) Limited (''Sterlite''). We did not rely upon two companies' financial statements that were placed on the record, namely the financial statement of Hindalco Industries Limited (''Hindalco'') and National Aluminium Company Limited (''Nalco''), because Hindalco and Nalco's financial statements identify the receipt of ''export and other incentives'' or ''export incentives'' (*i.e.*, ''EPCG Scheme'' and ''DEPB Premium'') in ''Operating Revenues'' or ''Other Income.'' India's EPCG and DEPB Schemes have been found by the Department to each provide a countervailable subsidy. *See*, *e.g.*, *Certain Iron–Metal Castings From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 64 FR 61592 (November 12, 1999) (unchanged in final results); *see also http://ia.ita.doc.gov/esel/eselframes.html* and *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006), and accompanying Issues and Decision Memorandum at ''Benchmarks for Loans and Discount Rate.'' In *Crawfish from the PRC*, the Department noted that where it has reason to believe or suspect that a company may have received subsidies, financial ratios derived from that company's financial statements do not constitute the best available information with which to value financial ratios. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 19174 (April 17, 2007) (''*Crawfish from the PRC*'')and accompanying Issues and Decision Memorandum at Comment 1. Given the record information regarding Hindalco's use of the EPCG program and Nalco's use of the DEPB program, and the fact that we have other acceptable financial statements to use as surrogates, consistent with the Department's decision in *Crawfish from the PRC*, we have not used Hindalco or Nalco's financial data in our surrogate ratio calculations. Additionally, we have not used Madras Aluminium Company Limited's (''Malco'') financial statement because Malco's financial statement only covers nine months of its fiscal year. See the Factor Valuation Memorandum for a full discussion of the calculation of Sterlite's ratios.

Further, 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.

TMI reported that it recovered cement clinker and waste magnesium from the production of pure magnesium for resale. The Department has preliminarily determined not to grant a by–product offset to either by–product because respondents' have not provided evidence that the by–products were sold or returned to production of the merchandise under consideration. Therefore, we are not granting TMI's by–product claim in our margin calculations.

At the Department's request, Datuhe reported the upsteam inputs used to produce certain self–produced intermediate inputs that it reported in its Section D submission, namely ferrosilicon, electricity, and coal gas. It is the Department's practice, consistent with section 773(c)(1)(B) of the Act, to value the FOPs that a respondent uses to produce the subject merchandise. In the instant case, however, because the Department has insufficient descriptions of certain inputs to ferrosilicon and electricity, namely ''coal rejects,'' ''coal middlings,'' ''coal slime,'' and ''coal gangue,'' and because there are no sources on the record to accurately value these inputs, the Department has determined that it would be more accurate to value the inputs of ferrosilicon and electricity as intermediate inputs using WTA and IEA data, respectively. *See, e.g.*, *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003), accompanying Issues and Decision Memorandum at Comment 3.

With respect to coal gas, Datuhe claims in its March 3, 2008, response that the coal gas used in the production of pure magnesium is a waste product of Datuhe's production of non–subject merchandise (*i.e.*, coke), and, therefore, because Datuhe does not purchase this input the Department should not value it in its NV calculation. Section 773(c)(3) of the Act, however, requires the Department to value the quantities of all raw materials employed in producing subject merchandise. Therefore, the Department is required under the Act to value all inputs, including inputs obtained free of charge , such as coal gas in this case. *See Certain Preserved Mushrooms From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 64930, 64936 (Nov. 6, 2006).

Further, Datuhe reported the FOPs used in the production of coke which generate the coal gas as a waste product, and submitted a calculated ''coke by–product'' adjustment to be deducted from the NV calculation. We note that coke is not, in fact, a by–product of coal gas production, but rather coal gas is a waste product of coke production. *See* Datuhe's May 15, 2008, supplemental questionnaire. Additionally, because coke production is not part of the production of the subject merchandise, the Department will not apply a by–product adjustment from the production of coke to the NV calculation of pure magnesium. Accordingly, the Department has preliminarily determined that valuing coal gas as an intermediate input in the production of the subject merchandise would result in the most accurate NV calculation.

In examining the WTA import data for the five countries on the Office of Policy's potential surrogate country list, we note that there are no imports of commercial quantities of coal gas for the POR or the years leading up to the POR. Similarly, there is no IEA data for these countries during the POR. Because the Department can find no usable data on the record to value coal gas, we have determined to use the methodology employed in certain cut–to-length carbon steel plate from Romania. *See Certain Cut–to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005), and accompanying *Issues and Decision Memorandum* at Comment 6. We have

compared the amount of British thermal units (''BTUs'') in coal gas (*i.e.*, 600) to that of natural gas (*i.e.*, 1150) to calculate the relative percentage of BTUs in coal gas. We have applied that percentage to the SV of natural gas. *See* Factor Valuation Memorandum. Because WTA provided no data for natural gas in India, we have used another country on the Office of Policy's potential surrogate country list: Thailand. We note that we have also used this methodology in other proceedings. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 22183 (May 3, 2001), and *Final Notice of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 49632 (September 28, 2001). Additionally, we note that Datuhe provided a SV for coal gas, from the Centre for Monitoring Indian Economy (''CMIE''), an independent Indian economic think–tank which Datuhe claims was compiled from data provided by South Eastern Coalfields Limited. We have determined not to rely upon the CMIE value for coal gas for the preliminary results because (1) the value is not broad and representative; (2) it is specific to only one company; and (3) Datuhe only provided two pages of data; thus, the Department is not able to determine whether the data is complete.

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 preliminary weighted–average dumping margins are as follows:

PURE MAGNESIUM FROM THE PRC

Exporter	Weighted–Average Margin (percentage)
Shanxi Datuhe Coke & Chemicals Co. Ltd.	0.0
Tianjin Magnesium International, Co.	21.24

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 generally be held two days after the scheduled date for submission of rebuttal briefs. *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 five days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). Further, we request that parties submitting written comments 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 comments, and at a hearing, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer- or customer–specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. To determine whether the duty assessment rates are *de minimis* (*i.e.*, less than 0.50 percent), in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate customer–specific *ad valorem* ratios based on export prices.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer- or customer–specific assessment rate calculated in the final results of this review is above *de minimis*.

For entries of the subject merchandise during the POR from companies not subject to this review, we will instruct CBP to liquidate them at the cash deposit rate in effect at the time of entry. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for Datuhe and TMI, which each have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non–PRC exporters not listed above that received a separate rate in a prior segment of this proceeding (which were not reviewed in this segment of the proceeding), the cash deposit rate will continue to be the exporter–specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC–wide rate of 108.26 percent; and (4) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non–PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: May 30, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

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