

**DEPARTMENT OF COMMERCE**

**Economic Development Administration**

**Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance**

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated

separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE, 8/1/2008 THROUGH 8/31/2008**

Firm	Address	Date accepted for filing	Products
Design Plastics, Inc .....	3550 Keystone Drive, Omaha, NE 68134.	8/27/2008	Parts for transportation industry.
Oak Canyon Manufacturing, Inc .....	3021 N. 29th Dr., Phoenix, AZ 85017-5504.	8/28/2008	Wood bookcases, entertainment centers, home office furniture, and some wood non-home office furniture.
Rehab Plus Therapeutic Products dba: RPS.	726 Donald Preston Dr., Wolfforth, TX 79382.	8/27/2008	Fire and chemical protective apparel and safety head gear.
DRW Machines, Inc .....	835 Monty, Shreveport, LA 71107 .....	8/28/2008	Safety and relief valves and casing heads.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Performance Evaluation, Room 7009, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: September 4, 2008.

**William P. Kittredge,**

*Program Officer for TAA.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-821-819]

**Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** On May 5, 2008, the Department of Commerce published the

preliminary results of the administrative review of the antidumping duty order on magnesium metal from the Russian Federation. The review covers two manufacturers/exporters, PSC VSMPO-AVISMA Corporation (AVISMA) and Solikamsk Magnesium Works (SMW). The period of review is April 1, 2006, through March 31, 2007.

Based on our analysis of the comments received we have made changes in the margin calculations for AVISMA. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of the Review."

**EFFECTIVE DATE:** September 10, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-1690, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 5, 2008, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on magnesium metal from the Russian Federation. See *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative*

*Review*, 73 FR 24541 (May 5, 2008) (Preliminary Results).

We invited interested parties to comment on the preliminary results. At the request of certain parties, we held a hearing on July 23, 2008. The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Scope of Order**

The merchandise covered by the order is magnesium metal (also referred to as magnesium), which includes primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by the order includes blends of primary and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium, including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: (1) products that contain at least 99.95 percent magnesium, by weight

(generally referred to as “ultra-pure” magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by weight (generally referred to as “pure” magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, whether or not conforming to an “ASTM Specification for Magnesium Alloy”.

The scope of the order excludes: (1) magnesium that is in liquid or molten form; and (2) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.<sup>1</sup>

The merchandise subject to the order is currently classifiable under items 8104.11.00, 8104.19.00, 8104.30.00, and 8104.90.00 of the *Harmonized Tariff Schedule of the United States (HTSUS)*. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

On November 9, 2006, in response to U.S. Magnesium Corporation LLC's request for scope rulings, the Department issued final scope rulings in which it determined that the processing of pure magnesium ingots imported from Russia by Timminco, a Canadian company, into pure magnesium extrusion billets constitutes substantial transformation. Therefore, such alloy magnesium extrusion billets produced and exported by Timminco are a product of Canada and thus are not within the scope of the order. See November 9, 2006, Memorandum for

<sup>1</sup> This second exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. See Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China, 66 FR 49345 (September 27, 2001); Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel, 66 FR 49349 (September 27, 2001); Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not chemically combined in liquid form and cast into the same ingot.

Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Barbara E. Tillman, Director, Office 6, and Wendy Frankel, Director, Office 8, China/NME Group, AD/CVD Operations: Pure Magnesium from the People's Republic of China (A–570–832), Magnesium Metal from the People's Republic of China (A–570–896), and Magnesium Metal from Russia (A–821–819): Final Ruling in the Scope Inquiry on Russian and Chinese Magnesium Processed in Canada.

#### Analysis of the Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review of the order on magnesium metal from the Russian Federation are addressed in the “Issues and Decision Memorandum” from Stephen J. Claeys, Deputy Assistant Secretary, to David M. Spooner, Assistant Secretary, dated September 2, 2008 (Decision Memo), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded is in the Decision Memo and attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the Central Records Unit, main Department of Commerce building, Room 1117, and is accessible on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memo are identical in content.

#### Use of Adverse Facts Available

For the final results, we continue to find that, by failing to provide information we requested, SMW did not act to the best of its ability in responding to our questionnaire. Thus, the Department continues to find that the use of adverse facts available is warranted for SMW under sections 776 (a)(2) and (b) of the Act. See *Preliminary Results*, 73 FR at 24542. As we explained in the *Preliminary Results*, the rate of 21.71 percent selected as the adverse facts-available rate for SMW is the highest rate on the record of the proceeding that we are able to corroborate in accordance with section 776 (c) of the Act. *Id.*; see also the accompanying Decision Memo at Comment 8.

#### Sales Below Cost in the Home Market

As discussed in the *Preliminary Results*, we conducted an investigation to determine whether AVISMA made home-market sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b) of the Act. See *Preliminary Results*, 73 FR at 24544.

For these final results, we performed the cost test following the same methodology as in the *Preliminary Results*.

We found that 20 percent or more of AVISMA's sales of a given product during the POR were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in “substantial quantities” within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(1) and (2) of the Act.

Therefore, for purposes of these final results, we found that AVISMA made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for AVISMA and used the remaining sales as the basis for determining normal value pursuant to section 773(b)(1) of the Act.

#### Changes Since the Preliminary Results

Based on our analysis of comments received and based on our own analysis of the preliminary results, we have made revisions that have changed the results for AVISMA. These changes are discussed in the Decision Memo.

#### Final Results of the Review

We determine that the following percentage weighted-average margins on magnesium metal exist for the period April 1, 2006, through March 31, 2007:

Manufacturer/Exporter	Margin (percent)
PSC VSMPO–AVISMA Corporation .....	15.77
Solikamsk Magnesium Works .....	21.71

#### Assessment Rates

The Department will determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. We intend to issue appropriate assessment instructions directly to CBP 15 days after publication of these final results of review. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate for subject merchandise produced and exported by AVISMA by dividing the total dumping duties due by the entered value of sales we analyzed.

The Department clarified its “automatic assessment” regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*). This clarification will apply to entries of subject

merchandise during the period of review produced by AVISMA and for which AVISMA did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see Assessment of Antidumping Duties.

Because we are relying on total adverse facts available to establish the dumping margin for SMW, we will instruct CBP to apply a dumping margin of 21.71 percent to all entries of subject merchandise during the POR that were produced and/or exported by SMW.

#### Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, consistent with section 751(a)(2)(C) of the Act: (1) the cash-deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash-deposit rate for all other manufacturers or exporters will continue to be the all-others rate established in the LTFV investigation, which is 21.01 percent. See *Notice of Antidumping Duty Order: Magnesium Metal from the Russian Federation*, 70 FR 19930 (April 15, 2005). These deposit requirements shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a final 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely 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 the terms of an APO is a sanctionable violation.

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

Dated: September 2, 2008.

**David M. Spooner,**  
*Assistant Secretary for Import Administration.*

#### Appendix

1. Calculation of Cost of Production and Constructed Value
  - A. Joint-Cost Allocation - Overview
  - B. Magnesium as a Byproduct
  - C. Magnesium as a Main Product
  - D. Valuation of Chlorine at the Split-off Point
  - E. The Use of an Appropriate Cost Database
  - F. Chlorine-Disposal Costs
  - G. Constructed-Value Profit
2. Constructed Export-Price Offset
3. Selection of an Adverse Facts-Available Rate

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

#### Application for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce 14th and Constitution Ave., NW, Room 2104 Washington, D.C. 20230. Applications may be examined between 8:30 A.M.

and 5:00 P.M. in Room 2104, U.S. Department of Commerce.

*Docket Number: 08-040.* Applicant: New Mexico Institute of Mining and Technology; Magdalena Ridge Observatory, 801 Leroy Place, Socorro, New Mexico 87801. Instrument: Unit Telescope. Manufacturer: Advanced Mechanical and Optical Systems SA (AMOS), Belgium. Intended Use: The instrument is intended to be used to study star formation and the earliest stages of planet formation, fundamental astrophysical phenomena like mass accretion, mass transfer and convection in single and binary star systems, and the surroundings of the centers of nearby galaxies. These phenomena will be studied at optical and near infrared wavelengths from about 0.5 to 2.5 microns. The instrument must be able to be relocated and the functions of the instrument must be controlled and monitored over a network connection. Another unique feature of this instrument is that it must have an aperture greater than one-meter. Application accepted by Commissioner of Customs: July 25, 2008.

*Docket Number: 08-042.* Applicant: University of Alabama at Birmingham, 701 South 20th St., Birmingham, AL 35294. Instrument: FIE Vitrobot. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument is intended to be used to prepare a range of biological samples for imaging by cryo-electron microscopy. Samples to be studied include viruses and virus-related particles, protein complexes, protein-nucleic acid, lipid-containing samples, filamentous structures, subcellular organelles, and entire prokaryotic and eukaryotic cells. A unique feature of this instrument is that it must have a controlled environmental chamber and have the capability of fully automated operation. Application accepted by Commissioner of Customs: August 12, 2008.

Dated: September 4, 2008.

**Faye Robinson,**

*Director, Statutory Import Programs Staff, Import Administration.*

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