

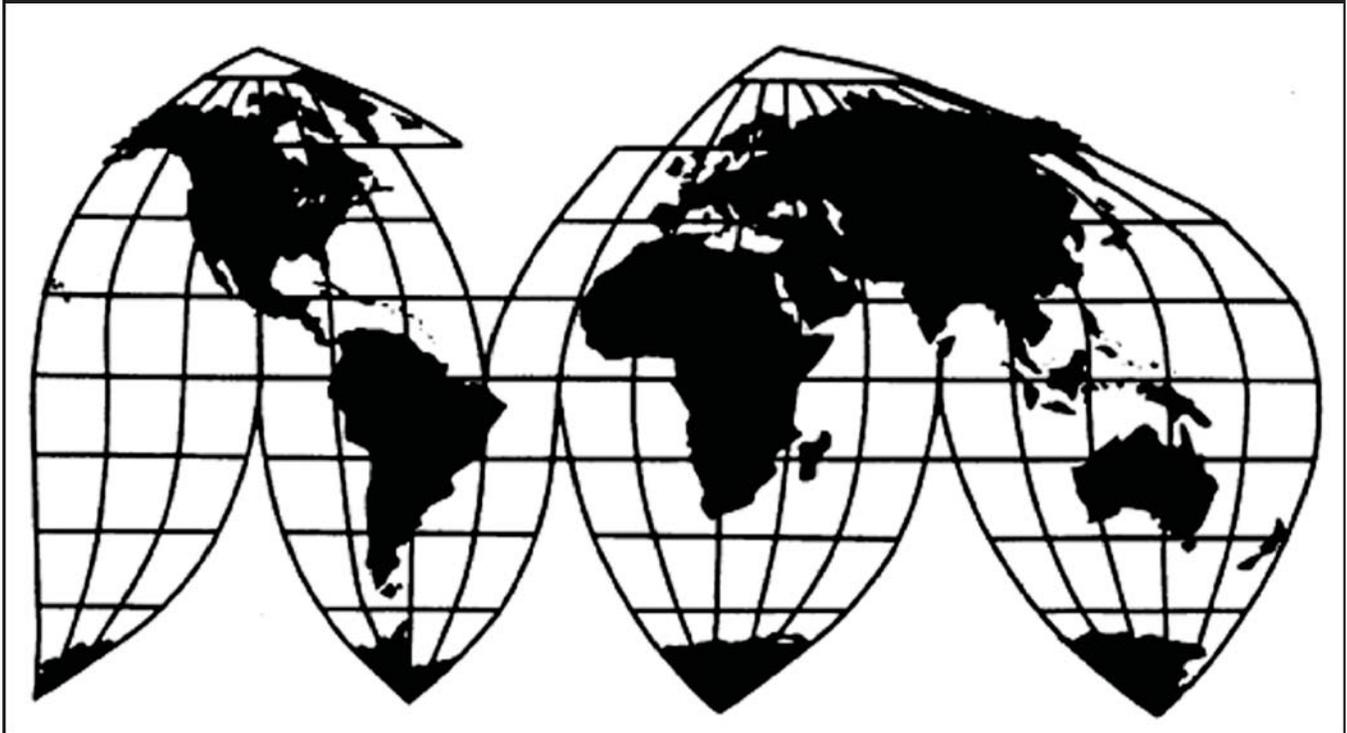
# Pure Magnesium (Granular) from China

Investigation No. 731-TA-895 (Second Review)

Publication 4350

September 2012

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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**Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.**

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-895 (Second Review)

PURE MAGNESIUM (GRANULAR) FROM CHINA

## DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on pure magnesium (granular) from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>2</sup>

## BACKGROUND

The Commission instituted this review on February 1, 2012 (77 FR 5049) and determined on May 7, 2012 that it would conduct an expedited review (77 FR 32668, June 1, 2012).

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> Commissioner Dean A. Pinkert and Commissioner Meredith Broadbent did not participate in this five-year review.



## VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order on pure granular magnesium from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### I. BACKGROUND

#### A. Prior Proceedings

The original investigations were instituted in response to a petition filed on October 17, 2000, by Magnesium Corp. of America (“Magcorp”), the predecessor of present-day U.S. producer US Magnesium,<sup>2</sup> which covered imports of pure magnesium from Israel and Russia, as well as imports of pure magnesium in granular form from the People’s Republic of China (“China”).<sup>3</sup> The investigation of subject imports from Russia was terminated following a final negative dumping determination by the Department of Commerce (“Commerce”).<sup>4</sup> The U.S. International Trade Commission (“Commission”) made a negative injury determination on subject imports from Israel.<sup>5</sup> The Commission determined that an industry in the United States was materially injured by reason of imports of pure magnesium in granular form from China that Commerce found had been sold in the United States at less than fair value.<sup>6</sup> On November 19, 2001, Commerce issued an antidumping duty order on imports of pure magnesium in granular form from China.<sup>7</sup>

The Commission instituted the first five-year review of the antidumping duty order in October 2006.<sup>8</sup> It conducted an expedited review and reached an affirmative determination.<sup>9</sup> Commerce subsequently issued a notice continuing the order.<sup>10</sup>

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<sup>1</sup> Commissioner Dean R. Pinkert and Commissioner Meredith M. Broadbent did not participate in this review.

<sup>2</sup> On October 26, 2000, the petitioners amended the petition to include the United Steel Workers of America, Local 8319, as a co-petitioner, and on April 20, 2001, they amended the petition to add “concerned employees of Northwest Alloys, Inc.” as co-petitioners. Confidential Staff Report (“CR”) at I-4 n.9, Public Staff Report (“PR”) at I-4 n.9.

<sup>3</sup> CR at I-4, PR at I-4.

<sup>4</sup> 66 Fed. Reg. 49347 (Sept. 27, 2001); 66 Fed. Reg. 50680 (Oct. 4, 2001).

<sup>5</sup> Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 and 731-TA-895-896 (Final), USITC Pub. 3467 (Nov. 2001) (“Original Determination”) at 14-15, 22-27. Pursuant to 19 U.S.C. §1677(7)(G)(ii)(IV), in its determination on subject imports from Israel the Commission did not cumulate any other subject imports.

<sup>6</sup> Original Determination at 15-22.

<sup>7</sup> 66 Fed. Reg. 57936 (Nov. 19, 2001).

<sup>8</sup> 71 Fed. Reg. 58001 (Oct. 2, 2006).

<sup>9</sup> Pure Magnesium from China, Inv. No. 731-TA-895 (Review), USITC Pub. 3908 (March 2007) (“First Review Determination”).

<sup>10</sup> 72 Fed. Reg. 14076 (March 26, 2007).

## B. The Current Review

The Commission instituted this review on February 1, 2012.<sup>11</sup> The Commission received one response to its notice of institution, from US Magnesium, a U.S. producer of magnesium.<sup>12</sup> On September 6, 2011, the Commission found the domestic interested party group response to the notice of institution to be adequate and the respondent interested party group response inadequate.<sup>13</sup> The Commission did not find any circumstances that would warrant conducting a full review and determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.<sup>14</sup>

## II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Act, the Commission defines “the domestic like product” and the “industry.”<sup>15</sup> The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>16</sup> The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.<sup>17</sup>

### A. Product Description

In its expedited sunset determination, Commerce defined the subject merchandise as follows:

The scope of this order includes imports of pure magnesium products, regardless of chemistry, including, without limitation, raspings, granules, turnings, chips, powder, and briquettes, except as noted above. Pure magnesium includes: (1) Products that contain at least 99.95 percent primary 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

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<sup>11</sup> 77 Fed. Reg. 5049 (Feb. 1, 2012).

<sup>12</sup> The response of US Magnesium also included information for domestic grinder ESM Special Metals & Technology, Inc. (“ESM”). CR at 1-3 n.5, PR at I-3 n.5.

<sup>13</sup> 77 Fed. Reg. 32668 (June 1, 2012); CR at Appendix B (Explanation of Commission Determination on Adequacy).

<sup>14</sup> Id.

<sup>15</sup> 19 U.S.C. § 1677(4)(A).

<sup>16</sup> 19 U.S.C. § 1677(10); see, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96th Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>17</sup> See, e.g., Stainless Steel Sheet and Strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan, Inv. Nos. 701-TA-382 and 731-TA-798-803 (Second Review), USITC Pub. 4244 (July 2011) at 6; Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, Inv. Nos. AA1921-197 (Second Review), 701-TA-319, 320, 325-27, 348, and 350 (Second Review), and 731-TA-573-74, 576, 578, 582-587, 612, and 614-618 (Second Review), USITC Pub. 3899 (January 2007) at 31, n. 117; Internal Combustion Industrial Forklift Trucks from Japan, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 (December 2005) at 8-9; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (February 2003) at 4.

percent primary magnesium, by weight (generally referred to as “pure” magnesium); (3) chemical combinations of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy” (generally referred to as “off specification pure” magnesium); and (4) physical mixtures of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight. Excluded from this order are mixtures containing 90 percent or less pure magnesium by weight and one or more of certain nonmagnesium granular materials to make magnesium-based reagent mixtures. The non-magnesium granular materials of which the Department is aware used to make such excluded reagents are: lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, aluminum, 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, dolomitic lime, and colemanite. A party importing a magnesium-based reagent which includes one or more materials not on this list is required to seek a scope clarification from the Department before such a mixture may be imported free of antidumping duties. The merchandise subject to this order is currently classifiable under item 8104.30.00 of the HTSUS.<sup>18</sup>

Commerce further explained that:

There is an existing antidumping duty order on pure magnesium from the People’s Republic of China (PRC). The scope of this order excludes pure magnesium that is already covered by the existing order on pure magnesium in ingot form, and currently classifiable under item numbers 8104.11.00 and 8104.19.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”).<sup>19</sup>

The scope of this review is essentially unchanged from that of the original investigations and first review.<sup>20</sup>

## **B. Prior Proceedings**

The Commission’s definition of the domestic like product in magnesium investigations has evolved over time.<sup>21</sup> In the original investigations underlying this review, the Commission declined to expand the like product beyond pure magnesium to encompass alloy magnesium.<sup>22</sup>

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<sup>18</sup> 77 Fed. Reg. 33165, 22166 (June 5, 2012).

<sup>19</sup> Id.

<sup>20</sup> See Original Determination at 5-6, First Review Determination at 6-7 n.35.

<sup>21</sup> In its first investigations involving imported pure and alloy magnesium the Commission found pure and alloy magnesium to constitute a single like product. Magnesium from Canada, Inv. Nos. 701-TA-309 and 731-TA-528 (Final), USITC Pub. 1992 (Aug. 1992) at 8-11. The Commission was reversed on this point by a U.S.-Canada binational panel. In the Matter of Magnesium from Canada, Case Nos. USA-92-1904-05 and USA 92-1904-06 (Aug. 27, 1993) (Remand).

<sup>22</sup> Pure Magnesium from China, Israel and Russia, Inv. Nos. 701-TA-403 (Preliminary) and 731-TA-895-897 (Preliminary), USITC Pub. 3376 (Dec. 2000) at 7; Original Determination at 9 n.37; Pure Magnesium from China, Inv. No. 731-TA-696 (Review), USITC Pub. 3346 (Aug. 2000).

In the expedited first review, the Commission expanded the like product to include alloy magnesium. It explained that US Magnesium had asked the Commission to define the domestic like product in this way, that no party had argued against this definition, and that there was no information on the record in that expedited review that would call into question the Commission's decision to define the domestic like product in the same manner that it had in its two most recent decisions involving magnesium.<sup>23</sup>

### C. Analysis and Conclusion

As stated above, in five-year reviews, the Commission generally begins its analysis with the like product found in the original investigation(s) or subsequent reviews of the original order(s), and has maintained that definition if no party argues for a different like product and the record does not call that like product definition into question. US Magnesium stated that it agrees with a definition of the domestic like product that includes pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form.<sup>24</sup>

Because this review was expedited, the Commission obtained only a very limited amount of new information. In the original investigations underlying this review, the Commission found one domestic like product consisting of pure magnesium, including both granular magnesium and magnesium ingot.<sup>25</sup> In the first review the Commission expanded the like product to include alloy magnesium.<sup>26</sup> In the most recent full review of an order involving magnesium, the 2010-11 first review of the antidumping duty orders on alloy magnesium from China and pure and alloy magnesium from Russia, the Commission found pure and alloy magnesium to be a single like product.<sup>27</sup> No new information was obtained during this review that would suggest any reason for the Commission to revisit the definition adopted by the Commission in the first review of this order or the 2011 China/Russia Review.<sup>28</sup> Therefore, the

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<sup>23</sup> First Review Determination at 12. Vice Chairman Aranoff dissented and found that pure and alloy magnesium are separate like products. Id. at 10 n.52. The two recent decisions involving magnesium referred to by the Commission were Magnesium from China and Russia, Inv. Nos. 731-TA-1071 and 1072 (Final), USITC Pub. 3763 (April 2005) and Pure and Alloy Magnesium From Canada and Pure Magnesium From China, Inv. Nos. 701-TA-309-A-B and 731-TA-696 (Second Review), USITC Pub. 3859 (July 2006). As explained below, in a subsequent proceeding involving magnesium that had a more robust record, Commissioner Aranoff determined that pure and alloy magnesium constitute a single domestic like product. See Magnesium from China and Russia, Inv. Nos. 731-TA-1071 and 1072 (Review), USITC Pub. 4214 (Feb. 2011) at 10 n.46.

<sup>24</sup> US Magnesium's Response to the Notice of Institution ("US Magnesium's Response") at 26.

<sup>25</sup> Original Determination at 6-9.

<sup>26</sup> First Review Determination at 12.

<sup>27</sup> Magnesium from China and Russia, Inv. Nos. 731-TA-1071 and 1072 (Review), USITC Pub. 4214 (Feb. 2011) ("2011 China/Russia Review") at 7-10. The Commission also found no reason to reexamine its decision in the original injury determinations that primary and secondary magnesium, and cast and granular magnesium, are part of the same domestic like product. Id. at 7 n.23.

<sup>28</sup> Chairman Williamson and Commissioner Aranoff find that the public opinion and staff report from the 2011 China/Russia Review provides the most current factual information on which to base their like product definition in this review. In the 2011 China/Russia Review, the Commission found pure and alloy magnesium to be a single like product. It based this decision on the Commission's findings in the original investigations, and on the record in that review, which showed: (i) shared essential physical characteristics; (ii) overlap in the uses of pure and alloy magnesium in aluminum production (the single largest use for magnesium); (iii) shared production facilities and employees in primary pure and alloy magnesium production; (iv) the recognition by some industry participants of increased competition between pure and alloy magnesium; (v) general similarities in channels of distribution for pure and alloy magnesium; and (vi) a correlation in prices for the two types of magnesium for much of the period of

(continued...)

Commission defines the domestic like product as consisting of pure and alloy magnesium, including primary and secondary magnesium and cast and granular magnesium.

### III. DOMESTIC INDUSTRY

Section 771(4)(A) of the Act defines the relevant industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>29</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll produced, captively consumed, or sold in the domestic merchant market.

#### A. Prior Proceedings

In the original investigations, the Commission found that grinding operations constituted sufficient production-related activity to qualify grinders as domestic producers.<sup>30</sup> The record showed there were two producers of pure magnesium ingot that represented 100 percent of U.S. production of that product in 2000: Magcorp and Northwest Alloys.<sup>31</sup> The Commission also identified four pure granular magnesium producers that represented nearly all U.S. production of pure granular magnesium in 2000: Magcorp (which \*\*\*), as well as grinders ESM, Reade Manufacturing Co. (“Reade”), and Rossborough Manufacturing Co. (“Rossborough”).<sup>32</sup> Based on its definition of a single domestic like product that included pure magnesium in ingot and granular form, the Commission defined a corresponding domestic industry that included all producers of pure magnesium. The Commission also decided in its original determination that appropriate circumstances existed to exclude ESM from the domestic industry as a related party.<sup>33</sup>

In the first review, the Commission defined the domestic industry as all domestic producers of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form.<sup>34</sup> The Commission included grinders in the domestic industry. It noted that the limited information in that review relating to the production-related activities of grinders did not indicate that the nature of these activities had changed since the original investigations.<sup>35</sup> The Commission also noted that there was only limited information in the record concerning related party issues, so it was unable to resolve

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<sup>28</sup>(...continued)  
review. 2011 China/Russia Review at 7-10.

<sup>29</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

<sup>30</sup> Original Determination at 9-11.

<sup>31</sup> CR at I-34, PR at I-25.

<sup>32</sup> CR at I-35, PR at I-25-26.

<sup>33</sup> ESM was affiliated with ESM (Tianjin) Company, Ltd., Tianjin, China, which was a Chinese producer/exporter of magnesium ingot and granular magnesium. Based on \*\*\*, the Commission found that appropriate circumstances existed to exclude ESM from the domestic industry. Original Determination at 12. Commissioner Hillman and Commissioner Miller \*\*\*. Original Determination at 38.

The Commission found that none of the producers that purchased imported subject merchandise were related parties. Original Determination at 12.

<sup>34</sup> First Review Determination at 16. Consistent with her finding that pure and alloy magnesium were separate like products, Vice Chairman Aranoff defined the domestic industry as consisting of domestic producers of pure magnesium, whether in ingot or granular form, including grinders. Id. at 16 n. 89.

<sup>35</sup> First Review Determination at 14-15.

whether any domestic producers were related parties, let alone whether appropriate circumstances existed to exclude any of these producers from the domestic industry.<sup>36</sup>

## **B. Analysis and Conclusion**

As noted above, in the original investigations, the Commission found that grinders engaged in sufficient production related activity to be considered producers of the domestic like product. Nothing on the record in the first review indicated any change in that regard. The record in the current review includes no new information that would call into question that finding. Accordingly, we find that grinders continue to be part of the domestic industry.

The only information in the record indicating that any U.S. producer of pure and alloy magnesium is a related party is the statement by US Magnesium that ESM and Rossborough are importers of the subject merchandise.<sup>37</sup> There is no information, however, regarding the quantities these entities import or other specific information necessary to make a related party determination. In light of the limited information regarding whether appropriate circumstances exist to exclude ESM or Rossborough from the domestic industry as a related party, we have not excluded either of these firms from the definition of the domestic industry.<sup>38</sup> Accordingly, we define the domestic industry in this review in the same way as in the first review, consisting of all domestic producers, including grinders, of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form. We note that the domestic industry data obtained in this expedited second review consists only of data from US Magnesium and ESM.<sup>39</sup>

## **IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED**

### **A. Legal Standard**

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of

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<sup>36</sup> First Review Determination at 15-16.

<sup>37</sup> CR at I-51, PR at I-37. The record also indicates that another domestic producer, Meridian, has entered into joint ventures that produce magnesium in China. CR at I-39, PR at I-28-29. It is unclear, however, whether these joint ventures export subject merchandise to the United States, or whether the relationships between Meridian and the Chinese firms are such to make Meridian a related party. See 19 U.S.C. § 1677(4)(B).

<sup>38</sup> Two of the circumstances that led the Commission to exclude ESM from the domestic industry as a related party in the original investigations have changed. First, ESM now \*\*\* at the time of the original investigations. CR at I-37, PR at I-27. Original Confidential Views at 18. Second, with the construction of a new plant in the United States in 2011, ESM now produces granular magnesium in the United States (CR at I-37, PR at I-27), whereas in the original investigations, the Commission noted that the firm’s grinding operations might have ceased after 1998. Original Confidential Views at 18. Although the record includes certain trade and performance data for ESM (See CR/PR at Table I-5), there is no information in the record on the magnitude of ESM’s imports of subject merchandise during the review period.

There is no further information in the record regarding whether appropriate circumstances would exist to exclude Rossborough from the domestic industry. In any event, Rossborough did not submit any data in this second review that the Commission could exclude from consideration were it to find that appropriate circumstances existed to do so.

<sup>39</sup> CR at I-47, PR at I-33.

material injury within a reasonably foreseeable time.”<sup>40</sup> The Statement of Administrative Action to the Uruguay Round Agreements Act (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>41</sup> Thus, the likelihood standard is prospective in nature.<sup>42</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>43</sup>

The Act states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>44</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>45</sup>

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>46</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>47</sup> The statute

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<sup>40</sup> 19 U.S.C. § 1675a(a).

<sup>41</sup> SAA at 883-84. The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>42</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>43</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>44</sup> 19 U.S.C. § 1675a(a)(5).

<sup>45</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>46</sup> 19 U.S.C. § 1675a(a)(1).

<sup>47</sup> 19 U.S.C. § 1675a(a)(1). We note that Commerce made no duty absorption findings. CR at I-6-7, PR at I-6.

further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination.<sup>48</sup>

As discussed above, the Commission received a response to its notice of institution from one domestic producer, US Magnesium, and that response also included certain information from another domestic producer, ESM. Accordingly, when appropriate in this review, we have relied on the facts otherwise available, which consist of information from the original investigations, the first five-year review, as well as information submitted in this review, including information provided by US Magnesium, and information available from published sources, including the public opinion and staff report in the 2011 China/Russia Review.<sup>49</sup>

## **B. Conditions of Competition and Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>50</sup> We find the following conditions of competition relevant to our determination.

*Demand:* As in the original investigations, the record indicates that demand for pure magnesium ingot largely depends on the demand for aluminum, particularly aluminum sheet used in the production of beverage cans and other packaging.<sup>51</sup> More generally, the demand for magnesium in the United States is derived primarily from the demand for finished products in its major end-use segments: aluminum alloying for aluminum packaging, die casting for use in the automotive/transportation industry, iron and steel desulfurization for use in the construction industry, and various uses in the defense, aerospace, and chemical intermediates industries. Demand for magnesium in these end uses in the United States generally tracks overall economic activity.<sup>52</sup>

In the original investigations, the record indicated that demand as measured by total apparent domestic consumption for magnesium ingot and granular magnesium declined during the period of investigation.<sup>53</sup> There was only limited information on the record in the expedited first review concerning then-current demand conditions in the United States.<sup>54</sup> Since the first review, U.S. consumption of primary magnesium fell from 82,100 metric tons in 2005 to 50,900 metric tons in 2009, before rising to 55,700

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<sup>48</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>49</sup> 19 U.S.C. § 1677e(a) authorizes the Commission to "use the facts otherwise available" in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to 19 U.S.C. § 1677m(i). The verification requirements in 19 U.S.C. § 1677m(i) are applicable only to Commerce. See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int'l Trade 2002) ("the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of Commission investigations.").

<sup>50</sup> 19 U.S.C. § 1675a(a)(4).

<sup>51</sup> Original Determination at 17, CR at I-17 and I-60, PR at I-14 and I-45.

<sup>52</sup> CR at I-60, PR at I-45.

<sup>53</sup> Original Determination at 17.

<sup>54</sup> First Review Determination at 19.

metric tons in 2010.<sup>55</sup> There are indications that U.S. consumption of primary magnesium rose further in 2011.<sup>56</sup>

*Supply:* During the original investigations, Magcorp, Northwest, and Dow produced magnesium ingot in the United States.<sup>57</sup> In addition, three grinders (ESM, Reade, and Rossborough) produced granular magnesium.<sup>58</sup> Most granular magnesium production in the United States was from smaller ingots or magnesium chips ground into powder using a particle reduction process, although one grinder atomized molten pure magnesium to produce granular magnesium.<sup>59</sup>

In the first review, the record indicated that, in addition to US Magnesium's production of pure and alloy magnesium, ESM, Hart, Read, and Rossborough engaged in grinding operations in the United States, and there were at least three known producers of secondary magnesium: Amacor, MagPro LLC, and MagReTech.<sup>60</sup>

In this second review, there are reportedly ten domestic producers of the domestic like product: Amacor, ESM, Hart, MagPro, MagReTech, Meridian, Reade, Rossborough, Spartan, and US Magnesium.<sup>61</sup> US Magnesium and MagPro are producers of primary magnesium.<sup>62</sup> Amacor, MagPro, and MagReTech are commercial producers of secondary magnesium.<sup>63</sup> Gibbs, Meridian, and Spartan are magnesium diecasters, and ESM, Hart, Reade, and Rossborough are grinders.<sup>64</sup> US Magnesium, the largest domestic producer, has increased its nameplate capacity by over 30 percent since the imposition of the antidumping duty order on pure granular magnesium from China, and is currently engaged in a further expansion of its capacity.<sup>65</sup> Primary magnesium producers that use the electrolytic process (*i.e.*, US Magnesium) have a strong incentive to maintain a continuous level of production because the electrolytic cells used to make primary magnesium must be kept in constant operation to avoid their deterioration and significant rebuilding costs.<sup>66</sup>

As in the original investigations and first review, the U.S. market is supplied by domestic production, subject imports, and non-subject imports. The primary sources of non-subject magnesium during the original period of investigation were Russia, Canada, and non-subject imports from China, with Canada being the primary source of non-subject imports of granular magnesium.<sup>67</sup> Canada was also the primary source of non-subject granular magnesium in 2005, the year for which data were obtained in the expedited first review.<sup>68</sup> Non-subject imports continued to play a role in the U.S. market during the period of this second review, and Canada continued to be the primary source of such imports.<sup>69</sup>

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<sup>55</sup> CR at I-60, PR at I-45.

<sup>56</sup> CR at I-62, PR at I-45.

<sup>57</sup> Original Determination at 16-17. Dow ceased magnesium ingot production in November 1998, and Northwest ceased production in September 2001. Original Determination at 16 n.86.

<sup>58</sup> Original Determination at 10.

<sup>59</sup> Original Determination at 17.

<sup>60</sup> First Review Determination at 18.

<sup>61</sup> CR at I-36, PR at I-26.

<sup>62</sup> CR at I-36, PR at I-26.

<sup>63</sup> CR at I-36, PR at I-26.

<sup>64</sup> CR at I-36, PR at I-26.

<sup>65</sup> CR at I-42, PR at I-30.

<sup>66</sup> CR at I-22 n.55, PR at I-17 n.55.

<sup>67</sup> Original Determination at 17-18.

<sup>68</sup> First Review Determination at 18-19.

<sup>69</sup> CR/PR at Table I-8.

*Substitutability:* Absent any contrary evidence in the record, we find, as we did in the original investigations<sup>70</sup> and first review,<sup>71</sup> that subject imports from China are highly substitutable for domestically produced pure magnesium, and that price is an important consideration in choosing a supplier of pure magnesium products.<sup>72</sup>

Based on the limited record evidence, we find that the conditions of competition in the magnesium market are not likely to change significantly in the reasonably foreseeable future. We also find that these conditions of competition provide us with a reasonable basis on which to assess the likely effects of revocation of the antidumping duty order in the reasonably foreseeable future.

### **C. Likely Volume of Subject Imports**

In evaluating the likely volume of imports of subject merchandise if the order under review were revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>73</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>74</sup>

#### **1. Prior Proceedings**

In the original investigations, the Commission found that the volume of subject imports of granular magnesium from China and the increase in that volume were significant.<sup>75</sup> The volume of subject imports from China increased from 9,972 metric tons in 1998 to 15,262 metric tons in 2000.<sup>76</sup> The Commission attributed the lower volume of subject imports from China in interim 2001 (2,281 metric tons) as compared to interim 2000 (6,277 metric tons) to the pendency of the investigations.<sup>77</sup> As a share of total apparent domestic granular magnesium consumption by quantity, subject imports were \*\*\* percent in 1998, \*\*\* percent in 1999, and \*\*\* percent in 2000, and were \*\*\* percent in interim 2001, compared to \*\*\* percent in interim 2000.<sup>78</sup>

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<sup>70</sup> Original Determination at 18.

<sup>71</sup> First Review Determination at 20.

<sup>72</sup> In the 2011 China/Russia Review the Commission found that magnesium of the same type continues to be a fungible, commodity product, and that the market for magnesium continues to be price competitive. 2011 China/Russia Review at 9. There is no indication on the record of this review that these conditions have changed.

<sup>73</sup> 19 U.S.C. § 1675a(a)(2).

<sup>74</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>75</sup> Original Determination at 18-19. Due to concerns about double-counting, the Commission compared the volume of subject imports from China with apparent domestic consumption of granular magnesium. The parties to that proceeding estimated that a metric ton of magnesium ingot was roughly equivalent to a metric ton of granular magnesium. Using this estimate, the Commission also found the volume of subject imports from China was significant. Original Determination at 18 n.97.

<sup>76</sup> Original Determination at 18.

<sup>77</sup> Original Determination at 18.

<sup>78</sup> Original Determination at 18; Confidential Version of Commission’s Views at 26.

In the first five-year review, the Commission found that subject producers in China collectively had substantial production capacity that had continued to increase in recent years, they produced large and increasing quantities of granular pure magnesium, they had shown an ability to shift production from one form of magnesium to another, and they exported substantial and growing quantities of subject merchandise and continued to rely on the U.S. market even under the discipline of the order. The Commission also noted that the record provided some evidence that producers in China benefitted from export tax rebates and faced tariff barriers in third-country markets. Based on these factors, as well as its findings in the original investigations that the volume of subject imports from China was significant, the Commission concluded that the likely volume of the subject merchandise from China, both in absolute terms and relative to consumption and production in the United States, would be significant, absent the restraining effect of the order.<sup>79</sup>

## 2. The Current Review

We find that the subject import volume is likely to be significant if the order is revoked for a number of reasons.<sup>80</sup> Chinese producers have massive primary magnesium production capacity and considerable unused capacity.<sup>81</sup> China is by far the world's largest magnesium producer, accounting for over 80 percent of world capacity for primary magnesium in 2011.<sup>82</sup> Moreover, substantial further capacity expansions are planned.<sup>83</sup> In 2011, more than half of China's magnesium production was exported,<sup>84</sup> showing that the industry remains export oriented. The Chinese granular magnesium industry has reportedly become more sophisticated since the original investigations, in that it can now supply atomized magnesium, in addition to other forms of granular magnesium.<sup>85</sup>

Chinese producers can easily switch production from alloy magnesium to pure magnesium. Until the imposition of antidumping measures on alloy magnesium from China in 2004, Chinese producers exported substantial quantities of alloy magnesium to the United States.<sup>86</sup> Given the existing antidumping orders now in place against Chinese alloy and pure magnesium ingot, which have drastically reduced Chinese participation in the U.S. market for both of these products, and the relative ease with which Chinese producers can change production from alloy magnesium to pure magnesium, Chinese magnesium producers would have a powerful incentive to switch production and to export large volumes of pure magnesium in granular form to the United States if this order were revoked.

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<sup>79</sup> First Review Determination at 20-23.

<sup>80</sup> Subject imports were 334 metric tons in 2006, 22 metric tons in 2007, 1,385 metric tons in 2010, and 3,283 metric tons in 2011. There were no subject imports in 2008 or 2009. CR/PR at Table I-8. According to US Magnesium, it appears that at least some of the increase in imports in 2010 and 2011 is attributable to a misclassification of desulfurization reagents (which are excluded from the scope of the subject order) as subject imports. US Magnesium's Response at 12-13, and US Magnesium's Final Comments at 10 n.37.

<sup>81</sup> The primary magnesium production capacity of the Chinese industry more than doubled between 2006 and 2011, rising from 528,000 metric tons to 1,080,000 metric tons. CR/PR at Table I-10. Production rose at a slower rate, increasing from 520,000 metric tons in 2006 to 661,000 metric tons in 2011, with the result that capacity utilization rates fell sharply, from 92 percent in 2006 to 61.2 percent in 2011. Id.

<sup>82</sup> CR/PR at Table I-13.

<sup>83</sup> CR at I-66 and I-68, PR at I-50.

<sup>84</sup> See CR/PR at Tables I-10 and I-12.

<sup>85</sup> CR at I-68, PR at I-50.

<sup>86</sup> See, e.g., Magnesium from China and Russia, Inv. Nos. 731-TA-1071 and 1072 (Final), USITC Pub. 3763 (Apr. 2005) at Table IV-2.

With respect to barriers to entry into other export markets, we observe that the Chinese industry faces restrictions on its access to the Brazilian market. Brazil has maintained antidumping duties on imports of pure magnesium from China since 2004.<sup>87 88</sup>

Accordingly, based on the demonstrated ability of Chinese pure magnesium producers to increase imports into the U.S. market rapidly, their substantial production capacity and excess capacity, their export orientation, their ability to shift production, and the antidumping duty measures on Chinese pure magnesium in Brazil, we find that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant if the order were revoked.

#### **D. Likely Price Effects of Subject Imports**

In evaluating the likely price effects of subject imports if the order under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports in relation to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>89</sup>

##### **1. Prior Proceedings**

In its original determination, the Commission found that subject imports from China were highly substitutable for domestically produced pure magnesium, particularly in the production of reagent mixtures for the desulfurization segment of the U.S. market, and that price was an important consideration in choosing pure magnesium products and a pure magnesium supplier. Direct pricing data as well as average unit values collected in the original investigations showed considerable underselling by subject imports from China at significant margins and declining prices of the domestic like product and subject imports. Subject imports from China undersold the domestic like product in all possible price comparisons at average margins that increased from 49.1 percent in 1998 to 72.7 percent in 1999 and 79.5 percent in 2000. The Commission found that subject imports had adverse effects throughout the market. For example, it found the low-priced subject imports from China drove domestic producers and Israeli producer DSM largely out of the desulfurization segment of the U.S. market, leading to intensified price competition in the aluminum alloying segment of the market between the domestic like product, magnesium ingot imports from Israel, and non-subject magnesium ingot imports. Moreover, it found that the prices of subject imports in the desulfurization segment of the market were even lower than magnesium ingot prices to that and other segments of the market. For these reasons, the Commission found significant underselling of the domestic like product by subject imports from China, and that subject imports had the effect of depressing prices for the domestic like product to a significant degree.<sup>90</sup>

In the first five-year review, the Commission found that, absent the antidumping duty order, competitive conditions would return to those prevailing prior to the imposition of the order. In conjunction with its finding of a likely significant volume of subject imports from China in the event of revocation, the substitutability of domestic and subject product and the importance of price in the market, the significant

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<sup>87</sup> CR at I-70, PR at I-53.

<sup>88</sup> We have no information regarding any inventories of the subject merchandise held by importers or Chinese producers and exporters.

<sup>89</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>90</sup> Original Determination at 19-20.

underselling and other price effects in the original investigations, and subject imports' continuing presence in the U.S. market notwithstanding the order, the Commission found that subject imports would likely have adverse effects on domestic prices in a market that already appeared to face low and declining prices. Based on these factors, the Commission concluded that revocation of the antidumping duty order on pure magnesium would be likely to lead to significant underselling of the domestic like product by subject imports and significant price depression and suppression. The Commission relied on pricing patterns for subject imports both during and subsequent to the original period of investigation to conclude that subject imports would likely be priced aggressively if the order were revoked.<sup>91</sup>

## 2. The Current Review

As discussed above, magnesium of the same type is a fungible, commodity product, and price continues to be an important factor in purchasing decisions. There are no current product-specific pricing data in this expedited review. Publically available price data for magnesium generally show that average U.S. prices were consistently higher than average prices in both China and Europe during the period of review.<sup>92</sup> If the antidumping duty order were revoked, Chinese producers and exporters would have an incentive to price significantly below the prevailing U.S. price to induce U.S. purchasers to switch to Chinese pure granular magnesium, as they did in the original investigations.<sup>93</sup>

If the order were revoked, the United States would be an attractive export market for Chinese producers, given their substantial unused capacity, their export orientation, and the current prices in the U.S. market. Because of the interchangeability between subject imports and domestic pure granular magnesium and the importance of price in purchasing decisions, underselling is likely to result in significant adverse price effects, similar to those found in the original investigations.<sup>94</sup> Accordingly, given the likely significant volume of subject imports, we conclude that subject imports from China likely would significantly undersell the domestic like product to gain market share and likely would have significant depressing or suppressing effects on the prices of the domestic like product if the antidumping duty order were revoked.

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<sup>91</sup> First Review Determination at 23-25.

<sup>92</sup> CR/PR at Figure I-2. US Magnesium states that it is unaware of published pricing data specifically for pure magnesium in granular form. It has, however, provided evidence showing recent Chinese export prices for pure magnesium ingot that are well below U.S. spot prices. This evidence, from February 2012, shows Chinese export prices ranging from \$1.34/lb. to \$1.36/lb., at a time when spot prices in the U.S. market ranged from \$2.05/lb. to \$2.30/lb.. US Magnesium Response at 17.

<sup>93</sup> Original Determination at 20.

<sup>94</sup> Original Determination at 19-20.

## **E. Likely Impact of Subject Imports<sup>95</sup>**

In evaluating the likely impact of imports of subject merchandise if the order under review were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>96</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order were revoked.<sup>97</sup>

### **1. Prior Proceedings**

In the original investigations, the Commission found that subject imports were having a significant adverse impact on the domestic industry. Specifically, the Commission found that significant volumes of subject imports from China at low prices displaced the domestic like product in the desulfurization segment of the market and intensified competition throughout the U.S. market, including in the aluminum alloying segment where the domestic like product also competed with imports from other countries, including Israel and Russia. Domestic producer Magcorp declared bankruptcy at the end of the period of investigation (“POI”), Northwest announced the closure of its production facilities in June 2001, and the condition of the magnesium ingot producers declined during the POI. Although the Commission considered that the data concerning grinders were less meaningful to the extent they included some reagent production, it found that the grinders also experienced declining performance throughout the POI. \*\*\*

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<sup>95</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885, 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Tariff Act states that “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited sunset review of the antidumping duty order on pure magnesium from China, Commerce found likely antidumping duty margins of 24.67 percent for Minmetals and 305.56 percent for all others. Pure Magnesium in Granular Form from the People’s Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order, 77 FR 33165 (June 5, 2012).

<sup>96</sup> 19 U.S.C. § 1675a(a)(4).

<sup>97</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

Rosborough testified about the injurious effects of subject imports from China on its operations, and the data showed the deteriorating condition of the grinders.<sup>98</sup>

In the first five-year review the Commission found that there was little information on the record of that expedited review pertaining to many of the financial and trade indicators that it generally considered in assessing whether the domestic industry is in a weakened condition as contemplated by the statute. Therefore, given the absence of industry performance data, the Commission found that it was unable to determine whether the industry was currently vulnerable.<sup>99</sup>

The Commission found, as discussed above, that revocation of the antidumping duty order likely would lead to significant increases in the volume of subject imports at prices that would likely undersell the domestic like product and significantly depress U.S. prices. In addition, the likely volume and price effects of the subject imports likely would cause the domestic industry to lose market share, with a significant adverse impact on the domestic industry's production, capacity utilization, shipments, sales, and revenue levels, which in turn would have a direct adverse impact on the industry's profitability and its ability to raise capital and make and maintain necessary capital investments.<sup>100</sup> Accordingly, based on the limited record in that expedited review, the Commission concluded that, if the antidumping duty order were revoked, subject imports from China likely would have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

## 2. The Current Review

In this expedited review, the record information on the domestic industry's condition is based on data for 2011 provided in response to the notice of institution by domestic producers US Magnesium and ESM. The limited record is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.

In 2011, US Magnesium's capacity was \*\*\* metric tons, its production was \*\*\* metric tons, its capacity utilization was \*\*\* percent, and its U.S. shipments were \*\*\* metric tons.<sup>101</sup> US Magnesium's nameplate capacity \*\*\* between 2008 and 2011.<sup>102</sup> In 2011, US Magnesium had net sales of \$\*\*\*, earned operating income of \$\*\*\*, and reported an operating margin of \*\*\* percent.<sup>103</sup> In 2011, ESM's capacity ranged from \*\*\* metric tons, its production was \*\*\* metric tons, and its U.S. shipments were \*\*\* metric tons.<sup>104</sup> In that year, ESM had net sales of \$\*\*\*, an operating \*\*\* , and an operating margin of \*\*\* percent.<sup>105</sup>

Based on the record of this review, we find that, should the order be revoked, the likely adverse volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. Declines in these indicators of industry performance would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital, to make and maintain capital investments, and to fund research and development.

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<sup>98</sup> Original Determination at 20-22.

<sup>99</sup> First Review Determination at 26-27.

<sup>100</sup> First Review Determination at 27.

<sup>101</sup> CR/PR at Table I-5.

<sup>102</sup> CR/PR at Table I-6.

<sup>103</sup> CR/PR at Table I-5.

<sup>104</sup> CR/PR at Table I-5.

<sup>105</sup> CR/PR at Table I-5.

We also have considered the role of factors other than subject imports, including continued weakened demand due to the 2009 recession and the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. We recognize that the United States suffered an economic downturn in 2009, which depressed demand for magnesium, and that the recovery from this downturn has not been complete. Non-subject imports have been present in the U.S. market in significant quantities throughout the 2006-2011 period.<sup>106</sup> We find that any lingering effects of the economic downturn and the continued presence of non-subject imports are not likely to sever the causal nexus between subject imports and their likely significant adverse impact on the domestic industry if the order were revoked.

Accordingly, we conclude that, if the antidumping duty order were revoked, subject imports from China would likely have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

## CONCLUSION

For the above reasons, we determine that revocation of the antidumping duty order on pure magnesium in granular form from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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<sup>106</sup> In this period, the quantity of non-subject imports ranged from 742 metric tons in 2009 to 1,578 metric tons in 2011. CR/PR at Table I-8.

**INFORMATION OBTAINED IN THE REVIEW**



## INTRODUCTION

### Background

On February 1, 2012, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> the U.S. International Trade Commission (“Commission”) gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on pure magnesium (in granular form) from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.<sup>2 3</sup> On May 7, 2012, the Commission determined<sup>4</sup> that the domestic interested party group response to its notice of institution was adequate<sup>5</sup> and that the respondent interested party group response was inadequate.<sup>6</sup> In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).<sup>7</sup> The Commission voted on this review on September 12, 2012. The Commission notified Commerce of its determination on September 25, 2012. The following tabulation presents selected information relating to the schedule of this five-year review.<sup>8</sup>

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<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> *Pure Magnesium From China; Institution of a Five-Year Review*, 77 FR 5049, February 1, 2012. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission’s notice of institution is presented in app. A.

<sup>3</sup> In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 77 FR 4995, February 1, 2012.

<sup>4</sup> Commissioner Dean A. Pinkert did not participate in this five-year review.

<sup>5</sup> The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of US Magnesium LLC (“US Magnesium”), a domestic producer of primary magnesium (pure and alloy). US Magnesium indicated in its response that it accounted for \*\*\* percent of total U.S. production of primary and secondary magnesium ingot produced in the United States, as well as the granular magnesium produced from non-US Magnesium produced magnesium ingot. US Magnesium’s response also contains certain information it received from domestic grinders ESM Special Metals & Technology, Inc. (“ESM”), Reade Manufacturing Co. (“Reade”), and Hart Metals Inc. (“Hart”). US Magnesium reported that these U.S. grinders are in support of the continuation of the antidumping duty order on pure magnesium in granular form from China. US Magnesium also reported that the following three labor unions are in support of the continuation of the antidumping order on pure magnesium in granular form from China: (1) United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 8319 (“Local 8319”), which represents workers at US Magnesium’s plant in Rowley, UT, (2) Steelworkers Local 4182, which represents workers at Hart’s plant in Tamaqua, PA, and (3) United Food and Commercial Workers (“UFCW”) Local 888, which represents workers at the Reade plant in Lakehurst, NJ. *Response of US Magnesium*, March 2, 2012, pp. 1-2 and att. 11, and *Pure Magnesium From China, Investigation No. 731-TA-895 (Review)*, USITC Pub. 3908, March 2007, p. I-3.

<sup>6</sup> The Commission did not receive a response from any respondent interested parties to its notice of institution.

<sup>7</sup> *Pure Magnesium (Granular) From China; Scheduling of an Expedited Five-Year Review*, 77 FR 32668, June 1, 2012. The Commission’s notice of an expedited review appears in app. A. The Commission’s statement on adequacy is presented in app. B.

<sup>8</sup> Cited *Federal Register* notices beginning with the Commission’s institution of a five-year sunset review are presented in app. A.

Effective date	Action	Federal Register citation
February 1, 2012	Commission's institution of five-year review	77 FR 5049 February 1, 2012
February 1, 2012	Commerce's initiation of five-year review	77 FR 4995 February 1, 2012
May 7, 2012	Commission's determination to conduct an expedited five-year review	77 FR 32668 June 1, 2012
June 5, 2012	Commerce's final expedited five-year review determination	77 FR 33165 June 5, 2012
September 12, 2012	Commission's vote	Not applicable
September 25, 2012	Commission's determination transmitted to Commerce	Not applicable

### The Original Investigation

The original investigations resulted from a petition filed on October 17, 2000, by Magnesium Corp. of America (“Magcorp”) (predecessor firm to US Magnesium) and Local 8319,<sup>9</sup> alleging that an industry in the United States was materially injured and threatened with material injury by reason of imports of pure magnesium from Israel and Russia,<sup>10</sup> and pure granular magnesium from China, that were alleged to be sold in the United States at LTFV, and by reason of imports of pure magnesium from Israel that were alleged to be subsidized by the Government of Israel.<sup>11</sup>

Commerce made its final affirmative dumping determination with respect to pure magnesium in granular form from China on September 27, 2001. Commerce determined that the following percentage weighted-average margins existed for the period April 1, 2000, through September 30, 2000: Minmetals Precious & Rare Minerals Import and Export/China National Nonferrous Metals Industry Trading Group Corp. (“Minmetals”) (24.67 percent) and all others (305.56 percent).<sup>12</sup> The Commission subsequently determined that an industry in the United States was materially injured by reason of imports of pure

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<sup>9</sup> On October 26, 2000, the petitioners amended the petition to include the United Steelworkers of America International as a co-petitioner, and on April 20, 2001 amended the petition to add “concerned employees of Northwest Alloys, Inc.” as co-petitioners.

<sup>10</sup> In September 2001, Commerce published notice of a negative final determination of sales at less than fair value (“LTFV”) in connection with the investigation on Russia (*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 49347, September 27, 2001). Accordingly, the Commission terminated its antidumping investigation concerning pure magnesium from Russia (Inv. No. 731-TA-897 (Final)).

<sup>11</sup> The Commission determined that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of imports of pure magnesium from Israel that Commerce found to be subsidized and sold in the United States at LTFV. *Pure Magnesium From China and Israel, Investigations Nos. 701 -TA-403 and 731-TA-895-896 (Final)*, USITC Pub. 3467, November 2001, p. 3.

<sup>12</sup> *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.

magnesium (in granular form) from China that were sold at LTFV.<sup>13</sup> Commerce issued an antidumping duty order on November 19, 2001.<sup>14</sup>

### **The First Five-year Review**

The Commission instituted its first review of the antidumping duty order on pure magnesium in granular form from China on October 2, 2006.<sup>15</sup> On January 5, 2007, the Commission determined that an expedited five-year review of the antidumping duty order should proceed.<sup>16</sup> Effective February 6, 2007, Commerce found that revocation of the antidumping duty order on pure magnesium in granular form from China would likely lead to continuation or recurrence of dumping at the following weighted-average margins: 24.67 percent (Minmetals) and 305.56 percent (all others).<sup>17</sup> In March 2007, the Commission determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>18</sup> Commerce published notice of the continuation of the antidumping duty order concerning pure magnesium in granular form from China on March 26, 2007.<sup>19</sup>

### **Commerce's Final Result of Expedited Second Five-Year Review**

Commerce published the final results of its expedited second five-year review on June 5, 2012. Commerce concluded that revocation of the antidumping investigation on pure magnesium in granular form from China would likely lead to a continuation or recurrence of dumping at the following weighted-average margins: 24.67 percent (Minmetals) and 305.56 percent (all others).<sup>20</sup> Commerce reported that for the final results of this expedited second five-year review, it found the same margins as reported in its original investigations because those margins were the only calculated rates that reflected the behavior of exporters without the discipline of an order and information from subsequent reviews of the order did not warrant the use of a more recently calculated dumping margin.<sup>21</sup>

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<sup>13</sup> Commissioners Marcia E. Miller and Jennifer A. Hillman dissented. *Pure Magnesium From China and Israel, Investigations Nos. 701 -TA-403 and 731-TA-895-896 (Final)*, USITC Pub. 3467, November 2001, pp. 3 and 31.

<sup>14</sup> *Antidumping Duty Order: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 57936, November 19, 2001.

<sup>15</sup> *Pure Magnesium From China*, 71 FR 58001, October 2, 2006.

<sup>16</sup> *Pure Magnesium From China*, 72 FR 3876, January 26, 2007.

<sup>17</sup> *Pure Magnesium in Granular Form from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 5417, February 6, 2007.

<sup>18</sup> *Pure Magnesium From China*, 72 FR 10258, March 7, 2007.

<sup>19</sup> *Pure Magnesium in Granular Form from the People's Republic of China: Continuation of Antidumping Duty Order*, 72 FR 14076, March 26, 2007.

<sup>20</sup> *Pure Magnesium in Granular Form from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 77 FR 33165, June 5, 2012.

<sup>21</sup> *Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Pure Magnesium in Granular Form from the People's Republic of China*, May 29, 2012, p. 6.

## Commerce's Administrative Reviews

There have been no completed administrative reviews or new shipper reviews since the issuance of the antidumping duty order. There have also been no changed circumstances reviews or duty absorption findings concerning the antidumping duty order.<sup>22</sup> The antidumping duty order remains in effect for all manufacturers, producers, and exporters of pure magnesium in granular form from China.<sup>23</sup>

## Commerce's Scope Reviews

Commerce made two scope rulings prior to the first five-year reviews. On August 21, 2002, Commerce issued a scope ruling that found pure magnesium in granular form ground in Canada or another third country from pure magnesium ingots produced in China was within the scope of the order. On September 18, 2006, Commerce also determined that pure magnesium manufactured in the United States, exported to China for atomization, and returned to the United States was not within the scope of the order since the atomization process did not substantially transform pure magnesium.<sup>24</sup>

Commerce has issued two additional scope rulings since the 2007 continuation of the antidumping duty order. On October 27, 2011, Commerce issued a scope ruling finding that pure magnesium in granular form ground in Mexico from pure magnesium ingots produced in China was within the scope of the order. On October 28, 2011, Commerce once again determined that pure magnesium manufactured in the United States, exported to China for atomization, and returned to the United States was not within the scope of the order.<sup>25</sup>

## RELATED INVESTIGATIONS

### Title VII Investigations and Reviews

Beginning in 1991, the Commission has conducted a series of Title VII investigations and five-year reviews of existing orders on magnesium from six countries: Canada, China, Israel, Norway, Russia, and Ukraine. Table I-1 presents actions taken by the Commission and Commerce with respect to title VII investigations and reviews concerning magnesium. As shown in table I-1, the only magnesium orders currently in place are for magnesium products imported from China. There are currently three separate antidumping duty orders covering pure ingot, pure granular, and alloy magnesium from China.

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<sup>22</sup> Commerce initiated a review of pure magnesium in granular form covering the period November 1, 2010, through October 31, 2011, citing one respondent, China Minmetals Non-ferrous Metals Co., Ltd. on December 30, 2011. *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 76 FR 82268, 82273, December 30, 2011.

<sup>23</sup> *Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Pure Magnesium in Granular Form from the People's Republic of China*, May 29, 2012, p. 2.

<sup>24</sup> *Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Pure Magnesium in Granular Form from the People's Republic of China*, May 29, 2012, p. 2.

<sup>25</sup> *Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Pure Magnesium in Granular Form from the People's Republic of China*, May 29, 2012, pp. 2-3.

**Table I-1**  
**Magnesium: Actions taken by the Commission and Commerce**

Action	Date	<i>Federal Register</i>
<b>Canada:<sup>1</sup></b>		
Commission's affirmative determinations in 701-TA-309 and 731-TA-528 (Final)	08/26/1992	57 FR 38696
Countervailing duty ("CVD") orders issued (C-122-814) ( <i>pure and alloy ingot</i> )	08/31/1992	57 FR 39390
Antidumping duty ("AD") order issued (A-122-814) ( <i>pure ingot</i> )	08/31/1992	57 FR 39392
Institution of first five-year reviews of AD and CVD orders (full)	08/02/1999	64 FR 41961
Commission's affirmative determinations in first five-year reviews	08/02/2000	65 FR 47517
Continuation of AD and CVD orders	08/16/2000	65 FR 49964
Revocation of AD order	12/07/2004	69 FR 70649
Institution of second five-year reviews of CVD orders (full)	07/01/2005	70 FR 38199
Commission's negative CVD determinations in second five-year reviews	06/26/2006	71 FR 36359
Revocation of CVD orders	07/06/2006	71 FR 38382
<b>China (Inv. No. 731-TA-696):<sup>2</sup></b>		
Commission's affirmative determination in 731-TA-696 (Final)	05/17/1995	60 FR 26456
AD order issued (A-570-832) ( <i>pure ingot</i> )	05/12/1995	60 FR 25691
Institution of first five-year review (expedited)	04/03/2000	65 FR 17531
Commission's affirmative determination in first five-year review	09/12/2000	65 FR 55047
Continuation of AD order	10/27/2000	65 FR 64422
Institution of second five-year review (full)	07/01/2005	70 FR 38101
Commission's affirmative determination in second five-year review	06/26/2006	71 FR 36359
Continuation of AD order	07/10/2006	71 FR 38860
Institution of third five-year review (expedited)	06/01/2011	76 FR 31635
Commission's affirmative determination in third five-year review	11/08/2011	76 FR 69284
Continuation of AD order	11/22/2011	76 FR 72172
<b>China (Inv. No. 731-TA-895):<sup>3</sup></b>		
Commission's affirmative determination in 731-TA-895 (Final)	11/20/2001	66 FR 58162
AD order issued (A-570-864) ( <i>pure granular</i> )	11/19/2001	66 FR 57936
Institution of first five-year review (expedited)	10/02/2006	71 FR 58001
Commission's affirmative determination in first five-year review	03/07/2007	72 FR 10258
Continuation of AD order	03/26/2007	72 FR 14076
Institution of second five-year review (expedited)	02/01/2012	77 FR 5049
<b>China (Inv. No. 731-TA-1071):</b>		
Commission's affirmative determination in 731-TA-1071 (Final)	04/15/2005	70 FR 19969
AD order issued (A-570-896) ( <i>alloy</i> )	04/15/2005	70 FR 19928
Institution of first five-year review (full)	03/01/2010	75 FR 9252
Commission's affirmative determination in first five-year review	02/24/2011	76 FR 11813
Continuation of AD order	03/11/2011	76 FR 13356
<b>Israel:</b>		
Commission's institution of 701-TA-403 and 731-TA-896 (Preliminary)	10/25/2000	65 FR 63888
Commission's negative determinations in 701-TA-403 and 731-TA-896 (Final)	11/20/2001	66 FR 58162
Commerce's final negative AD determination (A-403-803) ( <i>pure</i> ) and rescission of investigation and partial dismissal of petition ( <i>alloy</i> )	07/13/1992	57 FR 30942
Commission terminates 731-TA-529 (Final)	08/04/1992	57 FR 34303

Table continued on following page.

**Table I-1--Continued**  
**Magnesium: Actions taken by the Commission and Commerce**

Action	Date	Federal Register citation
<b>Norway:</b>		
Commission's institution of 701-TA-310 and 731-TA-529 (Preliminary)	09/12/1991	56 FR 46443
Commerce's dismissal of CVD petition and termination of CVD proceeding	10/01/1991	56 FR 49748
Commission's termination of CVD investigation (701-TA-310 (Preliminary))	10/23/1991	56 FR 54887
<b>Russia (731-TA-697):<sup>4</sup></b>		
Commission's affirmative determination in 731-TA-697 (Final)	05/17/1995	60 FR 26456
AD issued (A-821-805) ( <i>pure ingot</i> )	05/12/1995	60 FR 25691
Institution of five-year review (expedited)	04/03/2000	65 FR 17531
Revocation of AD order	07/07/2000	65 FR 41944
Termination of five-year review	07/17/2000	65 FR 44076
<b>Russia (731-TA-897):</b>		
Institution of 731-TA-897 (Preliminary)	10/25/2000	65 FR 63888
Commerce's negative final AD determination (A-821-813) ( <i>pure ingot and granules</i> )	09/27/2001	66 FR 49347
Commission terminates 731-TA-897 (Final)	10/04/2001	66 FR 50680
<b>Russia (731-TA-1072):</b>		
Commission's affirmative determination in 731-TA-1072 (Final)	04/15/2005	70 FR 19969
AD order issued (A-821-819) ( <i>pure and alloy</i> )	04/15/2005	70 FR 19930
Institution of first five-year review (full)	03/01/2010	75 FR 9252
Commission's negative determination in first five-year review	02/24/2011	76 FR 11813
Revocation of AD order	03/10/2011	76 FR 13128
<b>Ukraine:<sup>2</sup></b>		
Commission's affirmative determination in 731-TA-698 (Final)	05/17/1995	60 FR 26456
AD order issued (A-823-806) ( <i>pure ingot</i> )	05/12/1995	60 FR 25691
Commission's negative determination on remand	June 1998	( <sup>5</sup> )
Revocation of the AD order	08/24/1999	64 FR 46182
<p><sup>1</sup> On October 7, 2004, an Extraordinary Challenge Committee issued a determination which affirmed the final remand opinion of the Binational panel concerning alloy magnesium from Canada (69 FR 67703, November 19, 2004). Subsequently, Commerce revoked the AD order on pure magnesium ingot from Canada retroactively effective August 1, 2000, after the NAFTA Binational Panel's final decision. Commerce revoked the CVD orders on pure and alloy magnesium ingot from Canada retroactively effective August 16, 2005 after the Commission's negative second five-year review determinations.</p> <p><sup>2</sup> The Commission made a negative determination with respect to alloy magnesium.</p> <p><sup>3</sup> In its original determination and its first and second five-year reviews of the order, Commerce found the weighted-average AD margin for Minmetals to be 24.67 percent <i>ad valorem</i> and 305.56 percent <i>ad valorem</i> for all other manufacturers and exporters in China (66 FR 57936, November 19, 2001; 72 FR 5417, February 6, 2007; and 77 FR 33165, June 5, 2012).</p> <p><sup>4</sup> The Commission made a negative determination with respect to alloy magnesium. On September 5, 2000, Commerce issued a correction to the revocation order making the effective date of revocation May 12, 2000, the fifth anniversary of the date of publication of the original order (65 FR 53700, September 5, 2000).</p> <p><sup>5</sup> No corresponding <i>Federal Register</i> citation.</p>		
Source: Various <i>Federal Register</i> notices.		

## Other Investigations

On December 17, 1999, the Commission received a request from the United States Trade Representative (“USTR”) for an investigation under section 332(g) of the Tariff Act of 1930 for the purpose of providing advice concerning possible modifications to the U.S. Generalized System of Preferences (“GSP”) for several products including alloy and granular magnesium. Subsequently, on December 23, 1999, the Commission instituted investigation No. 332-410.<sup>26</sup> After a public hearing was held on February 2, 2000, the Commission presented its advice to the USTR on March 16, 2000.<sup>27</sup> In a Presidential Proclamation of June 29, 2000, the President added granular magnesium to the list of GSP-eligible articles.<sup>28</sup>

## THE PRODUCT

### Commerce’s Scope

In its *Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, Commerce defined the imported product subject to the antidumping duty order under review as follows:

The scope of this order includes imports of pure magnesium products, regardless of chemistry, including, without limitation, raspings, granules, turnings, chips, powder, and briquettes, except as noted above. Pure magnesium includes: (1) Products that contain at least 99.95 percent primary 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 primary magnesium, by weight (generally referred to as “pure” magnesium); (3) chemical combinations of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy” (generally referred to as “off specification pure” magnesium); and (4) physical mixtures of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight. Excluded from this order are mixtures containing 90 percent or less pure magnesium by weight and one or more of certain nonmagnesium granular materials to make magnesium-based reagent mixtures. The non-magnesium granular materials of which the Department is aware used to make such excluded reagents are: lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, aluminum, 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, dolomitic lime, and colemanite. A party importing a magnesium-based reagent which includes one or more materials not on this list is required to seek a scope clarification from the Department before such a mixture may be imported free of antidumping duties.

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<sup>26</sup> *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences*, 64 FR 73574, December 30, 1999.

<sup>27</sup> *See Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences*, Inv. No. 332-410, USITC Publication 3288 (March 2000).

<sup>28</sup> *Proclamation 7325 of June 29, 2000 to Modify Duty-Free Treatment Under the Generalized System of Preferences and for Other Purposes*, 65 FR 41313, July 3, 2000.

The merchandise subject to this order is currently classifiable under item 8104.30.00 of the HTSUS.<sup>29</sup>

Commerce further explained that:

There is an existing antidumping duty order on pure magnesium from the People’s Republic of China (PRC). The scope of this order excludes pure magnesium that is already covered by the existing order on pure magnesium in ingot form, and currently classifiable under item numbers 8104.11.00 and 8104.19.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”).<sup>30</sup>

**U.S. Tariff Treatment**

The subject pure granular magnesium may be imported under HTS subheading 8104.30.00 (magnesium raspings, turnings, and powders). Table I-2 presents the latest published tariff rates for the subject magnesium in granular form.<sup>31</sup> U.S. imports from China of pure magnesium in ingot form and alloy magnesium are also subject to current antidumping duty orders but are not the subject of this review.<sup>32</sup>

**Table I-2  
Magnesium in granular form: Tariff rates, 2012**

HTS provision	Article description <sup>1</sup>	General <sup>2</sup>	Special <sup>3</sup>	Column 2 <sup>4</sup>
		Rates ( <i>percent ad valorem</i> )		
8104.30.00	Magnesium and articles thereof, including waste and scrap: Raspings, turnings and granules, graded according to size; powders	4.4	Free	60.5
<sup>1</sup> An abridged description is provided for convenience; however, an unabridged description may be obtained from the respective headings, subheadings, and legal notes of the HTS. <sup>2</sup> Normal trade relations, formerly known as the most-favored-nation duty rate. Imports from China enter under the general rate. <sup>3</sup> General note 3(c)(I) lists the special tariff treatment programs indicated in this column. Goods must meet eligibility rules set forth in other general notes, and importers must properly claim such treatment. <sup>4</sup> Applies to imports from a small number of countries that do not enjoy normal trade relations duty status. Source: Harmonized Tariff Schedule of the United States (2012).				

<sup>29</sup> 77 FR 33165, June 5, 2012.

<sup>30</sup> Ibid (footnote omitted).

<sup>31</sup> HTS subheading 8104.30.00 may contain either pure or alloy magnesium products. However, the Commission reported that more than 95 percent of the entries under this subheading are pure magnesium products containing at least 99.8 percent magnesium by weight. *Pure Magnesium From China, Investigation No. 731-TA-895 (Review)*, USITC Pub. 3908, March 2007, p. I-9

<sup>32</sup> Pure magnesium in ingot form is generally classified under HTS subheading 8104.11.00 and alloy magnesium is generally classified under HTS subheading 8104.19.00.

## Domestic Like Product and Domestic Industry

The domestic like product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry consists of U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. Both before and since the time of the original investigation that is the subject of this review, there have been numerous investigations and reviews involving various types of magnesium products (see table I-1). The domestic like products and domestic industries, as defined by the Commission (or Commission majority), and the corresponding scopes of the investigations and reviews, as defined by Commerce, have varied over the years. In its first investigations involving imported pure and alloy magnesium in 1992, the Commission found pure and alloy magnesium to constitute a single domestic like product.<sup>33</sup> The Commission was reversed on this point by a U.S.-Canada binational panel, which found that pure and alloy magnesium were separate domestic like products. In a 1995 investigation and a 2000 sunset review involving magnesium of both types, the Commission found pure and alloy magnesium to be separate domestic like products.<sup>34</sup> In subsequent preliminary investigations concluded in 2000 involving pure magnesium only, the Commission declined to expand the domestic like product to include alloy magnesium.<sup>35</sup>

Commerce's scope of the imported subject merchandise in the original 2001 investigation underlying this current second five-year review consisted of pure magnesium in granular form.<sup>36</sup> In the original investigations, the Commission majority defined a single domestic like product: pure magnesium that included both granular pure magnesium and pure magnesium ingot. In the preliminary phase of the original investigation, the Commission rejected a request to expand the domestic like product to include alloy magnesium and, in its final determination in the original investigation, the Commission reiterated that finding. Based on its definition of a single domestic like product that included pure magnesium in ingot and granular form, the Commission defined a corresponding domestic industry that included all producers of pure magnesium, including grinders.<sup>37</sup> In its first five-year review of the order concerning pure granular magnesium from China, the Commission defined a single domestic like product encompassing primary and secondary magnesium, including pure and alloy magnesium, whether in ingot or granular form. In accordance with its domestic like product determination in that first five-year review, the Commission determined that there was one domestic industry composed of the domestic producers of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in

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<sup>33</sup> *Magnesium from Canada, Inv. Nos. 701-TA-309 and 731-TA-528 (Final)*, USITC Pub. 1992 (August 1992), pp. 8-11.

<sup>34</sup> *Magnesium from China, Russia, and Ukraine, Inv. Nos. 731-TA-696-698 (Final)*, USITC Pub. 2885, May 1995, pp. 7-9; *Magnesium from Canada, Inv. Nos. 701-TA-309-A-B and 731-TA-528 (Review)*, USITC Pub. 3324, July 2000, pp. 5-6.

<sup>35</sup> *Pure Magnesium from China, Israel, and Russia, Inv. Nos. 701-TA-403 (Preliminary) and 731-TA-895-897 (Preliminary)*, USITC Pub. 3376, December 2000, p. 7.

<sup>36</sup> The scope of the original companion investigation concerning Israel included pure magnesium, regardless of form, whereas the scope of the original investigations underlying this current second five-year review concerning China included only pure magnesium in granular form because pure magnesium ingot from China had already been covered by an existing antidumping duty order since 1995. *Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 and 731-TA-895-896 (Final)*, USITC Pub. 3467, November 2001, p. I-5.

<sup>37</sup> *Pure Magnesium from China and Israel, Inv. Nos. 701-TA-403 and 731-TA-895-896 (Final)*, USITC Pub. 3467, November 2001, pp. 6-11.

ingot and granular form. As in the original investigation, the Commission also included grinders in the domestic industry producing magnesium.<sup>38</sup>

The Commission's most recent domestic like product and domestic industry determinations concerning magnesium were made in connection with the following five-year reviews: (1) the full five-year review concerning *Magnesium from China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, in which the scope of the subject merchandise concerning China was alloy magnesium and the scope of the subject merchandise concerning Russia was pure and alloy magnesium, and (2) the expedited five-year review concerning *Pure Magnesium from China, Investigation No. 731-TA-696 (Third Review)*, USITC Pub. 4274, October 2011, in which the scope of the subject merchandise was pure magnesium ingot. Although the Commission majority domestic like product determinations in the underlying proceedings concerning those recently completed five-year reviews varied,<sup>39</sup> the Commission consistently found in the 2011 five-year reviews that pure and alloy magnesium were part of the same domestic like product. The Commission also found that cast and granular magnesium, and primary and secondary magnesium, were part of the same domestic like product in both proceedings concluded in 2011. Based on the Commission's definition of a single domestic like product in those reviews, it determined that there was one domestic industry composed of the domestic producers of pure and alloy magnesium,<sup>40</sup> including primary and secondary magnesium, and magnesium in ingot and granular form.<sup>41</sup>

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<sup>38</sup> Although the Commission majority included grinders in the domestic industry producing magnesium, one Commissioner did not include grinders in the domestic industry based on the finding that such firms did not engage in sufficient production-related activities. *Pure Magnesium from China, Inv. No. 731-TA-895 (Review)*, USITC Pub. 3908, March 2007, pp. 6-16.

<sup>39</sup> In the original injury determinations concerning *Pure Magnesium from China*, the Commission found pure and alloy magnesium to be separate domestic like products. In the first five-year review of that order, the Commission continued to define the like product as pure magnesium. In the second five-year review of the order (which was conducted simultaneously with five-year reviews for pure and alloy magnesium from Canada), the Commission was evenly divided on the question of whether pure and alloy magnesium were one or two domestic like products. *Pure Magnesium from China, Investigation No. 731-TA-696 (Third Review)*, USITC Pub. 4274, October 2011, pp. 6-7. The original injury determinations concerning *Magnesium from China and Russia* were the first in which the Commerce Department defined pure and alloy magnesium as a single class or kind or merchandise. The Commission found in those original investigations that circumstances had changed sufficiently from other investigations involving magnesium products so as to blur the dividing line between pure and alloy magnesium. Therefore, the Commission determined that pure and alloy magnesium constituted a single domestic like product. The Commission also found that cast and granular magnesium, and primary and secondary magnesium, were part of the same like product. *Magnesium from China and Russia, Investigation No. 731-TA-1071-1072 (Final)*, USITC Pub. 3763, April 2005, pp. 6-11.

<sup>40</sup> Although having previously defined pure and alloy magnesium as separate domestic like products in *Pure and Alloy Magnesium From Canada and Pure Magnesium From China, Investigation Nos. 701-TA-309-A-B and 731-TA-696 (Second Review)*, USITC Pub. 3859, July 2006, and *Pure Magnesium From China, Investigation No. 731-TA-895 (Review)*, USITC Pub. 3908, March 2007, Commissioner Aranoff concurred with the definition of a single domestic like product consisting of pure and alloy magnesium, noting that the record in those previous cases presented different circumstances and fact patterns.

<sup>41</sup> *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, pp. 4-12; *Pure Magnesium from China, Investigation No. 731-TA-696 (Third Review)*, USITC Pub. 4274, October 2011, pp. 4-8. Domestic die casters that recycled magnesium scrap were found by the Commission to be part of the domestic industry in its original 2005 determinations and 2011 first five-year reviews concerning alloy magnesium from China and pure and alloy magnesium from Russia; however, in the second five-year reviews on pure and alloy magnesium from Canada and pure magnesium from China completed in 2006, the Commission concluded that domestic die casters did not engage in sufficient production-related activities in their scrap recycling  
(continued...)

Noting the Commission's domestic like product determination in its first five-year review concerning magnesium in granular form from China (731-TA-895), as well as in its recent reviews of alloy magnesium from China (731-TA-1071) and pure magnesium ingot from China (731-TA-696), domestic producer US Magnesium indicated in its response to the Commission's notice of institution in this current second five-year review that the Commission should find the domestic like product to encompass pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form.<sup>42</sup>

### Description and Uses<sup>43</sup>

Magnesium, the eighth most abundant element in the earth's crust and the third most plentiful element dissolved in seawater, is a silver-white metallic element. It is the lightest of all structural metals with a density approximately 63 percent of that of aluminum, the principal metal with which it competes in the U.S. market. Magnesium's light weight and high vibrational-dampening properties have encouraged research to develop magnesium-based alloys with improved physical and mechanical properties for use as a structural metal in applications where minimizing weight is an important design consideration. The U.S. Geological Survey ("USGS") indicates that "Aluminum alloying, diecasting, and iron and steel desulfurization were, in descending order, the principal end-use applications for magnesium in the United States in 2010."<sup>44</sup>

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<sup>41</sup> (...continued)

operations to be included in the domestic industry(ies). *Magnesium from China and Russia, Investigation Nos. 731-TA-1071-1072 (Final)*, USITC Pub. 3763, April 2005, p. 12, fn. 62; *Magnesium from China and Russia, Inv. Nos. 731-TA-1071-1071 (Review)*, USITC Pub. 4214, February 2011, pp. 11-12; and *Pure and Alloy Magnesium from Canada and Pure Magnesium from China, Inv. Nos. 701-TA-309-A-B and 731-TA-696 (Second Review)*, USITC Pub. 3859, July 2006, pp. 14-15. Domestic grinders were also found by the Commission majority to be part of a single domestic industry in its original 2005 determinations underlying the reviews concerning alloy magnesium from China and pure and alloy magnesium from Russia, although two Commissioners making determinations in the original investigations found cast and granular magnesium to be separate domestic like products and found grinders to be a separate industry. *Magnesium from China and Russia, Inv. No. 731-TA-1071-1072 (Final)*, USITC Pub. 3763, April 2005, p. 12. In the second five-year reviews on pure and alloy magnesium from Canada and pure magnesium from China completed in 2006, the Commission included grinders in the domestic industry producing magnesium, but noted the lack of information with respect to such producers. *Pure and Alloy Magnesium from Canada and Pure Magnesium from China, Inv. Nos. 701-TA-309-A-B and 731-TA-696 (Second Review)*, USITC Pub. 3859, July 2006, p. 14. As previously indicated, in its 2007 review determination concerning pure magnesium from China, the Commission majority included grinders in the domestic industry producing magnesium, although one Commissioner did not include grinders in the domestic industry based on the finding that such firms did not engage in sufficient production-related activities. *Pure Magnesium from China, Inv. No. 731-TA-895 (Review)*, USITC Pub. 3908, March 2007, pp. 14-15.

<sup>42</sup> *Response of US Magnesium*, March 2, 2012, p. 26.

<sup>43</sup> Unless otherwise noted, the discussion in this section is from the first review staff report and is supplemented with information on the public record from the Commission's full and expedited 2011 reviews on magnesium. *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, pp. I-11 - I-14; *Pure Magnesium from China, Investigation No. 731-TA-696 (Third Review)*, USITC Pub. 4274, October 2011, p. I-14; and *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, pp. I-21 - I-22.

<sup>44</sup> Kramer, Deborah A., *2010 Minerals Yearbook: Magnesium*, p. 45.1.

## Pure Magnesium

Pure magnesium<sup>45</sup> in unwrought form<sup>46</sup> contains at least 99.8 percent magnesium by weight.<sup>47</sup> Pure magnesium is widely used in commercial and industrial applications because it is easily machined and lightweight, has a high strength-to-weight ratio, and has special chemical and electrical properties. Pure magnesium also has special metallurgical and chemical properties that allow it to alloy well with metals such as aluminum. It is typically sold to end users who then combine it with other elements for use in a final product. In fact, a magnesium ingot in its pure state generally has little direct commercial application except when alloyed. Pure magnesium is typically used in the production of aluminum alloys for use in beverage cans, in die cast automotive parts, in iron and steel desulfurization, as a reducing agent for various nonferrous metals (titanium, zirconium, hafnium, uranium, and beryllium), and in magnesium anodes for the protection of iron and steel in underground pipe and water tanks and various marine applications. Pure magnesium is also used in the production of titanium sponge, which is a precursor metal product in the production of titanium metal products for use in aerospace, medical, and industrial applications.

## Alloy Magnesium

Alloy magnesium (or magnesium alloy) consists of chemical combinations of magnesium and other metals, typically aluminum and zinc, containing less than 99.8 percent magnesium by weight but more than 50 percent magnesium by weight, with magnesium the largest metallic element in the alloy by weight. Alloy magnesium is typically produced to meet various industry-recognized American Society for Testing and Materials (“ASTM”) specifications for alloy magnesium such as AM50A, AM60B, and AZ91D.<sup>48</sup> Alloy magnesium has a high strength-to-weight ratio and is easily machined, making it ideal for use in a number of structural components; for example, the alloying elements contained in alloy magnesium are critical in imparting to the product the structural characteristics necessary for use in die casting applications. Thus, it is principally used in structural applications, primarily in castings (die, permanent mold, and sand) and extrusions for the automotive industry. Alloy magnesium has certain properties that improve its strength, ductility, workability, corrosion resistance, density, or castability compared to pure magnesium. In contrast, pure magnesium is not used in structural applications because its tensile and yield strengths are low.

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<sup>45</sup> Unless otherwise noted, the term “pure magnesium” consists of both pure magnesium ingot and pure granular magnesium.

<sup>46</sup> “Unwrought” magnesium is pure magnesium that has not been worked in any way. “Wrought” magnesium is magnesium that has been worked into a desired shape, for example the working of the magnesium to produce extrusions, rolled product, forgings, etc. Wrought magnesium is not within the scope of any of the current antidumping duty orders in place for magnesium from China.

<sup>47</sup> Ultra-high purity (“UHP”) magnesium is unwrought magnesium containing at least 99.95 percent magnesium by weight and is used as a reagent in the pharmaceutical and chemical industries. Commodity-grade magnesium is unwrought magnesium containing at least 99.8 percent magnesium but less than 99.95 percent magnesium by weight and is most commonly used in the aluminum alloying industry.

<sup>48</sup> The ASTM specifications designate the chemical composition of the alloy. The first two letters designate the two alloying elements most prevalent in the alloy (e.g., “A” for aluminum, “M” for manganese, or “Z” for zinc), while the numbers represent the percent of other elements contained in the alloy, by weight. For example, AZ91D contains 9 percent aluminum, 1 percent zinc, and 90 percent magnesium.

## **“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 percent by weight. Off-specification pure magnesium products contain 50 percent or greater, but less than 99.8 percent primary magnesium, by weight, do not conform to ASTM specifications for alloy magnesium, and generally do not contain individually or in combination, 1.5 percent or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium, and rare earths. Typically, producers do not set out to produce off-specification pure magnesium. Rather, its production results from starting or re-starting the primary magnesium production process, or is the result of some malfunction in the production process.

## **Primary vs. Secondary Magnesium**

Primary magnesium refers to unwrought magnesium metal shapes (principally ingot) which are produced by decomposing virgin raw materials into magnesium metal. Secondary magnesium is pure or alloy magnesium that is produced by recycling magnesium-based scrap. Most primary and secondary alloy magnesium is similar physically and chemically. However, primary pure magnesium is not used in automotive die castings. Only higher purity secondary alloy magnesium, typically produced from scrap recovered from used automotive parts, is acceptable for use in automotive die casting applications.

## **Magnesium Scrap**

Magnesium scrap is typically separated into two categories: old scrap and new scrap. Old scrap becomes available to producers of secondary magnesium when durable and nondurable consumer products are discarded from end-use categories such as packaging, building and construction, consumer durables (such as automobiles), electrical, machinery and equipment, and other. New scrap is metal that never reaches the consumer. The scrap is generated from wrought and cast products as they are processed by fabricators into consumer or industrial products. Home scrap is new scrap that is recycled within the company that generated the scrap and consequently seldom enters the commercial secondary magnesium market. Prompt industrial scrap is new scrap from a fabricator that does not choose to or is not equipped to recycle the scrap. This scrap then enters the secondary magnesium market. New scrap may include solids, clippings, stampings, and cuttings; borings and turnings that are generated during machining operations; and melt residues, such as skimmings, drosses, spillings, and sweepings.

## **Cast vs. Granular Magnesium**

Magnesium castings (ingots) are solid, cooled forms of molten magnesium metal. Most pure and alloy magnesium ingots are sold in standard bar sizes ranging in weight from 12 to 500 pounds per bar. Ingots may vary somewhat in dimension as some die casters require bar of a certain dimension to fit the specific configuration of their furnace. Granular magnesium is cast magnesium that has been ground, chipped, crushed, machined, or atomized into raspings, granules, turnings, chips, powder, or briquettes and is different from cast magnesium in size, dimensions, and shape. Granular magnesium includes all non-liquid physical forms of magnesium other than castings. Although the chemical compositions of cast magnesium and granular magnesium are identical since granular magnesium is typically ground from cast magnesium, granular magnesium is much more volatile than cast magnesium. Granular magnesium may be either pure or alloy magnesium. However, based on information obtained in the previous investigation on granular magnesium from China, granular magnesium is typically pure magnesium or “off specification” pure magnesium (alloy magnesium not meeting ASTM specifications for alloy

magnesium).<sup>49</sup> Most aluminum producers purchase larger pure cast shapes such as rounds, billets, peg-lock ingots, or T-shapes and die casters sometimes require magnesium in the form of ingot as an input of their furnace. Other die casters can purchase ingots and granular primary alloy magnesium for use in magnesium alloy castings, and/or recycle scrap magnesium generated in their die casting operations into secondary alloy magnesium.<sup>50</sup> Granular magnesium, on the other hand, is typically used in the production of magnesium-based desulfurizing reagent mixtures that are used in steelmaking to reduce the sulfur content of steel.<sup>51</sup> Lesser amounts of granular magnesium are used in defense applications, such as military ordnance and flares.

## Production Process<sup>52</sup>

### Primary Magnesium

Worldwide, most magnesium is derived from magnesium-bearing ores (dolomite, magnesite, brucite, and olivine) or seawater and well and lake brines.<sup>53</sup> Large deposits of dolomite are widely distributed throughout the world, and dolomite is the principal magnesium-bearing ore found in the United States. Magnesium-bearing ores are mined by the open-pit method. In the United States, primary magnesium production is performed by extracting magnesium from brines of the surface waters of the Great Salt Lake in Utah (by US Magnesium); the former U.S. producer Northwest Alloys used dolomite in its process.<sup>54</sup>

Magnesium metal is normally produced by either an *electrolytic process* or a *silicothermic process*, with the electrolytic process dominating in terms of the volume of United States and world production. The silicothermic process (also known as the Pidgeon process) is used by a majority of the largest producers in China. The silicothermic process was reported to be less cost-effective than the electrolytic process for production of magnesium.

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<sup>49</sup> “Off-specification pure” magnesium falls within the scope of the antidumping duty on magnesium from China in granular form that is subject to this review.

<sup>50</sup> Normally die casting companies pay to have the magnesium metal slivers removed because they are difficult to recycle, but some facilities have a process that enabled the turnings to be economically recycled. Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the First Quarter 2011, May 2011*.

<sup>51</sup> U.S. grinders typically sell three different steel desulfurization blends: (1) containing 90 percent pure magnesium powder and 10 percent lime, (2) containing 25 percent magnesium and 75 percent lime; and (3) containing 8-10 percent magnesium with the remainder lime and calcium carbonate. Fluorspar and a fluidizer are also incorporated in these products.

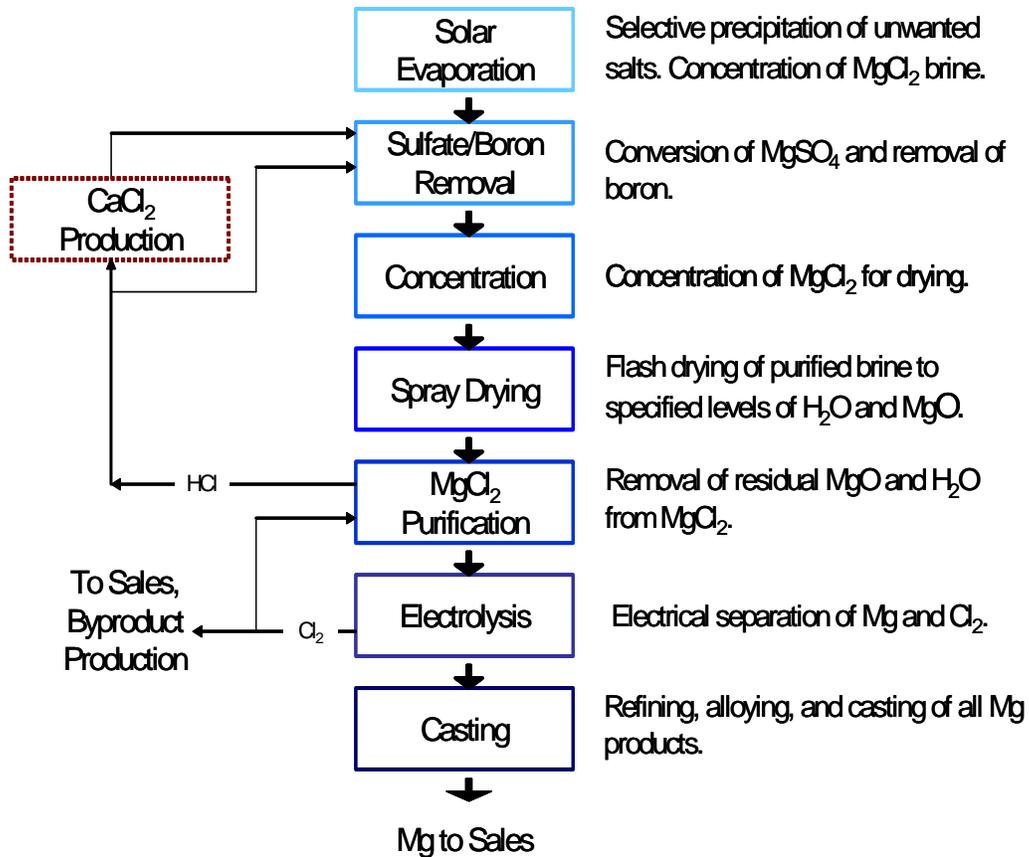
<sup>52</sup> Unless otherwise noted, the discussion in this section is from the first review staff report and is supplemented with information on the public record from the Commission’s full and expedited reviews on magnesium completed in 2011. *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, pp. I-14 - I-16; *Pure Magnesium from China, Investigation No. 731-TA-696 (Third Review)*, USITC Pub. 4274, October 2011, pp. I-14 - I-16; and *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, pp. I-22 - I-25.

<sup>53</sup> The magnesium content of magnesium-bearing ores typically ranges from nearly 22 percent for dolomite to 69 percent for brucite. The magnesium content of seawater is 0.13 percent, which is much lower than that of the lowest grade of magnesium ore deposits; however, seawater has the advantage of being abundant, accessible, and extremely uniform in its magnesium content, allowing for easier standardization of the refining process.

<sup>54</sup> Northwest Alloys ceased production of magnesium in October 2001. MagPro began primary production of pure magnesium ingot in 2009.

US Magnesium uses the electrolytic method to produce magnesium. A schematic diagram of US Magnesium’s production process is presented in figure I-1. In the electrolytic process, seawater or brine is evaporated and treated to produce a concentrated solution of magnesium chloride, which is further concentrated and dried to yield magnesium chloride powder. The powder is then melted, further purified, and fed into electrolytic cells operating at 700° Celsius. Direct electrical current is sent through the cells to break down the magnesium chloride into chlorine gas and molten magnesium metal.<sup>55</sup> The metal rises to the surface where it is guided into storage wells and cast into ingots.

**Figure I-1**  
**Schematic diagram of US Magnesium’s production process flow chart**



Source: US Magnesium.

<sup>55</sup> The electrolytic cells must be kept in constant operation. If they are shut down, a “refractory lining” requires rebuilding which is costly and time consuming.

Once the electrolytic or silicothermic reduction of magnesium is completed, the manufacturing processes used for the production of both pure and alloy magnesium ingot are very similar. In the U.S. facility that produces both pure magnesium and alloy magnesium (US Magnesium's facility), the same production workers work on both lines.

Both primary pure magnesium and primary alloy magnesium begin with the production of liquid pure magnesium. For US Magnesium, the major U.S. producer of pure magnesium, the production process for pure and alloy magnesium is identical to the point when alloys are added to the pure magnesium to make alloy magnesium. US Magnesium makes both pure and alloy magnesium using the same machinery, equipment, and workers. For both primary pure magnesium and primary alloy magnesium, the production of liquid pure magnesium is either cast directly into the form of pure magnesium ingots or alloyed by the addition of alloying elements and scrap magnesium prior to casting to produce alloy magnesium ingots. US Magnesium reported that the amount of value added to the magnesium in the alloying phase is small.

Primary magnesium is typically cast into ingots or slabs. Aluminum producers usually purchase larger pure cast shapes such as rounds, billets, peg-lock ingots, or T-shapes. Producers of magnesium powder for steel desulfurization applications typically purchase smaller ingots or magnesium "chips" that are then ground into powder<sup>56</sup> and used internally to produce magnesium-based reagent mixtures or, to a lesser extent, pyrotechnic products. Die casters purchase ingots and granular primary alloy magnesium for use in magnesium alloy castings, and/or recycle scrap magnesium generated in their die casting operations into secondary alloy magnesium.

The production facilities, processes, and employees of cast and granular magnesium do not overlap. Primary and secondary producers of cast magnesium in ingot form extract magnesium from raw materials or scrap and cast it into magnesium ingots or slabs. Granular production facilities (firms known as "grinders") purchase cast ingot magnesium, transform the physical shape by grinding it, and then sell powdered/granule magnesium to end users.

Magnesium, in a molten or ingot form, is also used in the production of titanium sponge, which is a precursor metal product in the production of titanium metal products. In the Kroll reduction process, titanium sponge results from the reduction of titanium tetrachloride (TiCl<sub>4</sub>) with magnesium. The titanium tetrachloride is reacted in a molten pool of magnesium metal in which the temperature and composition of the mixture are carefully controlled. Along with pure titanium metal sponge, molten magnesium chloride (the result of magnesium reacting with the titanium tetrachloride liquid) is a product of the reaction. The magnesium chloride can be further refined back to pure magnesium in an electrolytic cell. The electrolytic cell separates the magnesium metal from the chlorine which is also collected for sale. All titanium tetrachloride producers use chlorine gas in the production of titanium tetrachloride.

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<sup>56</sup> Magnesium chips are ground into powder using a particle reduction process. Magnesium powder can also be produced by atomization of molten pure magnesium; however, this technique is less frequently used than grinding.

## Secondary Magnesium

Secondary magnesium is produced from recycling magnesium-based “scrap.”<sup>57</sup> Magnesium scrap arrives at the recycler either in a loose form or contained in boxes. After the magnesium is separated from other alloys by the recycler, the sorted magnesium is heated in a steel crucible to nearly 675 degrees Celsius. Alloying elements such as aluminum, manganese, or zinc can then be added to the liquid magnesium and the alloyed magnesium can then be transferred to ingot molds by hand ladling, pumping, or tilt pouring. Magnesium scrap can also be generated by the direct grinding of scrap into powder for iron and steel desulfurization applications. Finally, recycled alloy magnesium contained in used aluminum beverage cans often remains with the recycled can since approximately one-half of all U.S. aluminum beverage can scrap is melted and converted into body stock and then converted into new aluminum beverage cans.<sup>58</sup>

Producers of secondary magnesium (recyclers) typically produce only alloy magnesium, and thus their production facilities are only for alloy magnesium. Therefore, primary and secondary alloy magnesium is mostly produced in separate facilities using separate production processes and employees. US Magnesium is primarily a producer of primary magnesium in the United States, using magnesium-bearing brine from the Great Salt Lake in Utah as the raw material, but the firm indicated in its response that it also performs in-house scrap recycling in the production of alloy magnesium.<sup>59</sup> A second primary magnesium producer (MagPro) began producing pure magnesium ingot in 2009.

### **Interchangeability, Customer and Producer Perceptions, and Channels of Distribution<sup>60</sup>**

In the original investigation, the first five-year review, and other investigations/reviews regarding magnesium, the Commission identified a number of conditions of competition that are distinctive to the U.S. market for magnesium, one of which was that the domestic like product and subject imports are highly interchangeable. US Magnesium indicated in its response to the Commission’s notice

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<sup>57</sup> Magnesium-based scrap is typically divided into one of two categories. Old magnesium-based scrap consists of postconsumer scrap such as automotive parts, helicopter parts, lawnmower decks, and used tools. Old magnesium-base scrap is sold to scrap processors. New magnesium-based scrap typically falls into one of four types. Type I is high-grade scrap recovered from die casting operations and uncontaminated with oils. Types II, III, and IV are lower-grade scraps, typically either oil-contaminated scrap; dross from magnesium-processing operations; and chips and fines. Type I scrap is either reprocessed at the die casting facility or sold to a scrap processor. The other types of scrap are either used directly in steel desulfurization applications (chips and fines) or sold to scrap processors.

<sup>58</sup> “Aluminum: Just the Facts,” U.S. Environmental Protection Agency, <http://www.epa.gov/water/conservation/materials/alum.htm>; and “Industry Statistics,” The Aluminum Association, [www.aluminum.org](http://www.aluminum.org). Aluminum beverage can manufacturers are sensitive to the presence of beryllium in melted scrap. Therefore, these firms generally do not purchase recycled alloy magnesium produced from scrap. *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. I-25.

<sup>59</sup> *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. III-13; and *Response of US Magnesium*, March 2, 2012, p. 21.

<sup>60</sup> Unless otherwise noted, the discussion in this section is from the first review staff report and is supplemented with information on the public record from the Commission’s full and expedited reviews on magnesium completed in 2011. *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, p. I-17; *Pure Magnesium from China, Investigation No. 731-TA-696 (Third Review)*, USITC Pub. 4274, October 2011, p. I-16; and *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, pp. I-29 - I-34.

of institution in this second five-year review that this condition of competition continues to prevail in the U.S. magnesium market today.<sup>61</sup>

### **Pure vs. Alloy Magnesium**

Pure magnesium is generally used in aluminum alloys and in certain other applications because of its special metallurgical and chemical properties. At the same time, pure magnesium's lack of structural integrity excludes it from structural applications served by alloy magnesium, which is primarily used in die casting of various structural parts for automobiles. Because of the need for structural integrity, automotive manufacturers must certify that suppliers possess both the physical equipment and the technical ability to produce automotive-grade alloy magnesium. To an extent, however, there is some overlap in the end uses for which pure magnesium and alloy magnesium are employed. That is, some end users may be able to obtain the appropriate amount of magnesium units necessary for their particular use from either pure or alloy magnesium. To some extent, both pure and alloy magnesium are used in the production of aluminum alloys, reagents used in iron and steel desulfurization, ferroalloys, nodular iron, and in sand casting. On the other hand, pure and alloy magnesium are rarely interchangeable in the die casting, powder, and chemical markets.

Historically, customers of domestically produced pure magnesium have been largely distinct from customers of domestically produced alloy magnesium, and that is still generally true. However, aluminum alloyers, which historically purchased solely pure magnesium for its metallurgical properties as it alloys well with aluminum, have also purchased alloy magnesium; whereas other firms, such as pharmaceutical manufacturers and nuclear fuel producers, purchase pure magnesium for its chemical properties. Some customers, principally automotive die casters, purchase alloy magnesium because of its structural and mechanical properties, although automotive die casters that recycle their own scrap may also use purchased pure magnesium to adjust the chemical composition of the alloy magnesium.

Since magnesium in its pure state generally has little direct commercial application except when alloyed, pure magnesium is typically sold to end users who then combine it with other elements for use in a final product. The vast majority of pure and alloy magnesium is transported directly from a magnesium production facility (in the case of U.S. producers) and from a distribution or warehouse center (in the case of the imported product) to end users in full truckload lots by either contract or common carriers, with lesser amounts transported by rail.

### **Primary vs. Secondary Magnesium**

Primary and secondary magnesium can be used interchangeably in automotive die casting applications if appropriate methods are utilized to assure the purity of the secondary magnesium by removing impurities such as copper. Because primary and higher purity secondary alloy magnesium are largely identical products and are interchangeable for the same purposes, principally automotive die castings, neither consumers nor producers perceive them to be significantly different products. Lower-purity secondary alloy magnesium, which does not meet ASTM specifications, is not interchangeable with primary magnesium for use in automotive (structural) applications because of potential contamination problems. However, for many non-structural magnesium applications, low-purity secondary alloy magnesium is interchangeable with primary magnesium. However, aluminum beverage can manufacturers can elect not to purchase secondary alloy magnesium because of the presence of beryllium in the scrap used to produce the secondary alloy magnesium. Primary and secondary alloy magnesium are generally sold directly to end users through common channels of distribution.

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<sup>61</sup> *Response of US Magnesium*, March 2, 2012, p. 11.

## Cast vs. Granular Magnesium

Cast and granular magnesium are not considered to be interchangeable as inputs for ultimate end use in the iron and steel desulfurization market. The magnesium must first be shipped to grinders, ground into powder per customer specifications, and then sold to the iron and steel industry. Many iron and steel desulfurization customers do not have the capability to grind cast magnesium.

Both granular and cast magnesium are perceived by producers of reagents, also known as grinders for iron and steel desulfurization customers, as potentially usable in the production of the reagents because they are able to grind cast magnesium to the appropriate size requirements. However, iron and steel desulfurization customers do not perceive cast and granular magnesium to be the same product.

Domestically produced and imported pure magnesium in ingot form is primarily sold to aluminum producers and producers of pure granular magnesium (grinders), with shipments made directly from the production site, port, or warehouse. Most manufacturers of the subject granular magnesium first purchase pure magnesium ingots or magnesium chips from domestic or import sources for conversion into granular form. During the period examined in the original investigation, most granular magnesium was then used in the captive production of desulfurization reagents. Magnesium in granular form was also sold directly to military flare, chemical, pharmaceutical, and other manufacturers. Shipments to end-users were made directly from the grinding facilities.

## Customer Perceptions

As part of their response to the Commission's notice of institution in this second five-year review, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic producer US Magnesium and it named the following seven firms as the top purchasers of pure magnesium: \*\*\*. Adequacy phase purchaser questionnaires were sent to these seven firms and six firms (\*\*\*) provided responses.

All six responding firms indicated that there have been no changes since 2007 and there are no anticipated changes within a reasonably foreseeable time in technology, production methods, and development efforts to produce pure magnesium or in factors related to the ability to shift supply of pure magnesium among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected or that will affect the availability of pure magnesium in the U.S. market or in the market for pure magnesium in China. All six responding firms also reported that there have been no changes since 2007 and there are no anticipated changes within a reasonably foreseeable time in the end uses and applications of pure magnesium, in the existence and availability of substitute products for pure magnesium, or in the business cycle for pure magnesium in the U.S. market or in the market for pure magnesium in China.

Five of the six responding purchasers reported that there have been no changes since 2007 and there are no anticipated changes within a reasonably foreseeable time in the level of competition between pure magnesium produced in the United States, pure magnesium produced in China, and such merchandise from other countries in the U.S. market or in the market for pure magnesium in China. One responding firm, \*\*\* responded in the affirmative to this Commission question, explaining \*\*\*. \*\*\* also indicated that it expects \*\*\*.

Four of the six responding firms reported that there have been no changes since 2007 and there are no anticipated changes within a reasonably foreseeable time in the ability to increase production of pure magnesium (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected or will affect the availability of pure magnesium in the U.S. market or in the market for pure magnesium in China. Two responding purchasers, \*\*\*, responded in the affirmative, indicating that US Magnesium has increased its capacity to produce magnesium in the United States.

## Pricing and Related Information<sup>62</sup>

The primary raw materials used in the production of pure magnesium are brine and certain process materials like fluxes, which remove oxidation from the metal. Of greatest importance to pure magnesium production are energy costs such as natural gas and electricity. The converse is true for alloy magnesium, with scrap magnesium making up a larger proportion of total raw material costs than energy. Regardless, most firms reported to the Commission in its recent full five-year reviews concerning *Magnesium from China and Russia* that increases in raw materials costs resulted in increases in the final selling price of magnesium.

\*\*\* reported to the Commission in its original investigation underlying this current second five-year review concerning pure granular magnesium that pricing for pure magnesium in granular form was generally determined in transaction-by-transaction negotiations and in contracts and depended on such factors as the prevailing competitive environment and potential purchase volumes. In general, the Commission reported that neither U.S. grinders nor subject importers issued price lists. Magnesium prices were usually quoted on a delivered basis, and typical sales terms were net 30 days. These pricing practices were also reported to be characteristic of the U.S. magnesium ingot market. The Commission majority found significant price underselling by the subject merchandise and price depression of the domestic like product during its original investigation. In contrast, the dissenting Commissioners could not determine that significant underselling had occurred nor that there had been an adverse impact on prices of the domestic like product.

The domestic interested party indicated in its response to the Commission's notice of institution in this review that domestic producers of magnesium are extremely sensitive to price competition. With regard to magnesium prices in the U.S. market and the financial condition of the domestic magnesium industry, it stated further

“After the imposition of a third order covering imports of alloy magnesium from China in 2005, thus providing protection against dumping for all forms of unwrought magnesium, prices in the U.S. market improved significantly. The beneficial volume and price effects of the orders improved the financial condition of the industry.”<sup>63</sup>

Finally, the domestic interested party argued that prices of Chinese magnesium to unprotected export markets continue to be “extremely low.” It noted that it is unaware of published pricing data specific to pure magnesium in granular form, but that published data for pure magnesium ingot produced in China is indicative of the “extremely low prices” of the subject pure granular magnesium.<sup>64</sup>

The USGS yearbook for 2010 provided the following discussion on magnesium pricing:

“The U.S. spot Western magnesium price rose in the first quarter of the year, stabilized in the second and third quarters, and fell slightly to end the year at only about 10 cents per pound more than that at the beginning of 2010. In the first quarter, the increase in magnesium consumption that had begun in the third quarter of 2009 led to a drawdown in stocks, which fueled purchases, and, as a result, led to increased prices (McBeth and Yee,

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<sup>62</sup> Unless otherwise noted, the discussion in this section is from the first review staff report and is supplemented with information on the public record from the Commission's full reviews on magnesium completed in 2011. *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, pp. I-17 and I-49; and *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. V-1.

<sup>63</sup> *Response of US Magnesium*, March 2, 2012, pp. 6 and 9-10.

<sup>64</sup> *Response of US Magnesium*, March 2, 2012, p. 17.

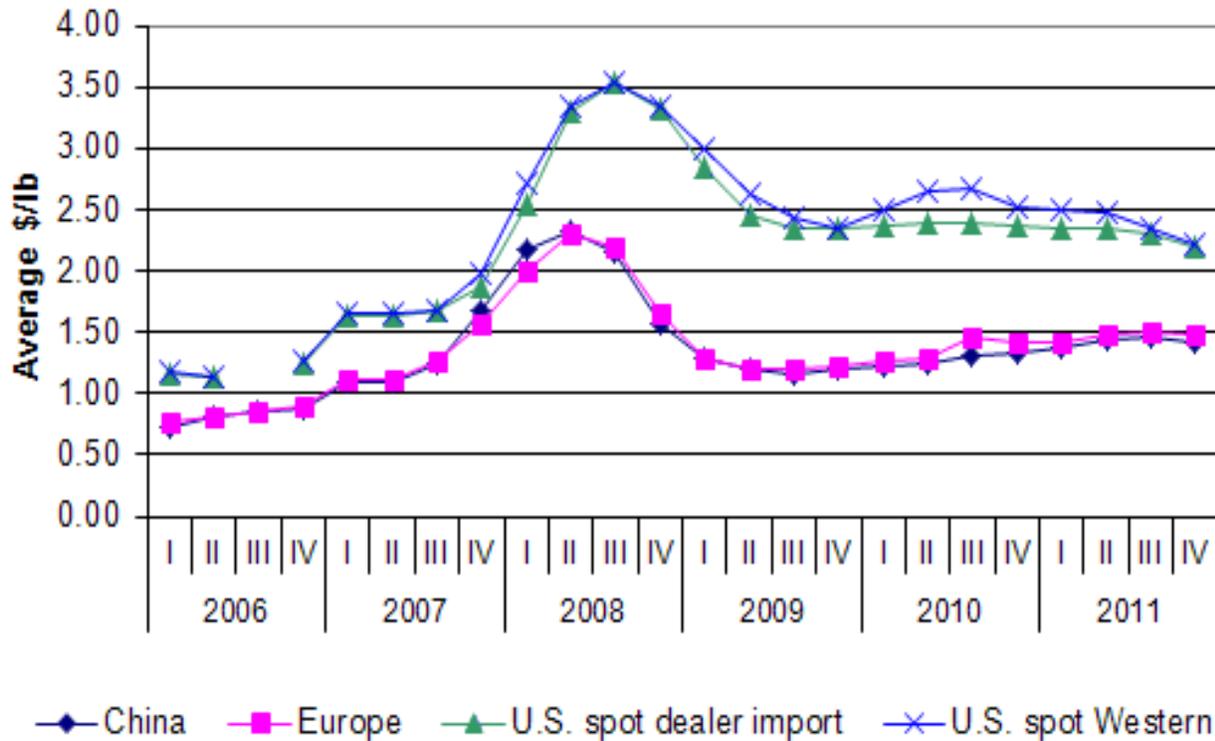
2010). U.S. magnesium demand remained slow through the second quarter, and the summer is generally a time of reduced consumption because of automotive plant closures. General Motors Corp., however, announced that it would keep 9 of its 11 automobile assembly plants operating during the traditional shutdown period from June 28 to July 9 because of increased demand for automobiles. The decision to keep the plants operating through the summer was intended to increase production by 56,000 vehicles (Metal-Pages, 2010b). Press reports indicated that although U.S. magnesium consumption had diminished from the level before the economic recession, domestic supplies were barely sufficient to meet this consumption level, which led to stable prices in the third quarter of 2010 (Metal-Pages, 2010d). The weakening economy, concern about automotive markets, and a reduction in inventories by consumers were the principal reasons for the price decline in the fourth quarter. Magnesium contracts in North America for 2011 reportedly settled between \$2.30 and \$2.35 per pound for pure magnesium or diecasting alloy and \$1.80 to \$1.90 per pound for secondary 90/10 magnesium alloy (McBeth, 2010b).”<sup>65</sup>

Publicly available quoted magnesium prices published by *Platts Metal Week* and *Metal Bulletin* (as cited by the U.S. Geological Survey) are shown in figure I-2. The average U.S. spot Western price increased from \$1.14 per pound in the beginning of 2006, peaked at \$3.53 per pound during the third quarter of 2008, and fell to \$2.22 per pound in the fourth quarter of 2011. Quoted magnesium prices from the European free market followed similar price trends as quotes on the China free market. At the beginning of 2006, the average China free market and European free market prices were \$0.73 per pound and \$0.77 per pound, respectively, peaking at \$2.33 per pound and \$2.30 per pound during the second quarter of 2008, and falling to \$1.17 per pound and \$1.19 per pound, respectively, during the third quarter of 2009. Since that time, the average China free market and European free market prices increased somewhat to end 2011 at \$1.42 and \$1.47, respectively. The average U.S. prices were consistently higher than average prices in both China and Europe.

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<sup>65</sup> Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium [Advance Release], September 2011, p. 45.3.*

**Figure I-2**  
**Magnesium: Average quoted quarterly magnesium prices, by source, 2006-11**



Note.—Beginning-of-quarter prices and end-of-quarter prices were averaged together to obtain an average quarterly price. Prices for U.S. spot dealer import and U.S. spot Western were not published in the *U.S. Geological Survey Mineral Industry Surveys* for the third quarter of 2006.

Source: *Platts Metal Week* and *Metal Bulletin* as cited in the U.S. Geological Survey Mineral Industry Surveys, *Magnesium*, 2006-2011.

## THE INDUSTRY IN THE UNITED STATES

### U.S. Producers<sup>66</sup>

The original investigations resulted from a petition filed on October 17, 2000, by Magnesium Corp. of America (“Magcorp”), and the United Steel Workers of America, Local 8319,<sup>67</sup> alleging that an industry in the United States was materially injured and threatened with material injury by reason of imports of pure magnesium from Israel and Russia,<sup>68</sup> and pure granular magnesium from China,<sup>69</sup> that were alleged to be sold in the United States at LTFV, and by reason of imports of pure magnesium from Israel that were alleged to be subsidized by the Government of Israel.<sup>70</sup> At the time of the original 2001 investigation, Magcorp (predecessor to US Magnesium) and Northwest Alloys, Inc. (“Northwest Alloys”)<sup>71</sup> were the only U.S. producers of pure magnesium ingot.<sup>72</sup> However, Northwest Alloys, ceased production of magnesium in October 2001. There were four known U.S. producers of secondary alloy magnesium<sup>73</sup> during the time period examined in the Commission’s original investigations, namely Advanced Magnesium Alloys Corp. (“Amacor”);<sup>74</sup> Garfield Alloys, Inc. (“Garfield”); Halaco Engineering, Inc. (“Halaco”); and MagReTech, Inc. (“MagReTech”). The Commission also identified

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<sup>66</sup> Unless otherwise noted, the discussion in this section is from the first review staff report and is supplemented with information provided by US Magnesium in its response to the Commission’s notice of institution in this second five-year review and information on the public record from the Commission’s full and expedited reviews on magnesium completed in 2011. *Response* of US Magnesium, March 2, 2012, p. 20 and att. 12; *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, pp. I-5 and I-23 - I-29; *Pure Magnesium from China, Investigation No. 731-TA-696 (Third Review)*, USITC Pub. 4274, October 2011, pp. I-16 and I-19; and *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, pp. III-1 - III-5.

<sup>67</sup> On October 26, 2000, the petitioners amended the petition to include the USWA International as a co-petitioner, and on April 20, 2001, amended the petition to add “concerned employees of Northwest Alloys, Inc.” as co-petitioners.

<sup>68</sup> On September 27, 2001, Commerce published notice of a negative final determination of sales at LTFV in connection with the investigation on Russia (66 FR 49347). Accordingly, the Commission terminated its antidumping investigation concerning pure magnesium from Russia (inv. No. 731-TA-897 (Final)). A previous antidumping duty order on imports of pure magnesium ingot from Russia was revoked effective May 12, 2000 (65 FR 41944, July 7, 2000, as amended by 65 FR 53700, September 5, 2000).

<sup>69</sup> At the time the original petition was filed, there was an antidumping duty order in place on pure magnesium ingot from China (60 FR 25691, May 12, 1995). This order was continued following the Commission’s affirmative reviews (65 FR 55047, September 12, 2000, 71 FR 36359, June 26, 2006, and 76 FR 69284, November 8, 2011).

<sup>70</sup> The Commission determined that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of imports of pure magnesium from Israel that Commerce found to be subsidized and sold in the United States at LTFV. *Pure Magnesium From China and Israel*, Inv. Nos. 701-TA-403 and 731-TA-895-896 (Final), USITC Pub. 3467 (November 2001), p. 3.

<sup>71</sup> Northwest Alloys, a subsidiary of Alcoa Inc., Pittsburgh, PA, produced magnesium for captive consumption in its aluminum operations.

<sup>72</sup> A third magnesium ingot producer, Dow Magnesium, exited the domestic industry in November 1998 after its 65,000 metric ton facility in Texas suffered extensive damage from lightening strikes and flooding.

<sup>73</sup> Secondary producers are firms that produce magnesium by recycling aluminum alloys or magnesium-based scrap.

<sup>74</sup> Amacor, which began operations in 2001, purchased Xstrata Magnesium Corp. (“XMC”) on April 3, 2003. The XMC plant was originally commissioned in 2000 to recycle scrap to produce magnesium alloy for the U.S. auto industry. A January 2005 fire at its production facility temporarily halted magnesium production.

five pure granular magnesium producers (i.e., “grinders”)<sup>75</sup> that represented nearly all U.S. production of pure granular magnesium in 2000: ESM Manufacturing (“ESM”), Magcorp, Reade Manufacturing Co. (“Reade”), Rossborough Manufacturing Co. (“Rossborough”) (an Opta Minerals Company),<sup>76</sup> and Superior Powder.<sup>77</sup>

The Commission reported in its 2007 expedited first five-year review of the order, that US Magnesium (successor firm to Magcorp) was the only remaining producer of primary pure (and alloy) magnesium in the United States. It identified four U.S. grinders of pure magnesium (ESM, Hart, Reade, and Rossborough), four U.S. commercial producers of secondary magnesium (Amacor, Garfield, Halaco, and MagReTech),<sup>78</sup> and three magnesium die casters<sup>79</sup> (Gibbs Die Casting, Inc. (“Gibbs”); Meridian Technologies, Inc. (“Meridian”); and Spartan Light Metal Products, Inc. (“Spartan”).

In its response to the Commission’s notice of institution in this second five-year review, US Magnesium simply listed the following ten firms and identified them as U.S. producers of the domestic like product: Amacor, ESM, Hart, MagPro, MagReTech, Meridian, Reade, Rossborough, Spartan, and US Magnesium. Currently, there are believed to be two primary producers of magnesium in the United States (US Magnesium and MagPro),<sup>80</sup> three U.S. commercial producers of secondary magnesium (Amacor,<sup>81</sup> MagPro, MagReTech); three magnesium die casters (Gibbs, Meridian, and Spartan); and four U.S. grinders (ESM, Hart, Reade, and Rossborough).<sup>82</sup> A brief description of each domestic firm’s operations is presented below.

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<sup>75</sup> Magnesium grinders in the United States may purchase magnesium ingot, slab, or granules (typically pure magnesium), and grind magnesium for use in the production of reagents or other magnesium-containing products.

<sup>76</sup> Remacor also produced pure magnesium powder for the steel desulfurization market during the original investigation; however, \*\*\*. Remacor filed for Chapter 11 bankruptcy in March 2001 and merged with Rossborough in August 2001.

<sup>77</sup> ESM was excluded by the Commission in its original determination from the domestic industry under the related parties provision. The Commission further concluded that the activities of \*\*\* did not constitute sufficient production-related activity to qualify it as a domestic producer.

<sup>78</sup> Of the four secondary producers listed, only Amacor and MagReTech produced secondary magnesium as of the completion of the first five-year review. Garfield Alloys’ production facility was destroyed in a fire on December 29, 2003, and Halaco Engineering filed for chapter 11 bankruptcy protection on July 24, 2002, and ceased production of magnesium on September 23, 2004.

<sup>79</sup> Magnesium die casters produce secondary alloy magnesium from scrap for use in their own die casting operations.

<sup>80</sup> US Magnesium has been identified as the sole primary producer of magnesium in the United States by the USGS; however, MagPro, primarily a secondary magnesium producer began production of primary commodity-grade pure magnesium in 2009. Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium [Advance Release], September 2011*, 45.1.

<sup>81</sup> Phoenix Global Enterprises LLC (“PGE”) reportedly opened a new magnesium scrap recycling plant in 2011 that is adjacent to Amacor’s magnesium recycling facility and is majority owned by the same individual. The new plant takes machining turnings and converts them into 3-pound cylinders containing 90-percent to 94-percent magnesium to be sold to the secondary aluminum industry. PGE reportedly was selling the ingots for \$1.50 per pound, less than 90/10 secondary magnesium ingot, which was selling for \$1.80 to \$1.90 per pound. Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the First Quarter 2011, May 2011*.

<sup>82</sup> In addition, there are an unknown number of independent alloyers. These are firms that produce magnesium alloys by melting purchased magnesium ingot with other elements (e.g., aluminum) in induction furnaces and making castings from the cooled alloys. KB Alloys is an independent alloyer that produces magnesium/aluminum alloys from purchased magnesium ingots.

## **Amacor**

Amacor is a secondary producer of magnesium located in Anderson, IN. The company opened in 2001 and expanded its magnesium operations through the purchase of the Xstrata Magnesium facility in 2003.<sup>83</sup> However, the firm was forced to temporarily cease production of secondary alloy magnesium in 2005 due to a fire at its production facility. Amacor recycles magnesium scrap (either purchased or provided by the tollee) and produces alloy magnesium in ingot form. Amacor's alloy magnesium is produced for the magnesium die cast market for use in manufacturing die cast parts and for the aluminum market as an alloying agent.

## **ESM**

ESM is a grinder of pure magnesium powder for use in decoy flares, self-heating meals, pyrotechnics, and desulfurization feedstock. The firm is wholly owned by SKW Stahl-Metallurgie Holding AG in Germany and is related to ESM Tianjin Co., Ltd., a producer of magnesium in China. In 2011, a new Special Metals and Technology division of ESM (namely, ESM Special Metals & Technology, Inc. ("ESM-SMT")) was established and a new atomization plant was built in Saxonburg, PA, to focus on magnesium metal powders and technology for chemical, countermeasures, ordinance, and welding. The new magnesium powder atomization plant reportedly focuses, in particular, on the production of fine and ultrafine spherical magnesium powders that are essential ingredients in military applications, such as illumination and countermeasure flares used to protect aircraft from missiles.<sup>84</sup>

Prior to the establishment of the new atomization plant in Saxonburg, ESM entered into an agreement with Superior Metal Powders, Inc. to import and market for ESM magnesium powder for use in the production of countermeasure flares used by the U.S. military in an attempt to expand its customer base. From January to May 2005, ESM authorized imports by Superior Metals of specialty magnesium powder produced in China that circumvented the antidumping duty order and defrauded the United States of approximately \$1.9 million in antidumping duties. In March 2012, the former president of ESM "admitted conspiring to smuggle magnesium powder into the United States by false and fraudulent invoices."<sup>85</sup>

The response of US Magnesium to the Commission's notice of institution in this second five-year review noted that ESM-SMT is in support of the continuation of the antidumping duty order on pure magnesium in granular form from China and included certain information provided by ESM-SMT that was responsive to the items requested in that notice.

## **Gibbs**

Gibbs Die Casting ("Gibbs") is headquartered in Henderson, KY, and operates manufacturing facilities in the United States, Korea, China, Brazil and Hungary. Gibbs, a subsidiary of Koch Enterprises Inc., is a manufacturer of precision aluminum and magnesium die castings for the automotive and lawn and garden industries. The domestic die caster produces secondary alloy magnesium from scrap for use in its die casting operations.

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<sup>83</sup> The Xstrata Magnesium plant was originally commissioned in 2000 to recycle scrap to produce magnesium alloy for the U.S. automotive industry.

<sup>84</sup> Although production was set to begin in 2011, ESM reportedly is not able to begin supplying its customers with product until it receives approval from the Defense Department. Riley, Anne, "(AMM) ESM Eyes 2d-Qtr. Start for New Specialty Magnesium Plant," *Metal Bulletin Daily*, no. 253, March 11, 2011.

<sup>85</sup> Ngai, Catherine, "Former ESM Exec Admits Duty Circumvention," *Metal Bulletin Daily*, no. 303, March 9, 2012.

## **Hart**

Hart is a grinder of pure granular magnesium located in Tamaqua, PA. The domestic magnesium grinder is owned by Magnesium Elektron, an alloy magnesium producer in the United Kingdom, and is related through a common parent to Magnesium Electron CZ, a producer of alloy magnesium in the Czech Republic, and to Reade, a U.S. grinder of pure granular magnesium. Hart transforms the raw material into pure magnesium fine powder, coarse chips, and granules. The company indicated that it is capable of processing magnesium through gas atomization into fine powders, as well as mechanically grinding the magnesium ingots into coarse chips and granules. The end uses of Hart's pure granular magnesium is in military powders, grignard (chemical reagent), and iron and steel desulfurization. Until the establishment of ESM-SMT's atomization facility in 2011, Hart's Tamaqua, PA facility was the only magnesium atomization facility in the United States. The response of US Magnesium to the Commission's notice of institution in this second five-year review noted that Hart is in support of the continuation of the antidumping duty order on pure magnesium in granular form from China and included certain information provided by the company that was responsive to the items requested in that notice.

## **KB Alloys**

KB Alloys is a magnesium/aluminum alloyer located in Robards, KY. The firm produces and commercially sells 50% Al-50% Mag alloys and 32% Al-68% Mag alloys in the form of castings that range from 5-ounce buttons to 30-pound slabs.

## **MagPro**

MagPro is a producer of magnesium located in Camden, TN. The company opened its U.S. secondary magnesium production facility in the United States in 2004. In its secondary magnesium operations, MagPro recycles purchased magnesium scrap and produces alloy magnesium in ingot form for use as an alloying agent in the aluminum industry and for use in die cast parts for the automotive industry. MagPro, primarily a secondary magnesium producer, began to add primary magnesium capacity to its facility in 2008 and is believed to be currently producing a small amount of primary magnesium using the thermal reduction process.

## **MagReTech**

MagReTech is a secondary producer of alloy magnesium located in Bellevue, OH. It produces alloy magnesium ingot by recycling purchased aluminum alloys or class I magnesium-based scrap for use in the magnesium die casting/sand casting and aluminum alloying industries. The firm acts as both a toll producer for a number of firms and sells product directly in the U.S. commercial market.

## **Meridian**

Meridian, located in Eaton Rapids, MI, is a die caster for the automotive market that recycles secondary alloy magnesium scrap produced in its die cast parts operations. The U.S. facility, also known as Magnesium Products of America, was established by Meridian Technologies, Inc., in 1994. In 2003, Meridian signed a joint venture agreement with a subsidiary of Shanghai Automotive Industry Corp. for the building of a manufacturing facility in Shanghai, China ("Shanghai Meridian Magnesium Products"). In 2005, operations commenced at the Shanghai joint venture facility. In 2006, Meridian formed a second

joint venture in China with BoAo Magnesium, located in Chongqing, China. The joint venture facility (“Chongqing Meridian BoAo Magnesium Co., Ltd.”) began operations in November 2006.<sup>86</sup>

### **Reade**

Reade is a grinder of pure granular magnesium located in Lakehurst, NJ. Reade is owned by Magnesium Elektron, an alloy magnesium producer in the United Kingdom, and is related through a common parent to Magnesium Electron CZ, a producer of alloy magnesium in the Czech Republic, and to Hart, a U.S. grinder of pure granular magnesium. Reade transforms the raw material into ultra-pure and commodity-grade pure granular magnesium by mechanically crushing and grinding the ingots into granules. The end uses of Reade’s pure granular magnesium is in military powders, grignard, and steel desulfurization. The response of US Magnesium to the Commission’s notice of institution in this second five-year review noted that Reade is in support of the continuation of the antidumping duty order on pure magnesium in granular form from China and included certain information provided by the company that was responsive to the items requested in that notice.

### **Rosborough**

Rosborough, which merged with Remacor in 2001 and was purchased by Opta Minerals, Inc. in 2006, is located in Walkerton, IN. It is a domestic grinder of pure magnesium powder primarily for the steel desulfurization market. The firm advertises that it produces and distributes magnesium for hot metal desulfurization in the steel industry, various forms of magnesium for use in the Thixo-molding injection-molding process, and magnesium powder for various applications, such as in food and pharmaceutical products.<sup>87</sup>

### **Spartan**

Spartan is a die caster that recycles secondary alloy magnesium scrap produced in its production of die cast parts. The firm’s alloy magnesium production facility is in Sparta, IL. Spartan purchases alloy magnesium ingots for use in its die casting operations. The magnesium scrap remaining from its die casting operations is then recycled and the company produces “run-around scrap,” a secondary alloy magnesium product from the scrap for internal use in its die casting operations. The company also purchases magnesium scrap to supplement its raw material for use in its alloy magnesium production. Spartan does not sell any of the recycled alloy magnesium on the commercial market but uses all of its production internally in the production of die cast parts. Spartan recently announced a \$12.5 million-expansion to its Mexico, MO die casting facility to meet the expected increase in demand for automotive die cast parts, which utilize alloy magnesium produced by Spartan. The expansion is expected to be completed by 2017.<sup>88</sup>

### **US Magnesium**

US Magnesium, the successor to the petitioner in the original investigations, is a wholly owned subsidiary of Renco Metals, Inc., Salt Lake City, UT. US Magnesium has primary production facilities in Rowley, UT, and produces a variety of magnesium products, including both pure and alloy magnesium. It is the largest domestic producer of magnesium, accounting for an estimated \*\*\* percent of total

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<sup>86</sup> Meridian Company Website, <http://www.meridian-mag.com/about/>.

<sup>87</sup> Rosborough Company Website, <http://www.optaminerals.com/Rosborough/index.html>.

<sup>88</sup> Long, Kimberly, *MexicoLedger.com, Spartan Light Metal Products*, <http://www.mexicoledger.com/topstories/x1440914730/Spartan-Light-Metal-Products>, March 28, 2012.

production of domestic product during 2011.<sup>89</sup> Located near the Great Salt Lake outside of Salt Lake City, UT, US Magnesium produces primary pure and alloy magnesium ingots from brines of the surface waters of the Great Salt Lake using the electrolytic process. Its production of primary pure and alloy magnesium ingot begins with the production of liquid pure magnesium, which is either cast directly into the form of pure magnesium ingots or alloyed by the addition of alloying elements (such as aluminum and zinc) and scrap magnesium prior to casting. In addition, the firm indicated in its response that not only does it use the pure magnesium ingot that it produces and adds alloying elements to manufacture alloy magnesium, but it also performs in-house scrap recycling in the production of alloy magnesium.<sup>90</sup>

In its response to the Commission's notice of institution in this review, US Magnesium reported that since the imposition of the order, it has increased nameplate capacity by over 30 percent, and is currently ramping up an additional expansion of capacity. The producer stated that it is not a U.S. importer or purchaser of the subject merchandise, nor is it related to any Chinese producer or exporter of the subject merchandise. US Magnesium indicated in its response to the Commission's notice of institution in this second five-year review that it is in support of the continuation of the antidumping order on pure magnesium (in granular form) from China.<sup>91</sup>

## **U.S. Production, Capacity, Shipments, and Financial Data**

### **Data Collected in the Original Investigation and First Five-Year Review**

Data reported by the U.S. magnesium industry in the Commission's original investigation and in response to its first review institution notice are presented in tables I-3 (pure granular magnesium) and I-4 (pure magnesium ingot). To avoid double-counting the pure magnesium ingot that was consumed in the production of the downstream granular product, the Commission separately analyzed data for granules and ingots during the original investigation. An added complication to the Commission's analysis was the Commission's determination during the original investigation to exclude certain grinders from the domestic industry. Accordingly, table I-3 presents both the data gathered by Commission staff during the original investigation (shown under header (1) labeled "data for ESM, Magcorp, Reade, Rossborough, and Superior Powder") and data for the firms that (essentially) remained within (or were not excluded from) the domestic industry and on which the Commission based its original investigation views (shown under header (2) labeled "data for \*\*\* and \*\*\*").

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<sup>89</sup> The coverage figure presented, as provided by US Magnesium in its response, represents the firm's share of total U.S. production during 2011, including primary and secondary magnesium ingot produced in the United States, as well as the granular magnesium produced from non-US Magnesium produced magnesium ingot. Granular magnesium produced from magnesium ingot supplied by US Magnesium was not included so as to avoid double counting. Although US Magnesium does not consider die casters which recycle their own scrap to be domestic producers of magnesium, it included estimates of their recycled product in its estimated total domestic production. *Response of US Magnesium*, March 2, 2012, att. 11.

<sup>90</sup> *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. III-13; and *Response of US Magnesium*, March 2, 2012, p. 21.

<sup>91</sup> *Response of US Magnesium*, March 2, 2012, pp. 3, 10, and 18.

Table I-3

Pure granular magnesium: U.S. producers' capacity, production, and U.S. shipments, 1998-2000, and 2005

Item	Original investigation			First review
	1998	1999	2000	2005
<b>(1) Data for ESM, Magcorp, Reade, Rossborough, and Superior Powder</b>				
Capacity ( <i>metric tons</i> )	***	***	***	(1)
Production ( <i>metric tons</i> )	***	***	***	*** <sup>2</sup>
Capacity utilization ( <i>percent</i> )	***	***	***	(1)
U.S. shipments: Quantity:				
Open-market ( <i>metric tons</i> )	***	***	***	(1)
Captive consumption ( <i>metric tons</i> )	***	***	***	(1)
Transfers to related firms ( <i>metric tons</i> )	***	***	***	(1)
Total ( <i>metric tons</i> )	***	***	***	(1)
Value:				
Open-market ( <i>1,000 dollars</i> )	***	***	***	(1)
Captive consumption ( <i>1,000 dollars</i> )	***	***	***	(1)
Transfers to related firms ( <i>1,000 dollars</i> )	***	***	***	(1)
Total ( <i>1,000 dollars</i> )	***	***	***	(1)
Unit value:				
Open-market ( <i>dollars per metric ton</i> )	***	***	***	(1)
Captive consumption ( <i>dollars per metric ton</i> )	***	***	***	(1)
Transfers to related firms ( <i>dollars per metric ton</i> )	(1)	(1)	(1)	(1)
Total ( <i>dollars per metric ton</i> )	***	***	***	(1)
<b>(2) Data for *** and ***</b>				
Capacity ( <i>metric tons</i> )	***	(1)	***	(1)
Production ( <i>metric tons</i> )	***	(1)	***	(1)
Capacity utilization ( <i>percent</i> )	***	(1)	***	(1)
U.S. shipments: Quantity:				
Open-market (***) ( <i>metric tons</i> )	***	***	***	(1)
Captive (***) ( <i>metric tons</i> )	***	***	***	(1)
Total ( <i>metric tons</i> )	***	***	***	(1)
<sup>1</sup> Not available. <sup>2</sup> Calculated production is understated in that it <u>excludes</u> any pure magnesium in granular form that is produced by US Magnesium and sold to firms other than U.S. grinders.				
Note.—Reporting firms are believed to have accounted for nearly all known U.S. pure granular magnesium production in 2000. A portion of the data supplied by grinders/reagent producers during the original investigation, however, reflects the production and sale of reagents and therefore <u>overstates</u> their grinding operations.				
Source: <i>Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report, INV-EE-009, February 1, 2007, table I-6.</i>				

Table I-4

## Pure magnesium ingot: U.S. producers' trade and financial data, 1998-2000, and 2005

Item	Original investigation			First review
	1998	1999	2000	2005
Capacity ( <i>metric tons</i> )	***	***	***	(1)
Production ( <i>metric tons</i> )	***	***	***	***
Capacity utilization ( <i>percent</i> )	***	***	***	(1)
U.S. shipments:				
Quantity:				
Open-market ( <i>metric tons</i> )	***	***	***	***
Internal consumption ( <i>metric tons</i> )	***	***	***	***
Transfers to related firms ( <i>metric tons</i> )	***	***	***	***
Total ( <i>metric tons</i> )	***	***	***	***
Value:				
Open-market ( <i>1,000 dollars</i> )	***	***	***	***
Internal consumption ( <i>1,000 dollars</i> )	***	***	***	***
Transfers to related firms ( <i>1,000 dollars</i> )	***	***	***	***
Total ( <i>1,000 dollars</i> )	***	***	***	***
Unit value:				
Open-market ( <i>dollars per metric ton</i> )	***	***	***	\$***
Internal consumption ( <i>dollars per metric ton</i> )	***	***	***	-
Transfers to related firms ( <i>dollars per metric ton</i> )	***	***	***	-
Total ( <i>dollars per metric ton</i> )	***	***	***	\$***
Net sales ( <i>1,000 dollars</i> )	***	***	***	(2)
COGS ( <i>1,000 dollars</i> )	***	***	***	(2)
Gross profit or (loss) ( <i>1,000 dollars</i> )	***	***	***	(2)
SG&A expenses ( <i>1,000 dollars</i> )	***	***	***	(2)
Operating income ( <i>1,000 dollars</i> )	***	***	***	(2)
Unit COGS ( <i>dollars per metric ton</i> )	***	***	***	(2)
Unit SG&A expenses ( <i>dollars per metric ton</i> )	***	***	***	(2)
Unit operating income ( <i>dollars per metric ton</i> )	***	***	***	(2)
COGS/sales ( <i>percent</i> )	***	***	***	(2)
Operating income/sales ( <i>percent</i> )	***	***	***	(2)

<sup>1</sup> Plant capacity (pure and alloy) reported at 43,000 metric tons. \*\*\*.

<sup>2</sup> Not available.

Note.—Reporting domestic manufacturers were believed to have accounted for all known U.S. pure magnesium ingot production during the time periods reported. Magcorp (predecessor to US Magnesium) and Northwest Alloys reported data for 1998-2000 and US Magnesium reported data for 2005 (Northwest Alloys ceased production of magnesium in October 2001). Data presented for 2005 are overstated in that they include any pure magnesium in granular form produced by US Magnesium.

Source: *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, table I-7; and *Investigation No. 731-TA-895 (Final): Pure Magnesium from China--Staff Report*, INV-Y-219, October 24, 2001, table C-1.

Any comparison of total U.S. production of granular magnesium in 1998-2000 to the data shown for 2005 in table I-3 under header (1) is potentially inaccurate in that the 2005 production figure is based only on US Magnesium's shipments to U.S. grinders and may not reflect all purchases of imported ingot by grinders for subsequent granular production. With respect to the data listed under header (2) on which the Commission based its original determination for China, any comparison of the 1998-2000 production figures to US Magnesium's reported production figure in header (1) 2005 is inaccurate to the extent that any of US Magnesium's ingot shipments to U.S. grinders in 2005 were to firms other than \*\*\* and \*\*\*.<sup>92</sup> Finally, a portion of the data for 1998-2000 supplied by grinders/reagent producers during the original investigation reflected the production and sale of reagents and therefore overstated their grinding operations; this distortion would not be present in the 2005 production figure, which reflects the volume of ingot input to the grinding operations.

The 1998-2000 data series and 2005 figures presented in table I-4 for pure magnesium ingot are believed to be comparable (i.e., measure all U.S. pure ingot magnesium production). The \*\*\* percent decline in U.S. ingot shipments from 2000 to 2005 reflects the October 2001 shutdown of Northwest Alloys. Open-market U.S. shipments of magnesium ingot increased by \*\*\* percent from 2000 to 2005. With respect to the individual operations of the petitioner/domestic interested party, Magcorp produced \*\*\* metric tons of pure magnesium ingot in 2000, while US Magnesium reported production of \*\*\* metric tons in 2005, resulting in a production increase of \*\*\* percent from 2000 to 2005.

Financial data gathered on magnesium in granular form during the original investigation were incomplete and are, therefore, not presented in table I-3. According to the Commission's staff report in the original investigation: "{n}ot all reporting firms were able to provide profit and loss information that was specific to pure granular magnesium since the powder is generally used in the production of downstream desulfurization reagents. With respect to the firms that were defined as the domestic industry, \*\*\*."<sup>93</sup> Financial data concerning magnesium ingot for the period examined during the original investigation are presented in table I-4; however data on the financial experience of the U.S. magnesium industry for the period examined in the first five-year review following the imposition of the antidumping duty order are not available.

## Data Collected in the Second Five-Year Review

Data reported for pure and alloy magnesium whether in ingot or granular form by US Magnesium in its response to the Commission's notice of institution in this second five-year review are presented in table I-5. Also presented separately in table I-5 are data for granular magnesium produced by ESM-SMT.<sup>94</sup>

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<sup>92</sup> \*\*\*.

<sup>93</sup> *Investigation Nos. 701-TA-403 and 731-TA-895-896 (Final): Pure Magnesium from China and Israel--Staff Report*, INV-Y-219, October 24, 2001, pp. VI-13. The Commission cited the individual questionnaire responses of \*\*\* in its views where it stated that \*\*\* and capital expenditures and research and development expenses of the domestic granular magnesium industry \*\*\* over the period of investigation. Confidential *Original Views*, pp. 30-31, fn. 118. Commissioners Miller and Hillman noted in their dissent that the data on the record indicated "\*\*\*\*." Confidential *Original Miller/Hillman Dissenting Views*, pp. 68-69.

<sup>94</sup> The data presented for ESM-SMT were provided to US Magnesium for inclusion in US Magnesium's response to the Commission's notice of institution in this second five-year review. *Response of US Magnesium*, March 2, 2012, p. 1-1 and att. 11.

**Table I-5**

**Magnesium: Reported trade and financial data reported by US Magnesium and ESM-SMT, 2011**

Item	Second review Calendar year 2011	
	US Magnesium	ESM-SMT
Capacity ( <i>metric tons</i> )	***	( <sup>1</sup> )
Production ( <i>metric tons</i> )	***	***
Capacity utilization ( <i>percent</i> )	***	( <sup>1</sup> )
U.S. shipments: <sup>2</sup>		
Quantity ( <i>metric tons</i> )	***	***
Value ( <i>1,000 dollars</i> )	***	***
Unit value ( <i>dollars per metric ton</i> )	***	***
Net sales ( <i>1,000 dollars</i> )	***	***
COGS ( <i>1,000 dollars</i> )	***	***
Gross profit or (loss) ( <i>1,000 dollars</i> )	***	***
SG&A expenses ( <i>1,000 dollars</i> )	***	***
Operating income or (loss) ( <i>1,000 dollars</i> )	***	***
Unit COGS ( <i>dollars per metric ton</i> )	***	***
Unit SG&A expenses ( <i>dollars per metric ton</i> )	***	***
Unit operating income or (loss) ( <i>dollars per metric ton</i> )	***	***
COGS/sales ( <i>percent</i> )	***	***
Operating income or (loss)/sales ( <i>percent</i> )	***	***
<sup>1</sup> Not available. ESM-SMT reported that its capacity ***. <sup>2</sup> US Magnesium and ESM-SMT reported no company transfers/internal consumption during 2011.		
Note.—2011 data presented for US Magnesium are for all magnesium; 2011 data presented for ESM-SMT are for pure granular magnesium. Financial data reported for US Magnesium is for fiscal year ending October 31, 2011. Financial data reported for ESM-SMT is for fiscal year ending December 31, 2011.		
Source: <i>Response of US Magnesium</i> , March 2, 2012, att. 11.		

The data provided by US Magnesium and ESM-SMT are not combined in the presentation, as to do so would result in double-counting any granular magnesium produced from magnesium ingot supplied to ESM-SMT by US Magnesium. The data presented for 2011 are not directly comparable to the data gathered and presented in the original investigation and first five-year review because the 1998-2000 and 2005 data presented for the original investigation and first five-year review are for pure magnesium only, whereas the 2011 data collected in this second five-year review include all pure and alloy magnesium whether in ingot or granular form.<sup>95</sup> Note that US Magnesium has reported that not only does it use the pure magnesium ingot that it produces and adds alloying elements (aluminum and zinc, for example) to manufacture alloy magnesium, but it also performs in-house scrap recycling in the production of alloy magnesium.<sup>96</sup>

US Magnesium reported in its response to the Commission's notice of institution in this second five-year review that the magnesium orders have provided significant benefits to the domestic industry. It stated that although its domestic magnesium operations are \*\*\*.<sup>97</sup> The company explained

“After the imposition of a third order covering imports of alloy magnesium from China in 2005, thus providing protection against dumping for all forms of unwrought magnesium, prices in the U.S. market improved significantly. The beneficial volume and price effects of the orders improved the financial condition of the industry.”<sup>98</sup>

US Magnesium stated further that the orders have allowed it to modernize its magnesium facility and expand U.S. production capacity that otherwise would have been closed absent the orders. The overall practical production capacity for pure and alloy magnesium<sup>99</sup> reported by US Magnesium increased by \*\*\* percent from \*\*\* metric tons in 2005 to \*\*\* metric tons in 2008. Due to a reduction in production in response to depressed demand caused by the recession, US Magnesium's practical capacity was \*\*\* lower in 2009, but remained \*\*\* percent higher than the level reported in 2005. US Magnesium's overall practical capacity to produce pure and alloy magnesium increased to \*\*\* metric tons in 2011, a level below that reported in 2008 but \*\*\* percent higher than the level reported in 2005.<sup>100</sup>

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<sup>95</sup> Although the Commission completed a relatively recent full review concerning magnesium in which complete domestic industry data were collected and presented for January 2000-June 2010, virtually all data on the U.S. magnesium industry collected during those reviews were business proprietary and, accordingly, were redacted from the public report. *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, tables C-1 - C-6. The USGS likewise does not publish data compiled on U.S. production of primary magnesium to avoid disclosing company proprietary information. Although the USGS does not publish data compiled on U.S. production of primary magnesium, it does publish U.S. production data concerning secondary magnesium. These data indicate a decline of 27.7 percent in U.S. production of secondary magnesium from 94,900 metric tons in 2006 to 68,600 metric tons in 2009. A modest increase to 72,000 metric tons was reported in 2010. Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium* \*\*\*, September 2011, table 1, p. 45.6.

<sup>96</sup> *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. III-13; and *Response of US Magnesium*, March 2, 2012, p. 21.

<sup>97</sup> *Response of US Magnesium*, March 2, 2012, pp. 17-18.

<sup>98</sup> *Response of US Magnesium*, March 2, 2012, pp. 9-10.

<sup>99</sup> Includes electrolytic production capacity plus the volume associated with alloying elements and in-house scrap recycling.

<sup>100</sup> *Response of US Magnesium*, March 2, 2012, pp. 20-21.

Data reported by US Magnesium in its response to the Commission’s notice of institution in this second five-year review for its total magnesium nameplate capacity<sup>101</sup> during 2005-12 are presented in table I-6. These data illustrate the progressive expansion of US Magnesium’s nameplate production capacity.

**Table I-6**  
**Magnesium: US Magnesium’s nameplate capacity, 2005-12**

Item	2005	2006	2007	2008	2009	2010	2011	2012 <sup>1</sup>
Capacity ( <i>metric tons</i> )	***	***	***	***	***	***	***	***
<sup>1</sup> Estimated.								
Source: <i>Response of US Magnesium</i> , March 2, 2012, att. 2.								

US Magnesium indicated that from 2005 through 2009 it spent \$\*\*\* to upgrade its production facility and to increase its magnesium production capacity. \*\*\*.<sup>102</sup> A significant portion of US Magnesium’s output from the recent capacity increase is reportedly scheduled to be supplied to Allegheny Technologies Inc.’s (“ATI”) nearby titanium sponge plant. An increase in ATI’s titanium sponge production reportedly prompted US Magnesium’s accelerated capacity expansion to be completed approximately one year earlier than originally planned.<sup>103</sup>

Although the USGS does not publish data compiled on U.S. inventories of primary magnesium to avoid disclosing company proprietary information, it did report that the domestic producers’ yearend 2010 stocks of primary magnesium were about the same as those at yearend 2009. Yearend 2010 consumer stocks of primary and alloy magnesium were 4,230 metric tons, 22 percent lower than the yearend 2009 level of 5,420 metric tons.<sup>104</sup>

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<sup>101</sup> US Magnesium explained that its magnesium facility’s nameplate capacity is the theoretical electrolytic capacity, or the amount that is theoretically possible to produce if all of the cells are running as designed, at the same time. On the other hand, the facility’s practical capacity is how much actually could have been produced at any given time taking into consideration the practical aspects of production, such as maintenance downtime and other production disruptions.

<sup>102</sup> *Response of US Magnesium*, March 2, 2012, pp. 20-22. Press reports confirm that US Magnesium is expected to increase its capacity by 50 percent following ATI’s plant expansion and project its annual 2012 production to reach 63,500 metric tons. Waite, Suzy, “US Mag’s New Metal Going to ATI,” *Metal Bulletin Daily*, no. 282, October 7, 2011.

<sup>103</sup> In late 2009, ATI began ramping up the operations of its newly-built titanium sponge facility in Rowley, UT, which was built adjacent to the magnesium production facility of US Magnesium. The premium grade titanium sponge plant is reportedly operating at its designed annual production capacity of 12,000 metric tons. Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the Third Quarter 2011, November 2011*; and *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. I-21.

<sup>104</sup> Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium [Advance Release]*, September 2011, p. 45.3.

## U.S. IMPORTS AND APPARENT CONSUMPTION

### U.S. Importers

The Commission identified the following five importers of pure magnesium in granular form from China during the original investigation: \*\*\*. The subject merchandise imported by \*\*\*. \*\*\* was the largest importer at that time, \*\*\*.<sup>105</sup> US Magnesium indicated in its response to the Commission's notice of institution in the first five-year review of the order that it did not have information on firms that imported granular magnesium from China at that time.<sup>106</sup> In its response to the Commission's notice of institution in this second five-year review, US Magnesium listed the following three U.S. importers of the subject merchandise from China: Seychelle Environmental Technologies, Rossborough, and ESM.<sup>107</sup>

### U.S. Imports<sup>108</sup>

Import data collected in the Commission's original investigation and first five-year review for 1998-2000 and 2005 (as presented in the Commission's first five-year review staff report) are presented in table I-7. Import data for 2006-11 are shown in table I-8. U.S. imports of pure granular magnesium from China, by quantity, for 1998-2011 are illustrated in figure I-3.

The U.S. import data presented show that the quantity of U.S. imports of pure granular magnesium from China rose rapidly during the original investigation but then fell to negligible levels for the period immediately following the imposition of the antidumping duty order in November 2001 before rising again in 2004. Subject U.S. imports from China fell sharply after 2004 and amounted to zero during 2008 and 2009. Substantial increases in U.S. imports of pure granular magnesium were reported thereafter during 2010 (1,385 metric tons) and 2011 (3,283 metric tons). However, US Magnesium indicated in its response to the Commission's notice of institution in this second five-year review that at least a portion of the reported imports during 2010 and 2011 are misclassified merchandise (i.e., desulfurization reagents) that were entered incorrectly under 8104.30.0000 and which are excluded from the scope of the antidumping duty order.<sup>109</sup> US Magnesium argued that the antidumping duty order and the resulting decline in U.S. imports of the subject magnesium has provided significant benefits to the domestic magnesium industry.<sup>110</sup>

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<sup>105</sup> *Investigation No. 701-TA-403 and 731-TA-895-896 (Final): Pure Magnesium from China and Israel--Staff Report*, INV-Y-219, October 24, 2001, p. IV-1.

<sup>106</sup> *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, p. I-39.

<sup>107</sup> *Response of US Magnesium*, March 2, 2012, att. 13.

<sup>108</sup> Official Commerce statistics for pure granular magnesium are based on HTS subheading 8104.30.00 (magnesium raspings, turnings, and powders). To the extent that subject pure magnesium from China enters the United States under HTS subheadings 8104.11.00 (pure magnesium (unwrought magnesium containing at least 99.8 percent by weight of magnesium)), 8104.20.00 (magnesium waste and scrap), 8104.30.00, 8104.90.00 (other magnesium), 3824.90.11 and 3824.90.19 (prepared binders for foundry molds and cores), and 9817.00.90 (remelt scrap ingot), the subject import data for China presented may be slightly understated. Official Commerce statistics for alloy magnesium are based on HTS subheading 8104.19.00.

<sup>109</sup> *Response of US Magnesium*, March 2, 2012, pp. 12-13.

<sup>110</sup> *Response of US Magnesium*, March 2, 2012, pp. 9-10.

**Table I-7  
Magnesium: U.S. imports from all sources, 1998-2000, and 2005**

Source	Original investigation			Review
	1998	1999	2000	2005
<b>Quantity (metric tons)</b>				
<b>Pure granular magnesium:</b>				
China	9,972	13,185	15,262	1,484
Canada <sup>1</sup>	4,551	5,236	5,993	758
All other sources	111	197	104	269
Total	14,634	18,618	21,359	2,510
<b>Pure magnesium ingot:</b>				
China (nonsubject) <sup>2</sup>	2,194	0	244	19
All other sources <sup>3</sup>	24,266	26,855	22,689	28,693
Total	26,460	26,855	22,933	28,712
<b>Alloy magnesium:</b>				
China <sup>4</sup>	3,751	3,644	6,671	36
All other sources <sup>5</sup>	34,270	37,439	31,744	41,384
Total	38,021	41,084	38,415	41,420
<b>Landed, duty-paid value (1,000 dollars)</b>				
<b>Pure granular magnesium:</b>				
China	27,562	35,463	33,527	4,211
Canada	14,643	13,437	12,583	2,500
All other sources <sup>1</sup>	780	1,023	448	1,448
Total	42,985	49,922	46,558	8,159
<b>Pure magnesium ingot:</b>				
China (nonsubject) <sup>2</sup>	5,469	0	345	35
All other sources <sup>3</sup>	75,026	81,838	62,200	85,248
Total	80,495	81,838	62,545	85,283
<b>Alloy magnesium:</b>				
China <sup>4</sup>	10,430	9,870	13,497	89
All other sources <sup>5</sup>	119,109	128,673	114,399	137,364
Total	129,540	138,543	127,896	137,453

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**Table I-7--Continued**  
**Magnesium: U.S. imports from all sources, 1998-2000, and 2005**

Source	Original investigation			Review
	1998	1999	2000	2005
<b>Landed, duty-paid unit value (per metric ton)</b>				
<b>Pure granular magnesium:</b>				
China	\$2,764	\$2,690	\$2,197	\$2,839
Canada <sup>1</sup>	3,218	2,566	2,100	3,298
All other sources	7,031	5,202	4,321	5,385
Average	2,937	2,681	2,180	3,250
<b>Pure magnesium ingot:</b>				
China (nonsubject) <sup>2</sup>	2,493	<sup>(6)</sup>	1,413	1,835
All other sources <sup>3</sup>	3,092	3,047	2,741	2,971
Average	3,042	3,047	2,727	2,970
<b>Alloy magnesium:</b>				
China <sup>4</sup>	2,781	2,709	2,023	2,452
All other sources <sup>5</sup>	3,476	3,437	3,604	3,319
Total	3,407	3,372	3,329	3,319
<sup>1</sup> Canada was the primary other source of pure granular magnesium during 1998-2000 and in 2005. <sup>2</sup> Imports of pure magnesium ingot from China were under an antidumping duty order throughout the period. <sup>3</sup> Russia, Israel, and Canada were the primary sources of nonsubject pure magnesium ingot during 1998-2000 and in 2005. China was a substantial source in 1998 but not in subsequent years. <sup>4</sup> Imports of alloy magnesium from China were placed under an antidumping duty order in April 2005. <sup>5</sup> Canada was the primary source of nonsubject alloy magnesium during 1998-2000 and in 2005. <sup>6</sup> Cannot be calculated.				
Source: Official Commerce statistics (HTS subheadings 8104.11.00, 8104.30.00, and 8104.19.00 for pure magnesium ingot, pure granular magnesium, and alloy magnesium, respectively).				

**Table I-8**  
**Magnesium: U.S. imports from all sources, 2006-11**

Source	Second review					
	2006	2007	2008	2009	2010	2011
<b>Quantity (metric tons)</b>						
<b>Pure granular magnesium:</b>						
China (subject)	334	22	0	0	1,385	3,283
Nonsubject:						
Canada	970	868	1,023	560	842	962
Austria	83	105	63	112	223	563
All other sources	51	14	76	69	74	53
Subtotal, nonsubject	1,104	987	1,162	742	1,139	1,578
Total, pure granular magnesium	1,438	1,010	1,162	742	2,525	4,861
<b>Pure magnesium ingot:</b>						
Nonsubject:						
China	1	3,453	19,113	4,968	93	65
Israel	7,917	14,539	21,800	15,339	15,817	12,115
Russia	13,038	6,105	2,210	307	618	470
All other sources	10,992	3,055	1,140	819	1,712	1,665
Total, pure magnesium ingot	31,948	27,152	44,264	21,433	18,240	14,315
<b>Alloy magnesium:</b>						
Nonsubject:						
China	34	46	287	142	21	6
Canada	19,355	13,319	2,199	150	0	39
Israel	2,840	2,649	4,302	1,130	2,742	2,834
All other sources	3,576	6,805	6,385	3,063	7,407	4,487
Total, alloy magnesium	25,805	22,820	13,172	4,486	10,170	7,367
<b>All magnesium:</b>						
China	369	3,522	19,400	5,110	1,500	3,354
All other sources	58,822	47,460	39,198	21,550	29,435	23,189
Total	59,191	50,982	58,599	26,661	30,935	26,543

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**Table I-8--Continued**  
**Magnesium: U.S. imports from all sources, 2006-11**

Source	Second review					
	2006	2007	2008	2009	2010	2011
<b>Landed, duty-paid value (1,000 dollars)</b>						
<b>Pure granular magnesium:</b>						
China (subject)	800	81	0	0	3,739	9,436
Nonsubject:						
Canada	2,318	3,179	3,395	2,693	2,886	4,062
Austria	292	498	561	987	902	2,005
All other sources	602	338	617	545	655	603
Subtotal, nonsubject	3,212	4,015	4,574	4,225	4,443	6,669
Total, pure granular magnesium	4,013	4,096	4,574	4,225	8,182	16,105
<b>Pure magnesium ingot:</b>						
Nonsubject:						
China	8	11,305	106,024	25,196	642	463
Israel	22,638	43,076	83,196	60,341	74,597	59,457
Russia	29,616	14,198	8,475	1,340	2,024	1,886
All other sources	27,690	10,471	6,579	4,706	8,415	8,863
Total, pure magnesium ingot	79,953	79,050	204,275	91,583	85,679	70,668
<b>Alloy magnesium:</b>						
Nonsubject:						
China	101	129	1,697	723	78	33
Canada	63,407	46,109	14,504	733	9	206
Israel	8,678	7,839	17,619	4,910	13,353	13,908
All other sources	14,948	24,462	40,024	21,091	36,417	28,121
Total, alloy magnesium	87,133	78,539	73,844	27,457	49,857	42,268
<b>All magnesium:</b>						
China	909	11,516	107,721	25,919	4,459	9,931
All other sources	170,190	150,169	174,971	97,346	139,259	119,110
Total	171,099	161,685	282,692	123,265	143,718	129,041

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**Table I-8--Continued**  
**Magnesium: U.S. imports from all sources, 2006-11**

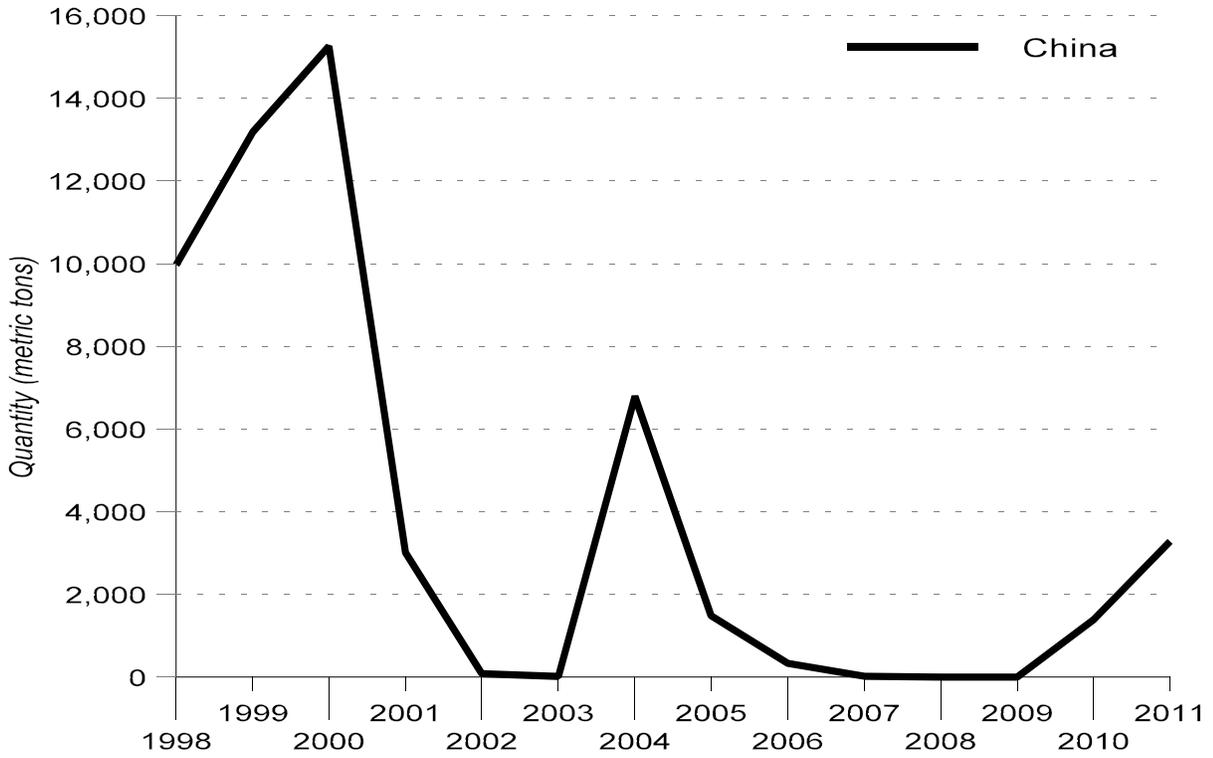
Source	Second review					
	2006	2007	2008	2009	2010	2011
<b>Landed, duty-paid unit value (dollars per metric ton)</b>						
<b>Pure granular magnesium:</b>						
China (subject)	2,396	3,607	( <sup>1</sup> )	( <sup>1</sup> )	2,699	2,874
Nonsubject:						
Canada	2,389	3,661	3,319	4,805	3,426	4,224
Austria	3,530	4,742	8,877	8,778	4,041	3,559
All other sources	11,918	23,941	8,078	7,913	8,894	11,296
Subtotal, nonsubject	2,911	4,065	3,934	5,697	3,900	4,226
Average, pure granular magnesium	2,791	4,055	3,934	5,697	3,241	3,313
<b>Pure magnesium ingot:</b>						
Nonsubject:						
China	10,585	3,274	5,547	5,071	6,883	7,069
Israel	2,859	2,963	3,816	3,934	4,716	4,908
Russia	2,272	2,326	3,835	4,369	3,275	4,011
All other sources	2,519	3,427	5,772	5,749	4,915	5,322
Average, pure magnesium ingot	2,503	2,911	4,615	4,273	4,697	4,937
<b>Alloy magnesium:</b>						
Nonsubject:						
China	2,918	2,781	5,907	5,091	3,663	5,810
Canada	3,276	3,462	6,597	4,872	110,513	5,228
Israel	3,056	2,959	4,096	4,343	4,870	4,907
All other sources	4,180	3,595	6,269	6,885	4,916	6,267
Average, alloy magnesium	3,377	3,442	5,606	6,120	4,902	5,738
<b>All magnesium:</b>						
China	2,464	3,270	5,553	5,072	2,973	2,961
All other sources	2,893	3,164	4,464	4,517	4,731	5,136
Average, all magnesium	2,891	3,171	4,824	4,623	4,646	4,862

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**Table I-8--Continued**  
**Magnesium: U.S. imports from all sources, 2006-11**

Source	Second review					
	2006	2007	2008	2009	2010	2011
<b>Share of quantity (percent)</b>						
<b>Pure granular magnesium:</b>						
China (subject)	23.2	2.2	0.0	0.0	54.9	67.5
Nonsubject:						
Canada	67.5	86.0	88.0	75.5	33.4	19.8
Austria	5.7	10.4	5.4	15.2	8.8	11.6
All other sources	3.5	1.4	6.6	9.3	2.9	1.1
Subtotal, nonsubject	76.8	97.8	100.0	100.0	45.1	32.5
Total, pure granular magnesium	100.0	100.0	100.0	100.0	100.0	100.0
<b>Pure magnesium ingot:</b>						
Nonsubject:						
China	0.0	12.7	43.2	23.2	0.5	0.5
Israel	24.8	53.5	49.3	71.6	86.7	84.6
Russia	40.8	22.5	5.0	1.4	3.4	3.3
All other sources	34.4	11.3	2.6	3.8	9.4	11.6
Total, pure magnesium ingot	100.0	100.0	100.0	100.0	100.0	100.0
<b>Alloy magnesium:</b>						
Nonsubject:						
China	0.1	0.2	2.2	3.2	0.2	0.1
Canada	75.0	58.4	16.7	3.4	0.0	0.5
Israel	11.0	11.6	32.7	25.2	27.0	38.5
All other sources	13.9	29.8	48.5	68.3	72.8	60.9
Total, alloy magnesium	100.0	100.0	100.0	100.0	100.0	100.0
<b>All magnesium:</b>						
China	0.6	6.9	33.1	19.2	4.8	12.6
All other sources	99.4	93.1	66.9	80.8	95.2	87.4
Total	100.0	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> Not applicable.  Source: Official Commerce statistics (HTS subheadings 8104.11.00, 8104.30.00, and 8104.19.00 for pure magnesium ingot, pure granular magnesium, and alloy magnesium, respectively).						

**Figure I-3**  
**Pure granular magnesium: U.S. imports from China, by quantity, 1998-2011**



Source: Official Commerce statistics (HTS subheading 8104.30.00 for pure granular magnesium).

## APPARENT U.S. CONSUMPTION AND MARKET SHARES

The demand for magnesium in the United States is derived primarily from the final product demand in its major end-use segments: aluminum alloying for aluminum packaging, die casting for use in the automotive/transportation industry, iron and steel desulfurization for use in the construction industry, and various uses in the defense, aerospace, and chemical intermediates industries. Demand for magnesium in these end uses in the United States generally tracks overall economic activity.<sup>111</sup>

Figure I-4 presents USGS data for (open market) U.S. consumption of primary magnesium during 1998-2010. This figure shows that U.S. consumption of primary magnesium has followed a general downward trend since the original investigation. Since the Commission's first five-year review, U.S. consumption of primary magnesium fell consistently from 82,100 metric tons in 2005 to 50,900 metric tons in 2009, before rising to 55,700 metric tons in 2010. Aluminum alloying (accounting for 43 percent of the total) was the leading use for primary magnesium in 2010, followed by die casting (accounting for 35 percent) and iron and steel desulfurization (accounting for 11 percent).<sup>112</sup> Due to an increase in use for iron and steel desulfurization as the U.S. steel industry recovered somewhat from the economic downturn, U.S. consumption of primary magnesium in the United States increased in 2010 by approximately 9 percent from the level reported in 2009.<sup>113</sup> The primary use for pure magnesium in granular form is in the production of desulfurizing reagent mixtures although lesser amounts are used in other applications.<sup>114</sup> As shown in figure I-4, U.S. consumption of primary magnesium for use in iron and steel desulfurization since the period examined in the Commission's first five-year review increased from 2005 to 2007, fell in 2008 and 2009, but increased to 5,960 metric tons in 2010.

The USGS reported in 2010 that U.S. magnesium consumption is expected to continue to generally track overall economic activity. Noting that a significant portion of U.S. demand for magnesium depends on its use in aluminum alloys, the USGS reported that aluminum production in 2011 was expected to increase from that in 2010. The USGS also reported that an increase in U.S. light vehicle production reported during the first half of 2011 would likely lead to an increase in the use of magnesium in the production of die cast parts.<sup>115</sup> Press reports confirmed that demand for pure magnesium in the U.S. market was strong during the first part of 2011 due to a strengthening aluminum sector and an increase in other specialty consumer markets.<sup>116</sup>

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<sup>111</sup> *Response of US Magnesium*, March 2, 2012, p. 25.

<sup>112</sup> Kramer, Deborah A., *USGS, Minerals Yearbook, Magnesium, 2006-10*; and *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, p. I-44.

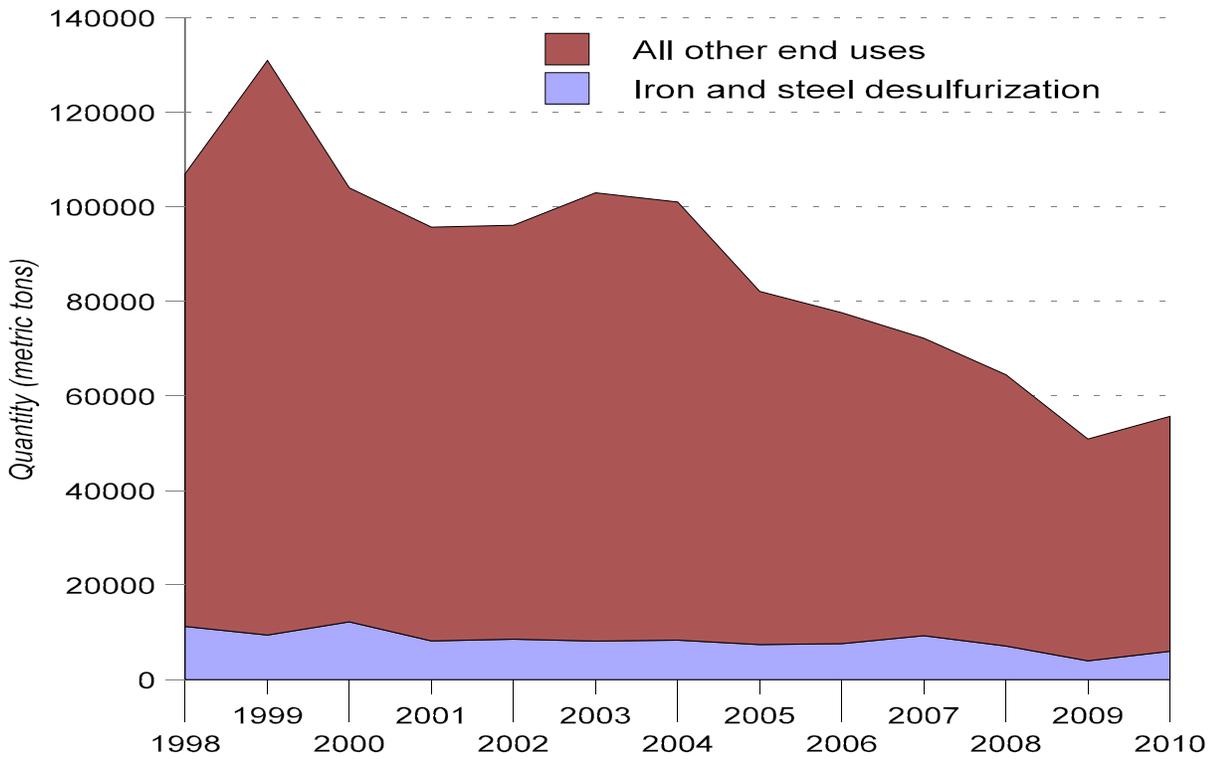
<sup>113</sup> Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium [Advance Release]*, September 2011, p. 45.1.

<sup>114</sup> See the discussion on the description and uses of granular magnesium presented earlier in this report.

<sup>115</sup> Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium [Advance Release]*, September 2011, pp. 45.4-45.5.

<sup>116</sup> Riley, Ann, "(AMM) US Magnesium Metal Mart Steady," *Metal Bulletin Daily*, no. 264, May 20, 2011.

**Figure I-4**  
**Primary magnesium: U.S. consumption, 1998-2010**



Source: Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium, 2005-10*; and *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report, INV-EE-009, February 1, 2007, p. I-44.*

Further information on apparent U.S. consumption and estimated market shares for all magnesium is presented in table I-9.<sup>117</sup> Apparent U.S. consumption data presented for 1998-2000 are open-market U.S. consumption of primary magnesium as reported by the USGS and estimates for U.S. producers' U.S. shipments for 1998-2000 were calculated from figures presented for U.S. imports (based on official Commerce statistics) and U.S. consumption. Apparent U.S. consumption of magnesium for 2005 and 2011 is based on US Magnesium's U.S. commercial shipments of pure and alloy magnesium and U.S. imports as compiled from official U.S. import statistics of Commerce.

As generally consistent with the trend in publicly available data on U.S. consumption of primary magnesium (figure I-4), the calculated apparent U.S. consumption of magnesium, in terms of quantity, was \*\*\* percent lower at \*\*\* metric tons in 2011 than calculated for 2005. US Magnesium reported U.S. commercial shipments of \*\*\* metric tons of magnesium in 2011, which accounted for almost \*\*\* of U.S. consumption of magnesium.<sup>118</sup> There was \*\*\* during 2005 or 2011. The share of apparent U.S. consumption of pure and alloy magnesium (on the basis of quantity) held by U.S. imports of subject pure granular magnesium from China accounted for \*\*\* percent in 2011, whereas the share held by all nonsubject U.S. imports of magnesium (dominated by Israel) accounted for \*\*\* percent.

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<sup>117</sup> As discussed earlier in this report, in the original investigation the Commission majority found a single domestic like product that combined pure granular magnesium and pure magnesium ingot, but did not include alloy magnesium. Table I-11 of the Commission staff report in the first five-year review presents the market penetration ratios cited by the Commission majority in their views in the original investigation. That market share data show that, as a share of total apparent domestic consumption of pure magnesium, by quantity, Chinese subject imports increased from \*\*\* percent in 1998 to \*\*\* percent in 1999, and fell to \*\*\* percent in 2000. However, in its first five-year review of the order concerning pure granular magnesium from China, the Commission defined a single domestic like product encompassing primary and secondary magnesium, including pure and alloy magnesium, whether in ingot or granular form. The data requested and presented in this second five-year review reflect the Commission's most recent domestic like product determination. *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, table I-11.

<sup>118</sup> As noted earlier in this report, US Magnesium is \*\*\* U.S. producer of primary magnesium. MagPro, primarily a secondary magnesium producer, began to add primary magnesium capacity to its facility in 2008 and is believed to be currently producing a small amount of primary magnesium.

**Table I-9**  
**Magnesium: U.S. apparent consumption, 1998-2000, 2005, and 2011**

Source	Original investigation			First review	Second review
	1998	1999	2000	2005	2011
<b>Quantity (metric tons)</b>					
U.S. producers' U.S. shipments	27,885 <sup>1</sup>	44,444 <sup>1</sup>	21,294 <sup>1</sup>	*** <sup>2</sup>	*** <sup>2</sup>
U.S. imports:					
Subject imports (pure granular magnesium from China)	9,972	13,185	15,262	1,484	3,283
Nonsubject imports	69,143	73,371	67,444	71,158	23,260
Total, U.S. imports	79,115	86,556	82,706	72,642	26,543
Apparent U.S. consumption	107,000 <sup>1</sup>	131,000 <sup>1</sup>	104,000 <sup>1</sup>	***	***
<b>Share of quantity (percent)</b>					
U.S. producers' U.S. shipments	26.1 <sup>1</sup>	33.9 <sup>1</sup>	20.5 <sup>1</sup>	***	***
U.S. imports:					
Subject imports (pure granular magnesium from China)	9.3	10.1	14.7	***	***
Nonsubject imports	64.6	56.0	64.9	***	***
Total, U.S. imports	73.9	66.1	79.5	***	***
Apparent U.S. consumption	100.0 <sup>1</sup>	100.0 <sup>1</sup>	100.0 <sup>1</sup>	100.0	100.0
<p><sup>1</sup> U.S. producers' U.S. shipment data and total apparent U.S. consumption data for all magnesium are not available for 1998-2000. Apparent U.S. consumption data presented for 1998-2000 are open-market U.S. consumption of primary magnesium as reported by the USGS and U.S. producers' U.S. shipment data for 1998-2000 were calculated from figures presented for U.S. imports and U.S. consumption. Because open market U.S. consumption of primary magnesium was used in the calculation rather than total apparent U.S. consumption of all magnesium, these data presented for all magnesium are believed to be understated for 1998-2000. In the original investigation, the Commission majority found a single domestic like product that included all pure magnesium, but did not include alloy magnesium. The market penetration ratios cited by the Commission majority in their views in the original investigation show that, as a share of total apparent domestic consumption of pure magnesium, by quantity, Chinese subject imports increased from *** percent in 1998 to *** percent in 1999, and fell to *** percent in 2000 (see table I-11 of the Commission staff report in the first five-year review).</p> <p><sup>2</sup> U.S. producers' U.S. shipment data presented for 2005 and 2011 are U.S. commercial shipments of pure and alloy magnesium reported by US Magnesium. The firm reported ***.</p>					
<p>Source: <i>Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report</i>, INV-EE-009, February 1, 2007, p. I-44 and table I-9; official Commerce statistics (HTS subheadings 8104.11.00, 8104.30.00, and 8104.19.00 for pure magnesium ingot, pure granular magnesium, and alloy magnesium, respectively); and <i>Response of US Magnesium</i>, March 2, 2012, att. 11.</p>					

## THE INDUSTRY IN CHINA

### Background

The Chinese magnesium metal producing industry at the time of the original investigation was characterized by a large number of production facilities manufacturing magnesium ingot. The total number of magnesium metal-producing plants in China was estimated at 84, with production dominated by nearly 60 export-oriented plants.<sup>119</sup> According to the China Magnesium Association (“CMA”), only 22 Chinese manufacturers had plants with an annual capacity of over 3,000 metric tons. The number of Chinese facilities producing magnesium was also reported during the original investigation to depend largely on the price level of magnesium ingot. In 1997, when magnesium ingot prices had been relatively higher, there were an estimated 400 magnesium plants in China. During the original investigation, the Commission received completed foreign producer questionnaire responses from only two Chinese firms (Shanxi Wenxi Yinguang Magnesium in Shanxi Province and Nanjing Ube Magnesium in Jiangsu Province). \*\*\*.<sup>120</sup>

US Magnesium indicated in the expedited first five-year review that the Chinese magnesium industry had developed very rapidly since the original investigation and most of the world’s supply of magnesium was produced in China at that time. It also argued in that first review that the Chinese magnesium industry continued to be export-oriented and remained the low-price supplier of magnesium to the world market.<sup>121</sup>

In its response to the Commission’s notice of institution in this second five-year review, US Magnesium listed the following eight producers of the subject merchandise in China: Yinguang Magnesium Industry Group Co., Ltd.; Ningxia Hui-Ye Magnesium Group Co., Ltd.; Wenxi Hongfu Magnesium Industry Co., Ltd.; Hebi Grand Magnesium Co. Ltd.; Taiyuan Yiwei Magnesium Industry Co. Ltd.; Tangshan Weihao Magnesium Powder Co. Ltd.; ESM Tianjin Co Ltd; and Wealth Int’l Trade & Investment.

### Capacity and Production

Capacity and production data specific to the subject merchandise (pure granular magnesium) in China are not available. Presented in table I-10 are data published by the USGS on primary magnesium capacity and production in China for 2006-2011. These data show that the capacity to produce primary magnesium in China at the beginning of 2011 totaled 1.08 million metric tons, more than twice the level reported at the beginning of 2006. Primary magnesium production in China amounted to 661,000 metric tons during 2011, an increase of 27.1 percent over the production level reported during 2006. Estimated capacity utilization of primary magnesium production facilities in China fell overall from 92.0 percent in 2006 to 61.2 percent during 2011.

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<sup>119</sup> The petition listed 22 firms producing pure magnesium in China and identified an additional 24 firms believed to be traders and/or exporters of pure magnesium; however, petitioners did not distinguish pure granular magnesium producers from pure magnesium ingot producers.

<sup>120</sup> *Pure Magnesium From China and Israel, Investigations Nos. 701 -TA-403 and 731-TA-895-896 (Final)*, USITC Pub. 3467, November 2001, pp. II-5 and VII-1 through VII-4.

<sup>121</sup> *Investigation No. 731-TA-895 (Review): Pure Magnesium from China--Staff Report*, INV-EE-009, February 1, 2007, pp. I-51 - I-53.

**Table I-10**  
**Primary magnesium: Capacity and production data for China, 2006-11**

Item	2006	2007	2008	2009	2010	2011
Capacity ( <i>metric tons</i> ) <sup>1</sup>	528,000	602,000	873,000	953,000	1,030,000	1,080,000
Production ( <i>metric tons</i> )	520,000	625,000	559,000	501,000	654,000	661,000
Capacity utilization ( <i>percent</i> ) <sup>2</sup>	92.0	84.7	61.2	50.5	62.0	61.2
<p><sup>1</sup> Capacity data includes capacity at operating plants as well as at plants on standby basis, as of January 1 of each annual reporting period.</p> <p><sup>2</sup> Capacity utilization data for the 2006-10 annual periods were calculated by staff based on the average beginning and ending annual reported capacity. Capacity utilization for 2011 was calculated based on capacity as of January 1, 2011, as end-of-year 2011 capacity data were not available.</p> <p>Source: Kramer, Deborah A., <i>USGS, Minerals Yearbooks, Magnesium, 2006-10</i>; and Kramer, Deborah A., <i>USGS, Mineral Industry Surveys, Magnesium in the Fourth Quarter 2011</i>, February 2012.</p>						

In China, several firms continue to expand their primary magnesium metal production capacities. According to information published by the USGS in 2011-12, at least eight magnesium producers in China announced production and/or capacity expansions since 2010. Information concerning the changes in the character of magnesium operations in China are presented in table I-11.

China's 12<sup>th</sup> 5-year plan (2011-15) may also have an impact on the country's capacity and production of magnesium. The USGS reported that as part of its 5-year plan, China announced rules that were to be implemented in 2011 that would close magnesium plants that had an annual capacity of less than 15,000 metric tons and would require all new magnesium facilities to have an annual capacity of at least 20,000 metric tons. In addition, the new regulations would set an upper limit on the magnesium plant's consumption of coal per ton of magnesium produced. The intent of the new regulations was to close small facilities in China that produce substandard magnesium and to reduce emissions.<sup>122</sup>

US Magnesium argued in its response to the Commission's institution notice in this second five-year review that the capacity to produce magnesium in China is likely to increase in the future, citing an article (dated October 2010) stating that the Chinese industry plans to quadruple its magnesium capacity within the next five years by adding 3 million tons of capacity. It indicated that there is significant unused capacity to produce magnesium in China and argued that since the Chinese magnesium industry currently operates at such extremely low capacity utilization levels, it has the capacity to significantly increase its exports to the United States if the order is revoked. Finally, US Magnesium noted that during the Commission's original investigation, subject imports of granular magnesium from China consisted largely of chips intended for the desulfurization market, but argued that the Chinese granular magnesium industry has become more sophisticated over time, with at least one producer of atomized magnesium, Tangshan Weihao Magnesium Powder Co., Ltd.<sup>123</sup>

<sup>122</sup> Kramer, Deborah A., *USGS, 2010 Minerals Yearbook, Magnesium [Advance Release], September 2011*, pp. 45.4.

<sup>123</sup> *Response of US Magnesium*, March 2, 2012, pp. 13-14.

**Table I-11**

**Magnesium: Recently announced changes in the character of Chinese magnesium operations**

Company	Change in operation
Baotou Changxin Magnesium Co., Ltd. (Inner Mongolia)	Restarted production of primary magnesium in July/August 2010 with an annual capacity of 20,000 metric tons. The plant had been idle throughout 2009 because of weak demand.
China Magnesium Corp. Ltd. (Pingyao, Shanxi Province)	Production of magnesium from the refurbished magnesium plant with an annual capacity of 5,000 metric tons began in April 2010. The plant had been idle since 2008. An expansion of the magnesium plant's annual capacity to 20,000 metric tons was reportedly completed by December 2011.
Fugu Xintian Magnesium Alloy Co. Ltd. (Shaanxi Province)	Planned investment of \$8.8 million to set up a new production line with an annual capacity of 10,000 metric tons of pure magnesium and 10,000 metric tons of magnesium alloy to be completed by yearend 2010.
Shaanxi Fugu Tianyu Mineral Industrial Group Co. Ltd.	Planned operation of its newly completed magnesium production line with an annual capacity of 30,000 metric tons in the second half of 2012. The company also operates a magnesium plant in Fugu County, Shaanxi Province, and the additional capacity would bring the company's total annual capacity to 45,000 metric tons.
Shanxi Gu County Golden Magnesium Co. Ltd. (Shanxi Province)	Production increased to reach full annual capacity of 12,000 metric tons in May 2010.
Taiyuan Changxin Magnesium Co. Ltd. (Shanxi Province)	Restarted production of primary magnesium in July/August 2010 with an annual capacity of 10,000 metric tons. The plant had been idle throughout 2009 because of weak demand.
The municipal government of Anshan in Liaoning Province	Secured investment, through Magnesium Resources Corp. of China Ltd., to build a magnesium plant in Anshan. Magnesium Resources was expected to invest up to \$1.5 billion in the construction of the facility, which would have annual capacity of 200,000 metric tons of magnesium metal and 50,000 metric tons of magnesium alloys. The first phase of the project was reportedly completed in 2010.
Xinjiang Hongxing Kejian Magnesium Co., Ltd.	Magnesium plant with an annual capacity of 20,000 metric tons was brought onstream in early 2011. Planned annual capacity increase to 100,000 metric tons within 3 years.
<p>Source: Kramer, Deborah A., <i>USGS, 2010 Minerals Yearbook, Magnesium [Advance Release], September 2011, pp. 45.1 and 45.4</i>; Kramer, Deborah A., <i>USGS, Mineral Industry Surveys, Magnesium in the First Quarter 2012, May 2012</i>; and Kramer, Deborah A., <i>USGS, Mineral Industry Surveys, Magnesium in the First Quarter 2011, May 2011</i>.</p>	

## Net Trade Balance

Available *Global Trade Atlas* data concerning the net trade balance reported for magnesium for China is presented in table I-12. These data show that China was a relatively large net exporter of subject magnesium during 2006-11. In fact, one 2011 press report indicated that almost 80 percent of magnesium produced in China is exported.<sup>124</sup>

**Table I-12**  
**Magnesium: China exports, imports, and trade balance, 2006-11**

Item	Second review					
	2006	2007	2008	2009	2010	2011
<b>Exports (quantity in metric tons)</b>						
Pure magnesium ingot	173,232	207,855	197,024	117,429	190,231	185,878
Pure granular magnesium	79,805	79,995	85,987	40,748	85,024	87,779
Alloy magnesium	85,681	106,566	100,789	63,620	85,852	99,362
Total, all magnesium	338,718	394,416	383,800	221,797	361,106	373,019
<b>Imports (quantity in metric tons)</b>						
Pure magnesium ingot	376	( <sup>1</sup> )	11	15	35	164
Pure granular magnesium	223	160	275	39	83	208
Alloy magnesium	1,602	898	358	162	157	3
Total, all magnesium	2,200	1,058	645	216	275	375
<b>Trade balance (quantity in metric tons)</b>						
Pure magnesium ingot	172,856	207,855	197,012	117,415	190,196	185,713
Pure granular magnesium	79,583	79,835	85,712	40,709	84,940	87,572
Alloy magnesium	84,079	105,668	100,431	63,458	85,695	99,359
Total, all magnesium	336,518	393,358	383,155	221,582	360,831	372,644
<sup>1</sup> Less than significant digits displayed. Source: Global Trade Atlas (HTS subheadings 8104.11.00, 8104.30.00, and 8104.19.00 for pure magnesium ingot, pure granular magnesium, and alloy magnesium, respectively).						

<sup>124</sup> Xiaowei, Li, "China Magnesium Prices See Improvement on Pre-Christmas Orders from West," *Metal Bulletin Daily*, no. 290, December 5, 2011.

## Tariff or Non-Tariff Barriers to Trade

### Antidumping Measures

India reportedly applied definitive antidumping duties on imports of magnesium from China from July 24, 1998 until May 1, 2003. The duties were withdrawn upon a request by the affected domestic industry. Beginning in 1999, the European Union (“EU”) had an antidumping duty order on imports of pure magnesium (unwrought unalloyed magnesium) from China, that expired in 2003.<sup>125</sup> Noting that there is no reported production of primary magnesium in India or the EU for the 2006 through 2010 period covered by the USGS magnesium report, the domestic interested party indicated that the antidumping measures were no longer in place in India and the EU because they were not sufficiently effective to protect the domestic magnesium industries from the subject imports.<sup>126</sup>

In April 2003, Brazil initiated antidumping investigations on imports from China of magnesium ingot and magnesium powder and on October 11, 2004, imposed antidumping duties of \$1.18 per kilogram (\$0.535 per pound) on pure magnesium ingot and \$0.99 per kilogram (\$0.449 per pound) on magnesium granules. In October 2005, Brazil expanded duties to include alloy magnesium from China. In addition, Brazil made public on October 7, 2010, its decision to continue the application of antidumping duties for 5 more years on the imports of magnesium from China.<sup>127</sup>

### China’s Export Restrictions

Prior to 2006, there was a tax rebate of 13 percent on magnesium metal exports produced in China. The Chinese Government announced in January 2006 that it would reduce the export tax rebate on magnesium to five percent in an attempt to control exports. By September 2006, the Chinese Government decided to entirely remove the tax rebate on exports of magnesium.<sup>128</sup>

On June 1, 2007, the Chinese Government imposed a 10 percent export tax on magnesium scrap and, on January 1, 2008, the Chinese Government imposed a 10 percent export tax on pure and alloy magnesium.<sup>129</sup> China’s export taxes on magnesium and several other key raw materials were the subject of a complaint filed at the World Trade Organization (“WTO”) on June 23, 2009, by the United States and the European Union (“EU”) seeking a formal WTO dispute settlement panel. Mexico joined the initial complaint on August 21, 2009. The complaint alleged that China improperly restricted exports of nine key raw materials by imposing quotas and/or duties on the export of those materials, including magnesium, and that such actions have given its own manufacturers an unfair advantage through price manipulation.<sup>130</sup> Canada participated in this dispute as a third party, noting that it was “concerned that China’s export restraints, such as export duties and quotas, were leading to trade distortions in the world

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<sup>125</sup> *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-19.

<sup>126</sup> *Response of US Magnesium*, March 2, 2012, p. 15.

<sup>127</sup> *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-19.

<sup>128</sup> Kramer, Deborah A., *USGS, Minerals Yearbook, Magnesium, 2005-06*.

<sup>129</sup> Kramer, Deborah A., *USGS, Minerals Yearbook, Magnesium, 2007*.

<sup>130</sup> Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the Third Quarter 2009*, December 2009.

market.”<sup>131</sup> The following countries also participated in this dispute as third parties: Argentina, Brazil, Chile, Colombia, Ecuador, India, Japan, Norway, South Korea, Taiwan, and Turkey.<sup>132</sup>

Several months following the establishment of the dispute settlement panel, the WTO Secretariat commented that the Chinese Government’s response to the original complaint was that the “export taxes are not used to raise tax revenues but are levied to preserve exhaustible natural resources and to protect the environment.”<sup>133</sup> The Chinese Government insisted that its export policy strictly adheres to regulations of the WTO and that its “efforts to restrict energy-intensive and environmentally destructive products are designed to protect the environment and address China’s trade imbalance.”<sup>134</sup> The WTO noted, however, that

whether intended or not, export restraints for whatever reason tend to reduce export volumes of the targeted products and divert supplies to the domestic market, leading to a downward pressure on the domestic prices of these products. The resulting gap between domestic prices and world prices constitutes implicit assistance to domestic downstream processors of the targeted products and thus provides them a competitive advantage. Insofar as China is a major supplier of such a product, export restraints may also shift the terms of trade in China’s favour. Also, some export restrictions might be imposed to pre-empt imposition of import restrictions by governments in export markets. More generally, export restraints may not be the best way to achieve some of the objectives/rationales mentioned above. In particular, restricting the export of some highly polluting or high-energy consuming products is not the most economically efficient way to protect the environment or reduce energy consumption. Nor are export restraints the best way to conserve natural resources.<sup>135</sup>

The WTO issued its report concerning the complaint on July 5, 2011. Noting that China failed to justify its export duties and quotas on various forms of magnesium as legitimate measures concerning conservation, environmental protection, or supply, the WTO panel found that China’s export duties and quotas constituted a breach of WTO rules. It also found that China’s measures concerning the imposition of minimum export price, export licensing, and export quota administration requirements on these materials, as well as China’s failure to publish certain measures related to these requirements, were

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<sup>131</sup> “Canada Joining WTO Case vs. China,” *AMM.com*, January 7, 2010, [http://www.amm.com/2010-01-07\\_14-57-36.html](http://www.amm.com/2010-01-07_14-57-36.html) (as cited in *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-20).

<sup>132</sup> *Ibid.*

<sup>133</sup> “TRADE POLICY REVIEW, Report by the Secretariat, CHINA,” *World Trade Organization*, April 26, 2010, [http://www.wto.org/english/tratop\\_e/tpr\\_e/tp330\\_e.htm](http://www.wto.org/english/tratop_e/tpr_e/tp330_e.htm), [http://www.wto.org/english/tratop\\_e/tpr\\_e/s230-00\\_e.doc](http://www.wto.org/english/tratop_e/tpr_e/s230-00_e.doc), and [http://www.wto.org/english/tratop\\_e/tpr\\_e/s230-03\\_e.doc](http://www.wto.org/english/tratop_e/tpr_e/s230-03_e.doc), p. 44 (as cited in *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-20).

<sup>134</sup> “China Dismisses WTO Remarks on Export Curbs,” *AMM.com*, June 2, 2010, [http://www.amm.com/2010-06-02\\_18-53-03.html](http://www.amm.com/2010-06-02_18-53-03.html) (as cited in *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-20).

<sup>135</sup> “TRADE POLICY REVIEW, Report by the Secretariat, CHINA,” *World Trade Organization*, April 26, 2010, [http://www.wto.org/english/tratop\\_e/tpr\\_e/tp330\\_e.htm](http://www.wto.org/english/tratop_e/tpr_e/tp330_e.htm), [http://www.wto.org/english/tratop\\_e/tpr\\_e/s230-00\\_e.doc](http://www.wto.org/english/tratop_e/tpr_e/s230-00_e.doc), and [http://www.wto.org/english/tratop\\_e/tpr\\_e/s230-03\\_e.doc](http://www.wto.org/english/tratop_e/tpr_e/s230-03_e.doc), p. 44 (as cited in *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-20).

inconsistent with WTO rules.<sup>136</sup> The WTO decision has reportedly led to industry speculation concerning the removal of China's 10 percent export tax on magnesium.<sup>137</sup>

## GLOBAL MARKET

Worldwide capacity, production, and capacity utilization data for primary magnesium published by the USGS, by country, are presented in table I-13. The capacity data presented include the capacity at operating plants as well as at plants that are on a standby basis and/or are sitting idle. The USGS reported world magnesium production capacity of 1.32 million metric tons (as of December 31, 2010) and world magnesium production of 757,000 metric tons during 2010.<sup>138</sup> As the published 2010 USGS data show, China dominated world capacity and production of primary magnesium, accounting for 86.4 percent of the total (excluding the United States) during 2010. The largest nonsubject countries that have capacity to produce primary magnesium are Brazil (RIMA Industrial S/A), Israel (Dead Sea Magnesium Ltd.), Kazakhstan (Ust-Kamenogorsk Titanium and Magnesium Plant JSC), and Russia (PSC VSMPO-AVISMA Corp.; Solikamsk Magnesium Works, OAO; and Solikamsk Desulphurizer Works Ltd.). The primary sources of U.S. imports of pure granular magnesium in 2011 were China (67.5 percent), Canada (19.8 percent), and Austria (11.6 percent). The primary source of U.S. imports of pure magnesium ingot in 2011 was Israel (84.5 percent), with smaller amounts of U.S. imports from other countries (Brazil (5.0 percent), Malaysia (3.7 percent), Russia (3.3 percent), and Kazakhstan (2.9 percent)).

Available information concerning the magnesium industry in certain nonsubject countries is provided below.<sup>139</sup> Information concerning the magnesium industry in China was previously presented in the section entitled "The Industry in China."

### Austria

Austria, the world's third largest exporter of magnesium, is home to ECKA Granules, a magnesium recycler and producer of granular magnesium. ECKA Granules also maintains a presence in Germany, as well as the United States, the United Kingdom, Slovenia, Switzerland, Bahrain, Australia, China, and South Korea. ECKA Granules describes itself as "an international leader with its three high-performance sectors Alloying-, Metal-Powders- and Application Technology."<sup>140</sup>

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<sup>136</sup> Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the Second Quarter 2011*, September 2011. The Appellate Body of the WTO rejected most of China's claims in the subsequent appeal of the July 2011 WTO findings. Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the Fourth Quarter 2011*, February 2012.

<sup>137</sup> Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the Fourth Quarter 2011*, February 2012.

<sup>138</sup> Calendar year 2010 is the most recent annual period for which data are publicly available.

<sup>139</sup> Unless otherwise noted, the discussion in this section is from Kramer, Deborah A., *USGS, Minerals Yearbook, Magnesium*, 2009 and 2010.

<sup>140</sup> *Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-28.

Table I-13

Primary magnesium: World primary magnesium capacity, production, and capacity utilization, by country, 2006-11

Country	2006	2007	2008	2009	2010	2011
<b>Capacity (metric tons)<sup>1</sup></b>						
Brazil	12,000	12,000	18,000	18,000	18,000	22,000
Canada	123,000 <sup>2</sup>	123,000 <sup>2</sup>	9,000 <sup>3</sup>	9,000 <sup>3</sup>	( <sup>4</sup> )	( <sup>4</sup> )
China	528,000	602,000	873,000	953,000	1,030,000	1,080,000
India	900	900	900	900	900	900
Israel	27,500	27,500	27,500	27,500	27,500	32,000
Kazakhstan	10,000	10,000	10,000	10,000	10,000	30,000
Russia	46,000	46,000	80,000	80,000	80,000	80,000
Serbia	5,000	5,000	5,000	5,000	5,000	5,000
Ukraine	15,000	15,000	15,000	15,000 <sup>3</sup>	15,000	15,000
United States	45,000	45,000	45,000	52,000	52,000	52,000
Total	812,000	886,000	1,080,000	1,170,000	1,240,000	1,320,000
<b>Production (metric tons)</b>						
Brazil	6,000	18,000	15,000	16,000	16,000	( <sup>4</sup> )
Canada <sup>5</sup>	65,000	16,300	2,000	0	( <sup>4</sup> )	( <sup>4</sup> )
China	520,000	625,000	559,000	501,000	654,000	661,000
India	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
Israel	24,581	29,618	32,051	19,405	25,000	( <sup>4</sup> )
Kazakhstan	21,000	21,000	21,000	21,000	21,000	( <sup>4</sup> )
Russia <sup>5</sup>	35,000	37,000	37,000	37,000	37,000	( <sup>4</sup> )
Serbia	1,500	2,000	1,500	1,500	1,500	( <sup>4</sup> )
Ukraine	2,200	2,500	2,000	2,000	2,000	( <sup>4</sup> )
United States	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )
Total	675,000	751,000	670,000	598,000	757,000	( <sup>4</sup> )
<b>Capacity utilization (percent)<sup>7</sup></b>						
Brazil	50.0	120.0	83.3	88.9	80.0	( <sup>4</sup> )
Canada	52.8	24.7	22.2	0.0	( <sup>4</sup> )	( <sup>4</sup> )
China	92.0	84.7	61.2	50.5	62.0	61.2
India	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
Israel	89.4	107.7	116.5	70.6	84.0	( <sup>4</sup> )
Kazakhstan	210.0	210.0	210.0	210.0	105.0	( <sup>4</sup> )
Russia	76.1	58.7	46.3	46.3	46.3	( <sup>4</sup> )
Serbia	30.0	40.0	30.0	30.0	30.0	( <sup>4</sup> )
Ukraine	14.7	16.7	13.3	13.3	13.3	( <sup>4</sup> )
United States	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )

<sup>1</sup> Capacity data includes capacity at operating plants as well as at plants on standby basis, as of January 1 of each annual reporting period.

<sup>2</sup> Includes 63,000 metric tons of idle capacity.

<sup>3</sup> Idle capacity.

<sup>4</sup> Not available.

<sup>5</sup> Includes secondary magnesium.

<sup>6</sup> Withheld by USGS to avoid disclosing company proprietary data; not included in "Total."

<sup>7</sup> Capacity utilization data for the 2006-10 annual periods were calculated by staff based on the average beginning and ending annual reported capacity. Capacity utilization for 2011 was calculated based on capacity as of January 1, 2011, as end-of-year 2011 capacity data were not available.

Source: Kramer, Deborah A., *USGS, Minerals Yearbook, Magnesium, 2005-10*; and Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the Fourth Quarter 2011, February 2012*.

## **Brazil**

RIMA Industrial S/A (“RIMA”) is the only known producer of magnesium in Brazil. Magnesium produced by RIMA in Brazil accounted for 2.1 percent of world magnesium production (excluding the United States) during 2010. According to official U.S. import statistics, Brazil accounted for 5.0 percent of total U.S. imports of pure magnesium ingot during 2011. As previously indicated, the Brazilian magnesium industry is protected by antidumping duties on shipments of magnesium ingot and granules from China that were imposed by the Brazilian government in April 2003 and by antidumping duties on shipments of alloy magnesium from China that were imposed in October 2005. These Brazilian orders remain in effect today.<sup>141</sup>

## **Canada**

According to USGS data, all primary magnesium capacity in Canada has been idled and/or closed since at least 2009 (table I-13). Timminco Ltd. completed the divestiture of its magnesium business in July 2009. The company merged its remaining extrusion businesses with the magnesium operations of China-based Winca Tech Ltd. to form Applied Magnesium International Ltd. Timminco’s facility in Nuevo Laredo, Mexico, and Winca’s facilities in Hebi, Henan Province, and Linyi, Shandong Province, China, were included in the new company. Former managers and employees of Timminco’s magnesium business were expected to form the core management team of its North American operations, based in Denver, CO, where Timminco’s magnesium extrusion facility was located.

Trimag L.P. announced the closing of its Boisbriand, Quebec, die casting plant in June 2009 following the loss of its major customer, General Motors Corp. (“GM”), to which Trimag had supplied nearly all of its high-pressure die castings. GM reportedly canceled its business with Trimag because of low automotive demand. Trimag also had shut down an Ontario magnesium die casting plant in 2007.

In November 2009, the Swiss firm Xstrata plc began to demolish the 63,000 metric ton per year Magnola magnesium plant in Asbestos, Quebec. The plant had been constructed in 2000 by the former Noranda Inc. to recover magnesium from asbestos tailings but was closed in 2003 because magnesium produced at Magnola could not compete with lower priced magnesium from China in the world market.

Also demolished in 2009 was Norsk Hydro ASA’s 48,000 metric ton per year magnesium plant in Becancour, Quebec.

Gossan Resources Ltd. (Winnipeg, Manitoba) plans to recover magnesium from a dolomite deposit in south-central Manitoba. The firm has successfully completed tests to confirm that its process is capable to produce magnesium metal under atmospheric conditions at high raw material efficiencies.

## **Israel**

As previously indicated, the primary source of U.S. imports of pure magnesium ingot in 2011 was Israel, accounting for 84.5 percent of total U.S. imports of pure magnesium ingot in that year. Dead Sea Magnesium Ltd., the metallurgical arm of Israel Chemicals Ltd. (“ICL”), is the only known producer of pure and alloy magnesium in Israel. It accounted for 3.3 percent of world magnesium production (excluding the United States) during 2010.

In July 2009, ICL, a company specializing in chemicals, fertilizers, and metallurgy, and Volkswagen AG reached a compromise regarding Volkswagen’s demand to pull out of its partnership in Dead Sea Magnesium Ltd. Under the accord, Volkswagen would provide \$30 million to Dead Sea Magnesium’s primary magnesium plant and transfer its 35 percent share in the company to ICL, which

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<sup>141</sup>*Magnesium From China and Russia, Investigation Nos. 731-TA-1071-1072 (Review)*, USITC Pub. 4214, February 2011, p. IV-19.

owns the other 65 percent. At the same time, ICL would provide \$55.7 million in funds to Dead Sea Magnesium. The companies had been negotiating Volkswagen's withdrawal from the venture since December 2008.

A 2011 report indicated that Dead Sea Magnesium was expected to increase its capacity at its primary magnesium smelter in Sdom, Israel, by as much as 10 percent by debottlenecking its existing facility. The nameplate annual capacity for the facility is reportedly currently at 34,000 metric tons. The increase in production is expected to include both pure and alloy magnesium and most of the increase is likely to end up in the U.S. market.<sup>142</sup>

## **Kazakhstan**

Ust-Kamenogorsk Titanium and Magnesium Plant JSC ("Kamenogorsk") is the only known producer of magnesium in Kazakhstan. Magnesium produced by Kamenogorsk accounted for 2.8 percent of world magnesium production (excluding the United States) during 2010. According to official U.S. import statistics, Kazakhstan accounted for 2.9 percent of total U.S. imports of pure magnesium ingot during 2011.

## **Malaysia**

CVM Minerals Ltd. ("CVM") built a primary magnesium plant in Malaysia with production beginning in June 2010, using locally mined dolomite feedstock. However, because of gas supply problems, CVM had not been able to operate at its full capacity since its opening.<sup>143</sup> After the facility was shut down for maintenance in mid-2011, it resumed production in February 2012. The company expected that production for 2012 would be 5,000 metric tons, although the plant is projected to produce at its full annual capacity of 15,000 metric tons by mid-2013.<sup>144</sup> CVM plans to double the annual capacity to 30,000 metric tons in the future and to begin producing magnesium alloys. Based on official U.S. import statistics, magnesium produced in Malaysia has shipped to the U.S. market. In fact, U.S. import statistics show that Malaysia shipped 526 metric tons of pure magnesium ingot to the United States during 2011.

## **Russia**

According to USGS data, Russia is the world's second largest producer of primary magnesium, accounting for 6.1 percent of the total global capacity as of yearend 2010. The following firms in Russia are believed to account for all known production of Russian magnesium: PSC VSMPO-AVISMA Corp.; Solikamsk Magnesium Works, OAO; and Solikamsk Desulphurizer Works Ltd.

On March 10, 2011, following a negative determination by the Commission in the first five-year review, Commerce published notice of the revocation of the 2005 antidumping duty order on U.S. imports of pure and alloy magnesium from Russia.<sup>145</sup> US Magnesium argued in its response to the Commission's notice of institution in this review that U.S. supply conditions have been affected by the revocation of the order on magnesium from Russia because product from Russia may now enter the U.S. market without dumping duties. US Magnesium also noted that there have also been several

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<sup>142</sup> Riley, Anne, "(AMM) Dead Sea Magnesium "Cranking Up" Capacity," *Metal Bulletin Daily*, no. 247, January 21, 2011.

<sup>143</sup> Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the Fourth Quarter 2011*, February 2012.

<sup>144</sup> Kramer, Deborah A., *USGS, Mineral Industry Surveys, Magnesium in the First Quarter 2012*, May 2012.

<sup>145</sup> 76 FR 13128, March 10, 2011.

developments in the Russian magnesium industry since that order was revoked. Russian producer Solikamsk Magnesium Works has been up for sale since early 2011, with a subsidiary of the Russian nuclear regulatory body Rosatom emerging as the likely purchaser.<sup>146</sup> It was reported that an expected deal for Russian magnesium producer VSMPO-AVISMA to purchase Solikamsk and to merge the two companies fell through.<sup>147</sup> US Magnesium also indicated that the Russian Magnesium Plant in the process of development has found a new source of funding through Rusnano, a state corporation, which intends to invest \$216 million in the construction of the plant. In addition, Alcoa, \*\*\*, and Russian titanium and magnesium producer VSMPO-AVISMA signed a memorandum of understanding in June 2011 to design and produce light alloy die forgings and extrusions for the commercial transportation market, although the MOU does not signal the formation of a joint venture, partnership or any other formal business entity between the companies.<sup>148</sup> Finally, US Magnesium noted that Brazil has recently initiated an antidumping duty investigation on imports of pure magnesium from Russia.<sup>149</sup>

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<sup>146</sup> *Response of US Magnesium*, March 2, 2012, p. 25.

<sup>147</sup> Riley, Ann, "(AMM) Solikamsk For Sale; Rosatom Possible Buyer," *Metal Bulletin Daily*, no. 265, May 27, 2011.

<sup>148</sup> "Alcoa, VSMPO-Avisma in MOU," *Platts Metals Week*, June 20, 2011 (see *Response of US Magnesium*, March 2, 2012, att. 21).

<sup>149</sup> *Response of US Magnesium*, March 2, 2012, p. 25.



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



BLM to use USFS-established R/RACs for the public participation purposes required by REA. Pursuant to the Interagency Agreement, the BLM and USFS utilized the BLM Resource Advisory Councils (RAC) to make recommendations on BLM and USFS recreation fee proposals in the following states: Arizona, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota and Utah. The BLM and USFS utilized USFS R/RACs for the USFS's Eastern, Southern, Pacific Northwest (including BLM land in Oregon and Washington), Pacific Southwest (including BLM land in California) Regions, and the BLM and USFS land in the State of Colorado. The governors of Wyoming and Alaska have opted out of the advisory review process.

Although the Interagency Agreement expired September 1, 2011, the agencies have incorporated the outlined structure into current policies and procedures. Upon the request of the BLM RAC's Designated Federal Official, and with the concurrence of the USFS when their recreation fee proposals are at issue, the BLM RACs may review recreation fee proposals for BLM and/or USFS if that would facilitate the effective implementation of the REA.

**Authority:** Public Law 108-447, Div. J, Title VIII.

**Mike Pool,**  
Deputy Director.

[FR Doc. 2012-2168 Filed 1-31-12; 8:45 am]

**BILLING CODE 4310-84-P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement; Notice of Proposed Information Collection for 1029-0103

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining (OSM) is announcing its intention to renew its authority for the collection of information for Noncoal Reclamation.

**DATES:** Comments on the proposed information collection must be received by April 2, 2012, to be assured of consideration.

**ADDRESSES:** Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203—SIB, Washington, DC 20240. Comments may

also be submitted electronically to [jtrelease@osmre.gov](mailto:jtrelease@osmre.gov).

**FOR FURTHER INFORMATION CONTACT:** To receive a copy of the information collection request contact John Trelease, at (202) 208-2783 or via email at [jtrelease@osmre.gov](mailto:jtrelease@osmre.gov).

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection activity that OSM will submit to OMB for extension. This collection is contained in 30 CFR Part 875—Noncoal Reclamation. OSM will request a 3-year term of approval for each information collection activity. Responses are required to obtain a benefit.

*Comments are invited on:* (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This notice provides the public with 60 days in which to comment on the following information collection activity:

*Title:* 30 CFR part 875—Noncoal Reclamation. OMB Control Number: 1029-0103.

*Summary:* This Part establishes procedures and requirements for States and Indian tribes to conduct noncoal reclamation under abandoned mine land funding. The information is needed to assure compliance with the Surface Mining Control and Reclamation Act of 1977.

*Frequency of Collection:* Once.

*Description of Respondents:* State governments and Indian Tribes.

*Total Annual Responses:* 1.  
*Total Annual Burden Hours:* 10.

Dated: January 25, 2012.

**Andrew F. DeVito,**  
Chief, Division of Regulatory Support.

[FR Doc. 2012-1942 Filed 1-31-12; 8:45 am]

**BILLING CODE 4310-05-M**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-895 (Second Review)]

### Pure Magnesium From China; Institution of a Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on pure magnesium in granular form from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is March 2, 2012. Comments on the adequacy of responses may be filed with the Commission by April 16, 2012. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

**DATES:** *Effective Date:* February 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202) 205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 12-5-265, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background.**—On November 19, 2001, the Department of Commerce issued an antidumping duty order on imports of pure magnesium in granular form from China (66 FR 57936). Following expedited first five-year reviews by Commerce and the Commission, effective March 26, 2007, Commerce issued a continuation of the antidumping duty order on imports of pure magnesium in granular form from China (72 FR 5417). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

**Definitions.**—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined one *Domestic Like Product*—pure magnesium that included both granular magnesium and magnesium ingot. Two Commissioners defined the *Domestic Like Product* differently in the original determination. They found two *Domestic Like Products* corresponding to granular pure magnesium and pure magnesium ingot. In its expedited first five-year review determination, the Commission found one *Domestic Like Product* to include primary and

secondary pure and alloy magnesium whether in ingot or granular form. One Commissioner defined the *Domestic Like Product* differently in the expedited first five-year review, instead finding that pure magnesium and alloy magnesium (including secondary magnesium) were separate *Domestic Like Products*. For purposes of responding to the items requested in this notice, please provide information according to one *Domestic Like Product* that includes primary and secondary pure and alloy magnesium whether in ingot or granular form.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of pure magnesium, including grinding operations. One Commissioner defined the *Domestic Industry* differently in the original determination (i.e., not including grinders), and two Commissioners defined two separate *Domestic Industries* (i.e., domestic producers of granular pure magnesium and domestic producers of pure magnesium ingot, including grinders). The Commission also found that appropriate circumstances existed to exclude ESM from the *Domestic Industry*. In its expedited first five-year review determination, the Commission defined the *Domestic Like Product* as domestic producers of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form. The Commission also included grinders in the *Domestic Industry* producing magnesium. One Commissioner defined the *Domestic Industry* differently in the first five-year review, instead finding that grinders were not included in the *Domestic Industry*. Another Commissioner defined the *Domestic Industry* differently in the first five-year review, instead finding that there was one *Domestic Industry* composed of the domestic producers of pure magnesium whether in ingot or granular form, including grinders. For purposes of responding to the items requested in this notice, please provide information according to one *Domestic Industry* that includes domestic producers of pure and alloy magnesium, including primary and secondary magnesium, and magnesium in ingot and granular form.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into

the United States from a foreign manufacturer or through its selling agent.

**Participation in the review and public service list.**—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at (202) 205-3088.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Certification.**—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

**Written submissions.**—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 2, 2012. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is April 16, 2012. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at <http://edis.usitc.gov>. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

**Inability to provide requested information.**—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative

forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

**Information To Be Provided in Response to This Notice of Institution:** As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2005.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone

number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2011, except as noted (report quantity data in metric tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in metric tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in metric tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology;

production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: January 25, 2012.

By order of the Commission.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012-1919 Filed 1-31-12; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-739 (Third Review)]

### Clad Steel Plate From Japan; Institution of a Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 12-5-264, expiration date June 30, 2014. Public reporting

consideration, the deadline for responses is March 2, 2012. Comments on the adequacy of responses may be filed with the Commission by April 16, 2012. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

**DATES:** Effective Date: February 1, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Mary Messer (202) 205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background.**—On July 2, 1996, the Department of Commerce issued an antidumping duty order on imports of clad steel plate from Japan (61 FR 34421). Following first five-year reviews by Commerce and the Commission, effective November 16, 2001, Commerce issued a continuation of the antidumping duty order on imports of clad steel plate from Japan (66 FR 57703). Following second five-year reviews by Commerce and the Commission, effective March 22, 2007, Commerce issued a continuation of the antidumping duty order on imports of clad steel plate from Japan (72 FR 13478). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's

burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which this review was initiated or within 45 days of publication of these preliminary results if all parties agree to our preliminary finding.

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: January 25, 2012.

**Paul Piquado,**

Assistant Secretary for Import Administration.

[FR Doc. 2012-2233 Filed 1-31-12; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Initiation of Five-Year (“Sunset”) Review**

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

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”), the Department of Commerce (“the Department”) is automatically initiating a five-year review (“Sunset Review”) of the antidumping duty orders listed below. The International Trade Commission (“the Commission”) is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

**DATES:** *Effective Date:* (February 1, 2012).

**FOR FURTHER INFORMATION CONTACT:** The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department’s procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department’s conduct of Sunset Reviews is set forth in the Department’s Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

**Initiation of Review**

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

DOC case No.	ITC case No.	Country	Product	Department contact
A-570-864 .....	731-TA-865 .....	China ...	Pure Magnesium In Granular Form (2nd Review) .....	Jennifer Moats (202) 482-5047.
A-588-838 .....	731-TA-739 .....	Japan ..	Clad Steel Plate (3rd Review) .....	David Goldberger (202) 482-4136.

**Filing Information**

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department’s regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department’s Internet Web site at the following address: “<http://ia.ita.doc.gov/sunset/>.” All submissions in these Sunset Reviews must be filed in accordance with the Department’s regulations regarding format, translation, and service of documents. These rules can be found at 19 CFR 351.303.

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after March 14, 2011. See *Certification of Factual Information to*

*Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (“*Interim Final Rule*”) amending 19 CFR 351.303(g)(1) and (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested

parties to apply for access to proprietary information under administrative protective order (“APO”) immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department’s regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304-306.

**Information Required From Interested Parties**

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department’s regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline,

the Department will automatically revoke the order without further review. See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.<sup>1</sup> Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

Dated: January 17, 2012.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012-2224 Filed 1-31-12; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-913]

#### **Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Rescission of Countervailing Duty Administrative Review**

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

**SUMMARY:** The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty order on certain

new pneumatic off-the-road tires (OTR Tires) from the People's Republic of China (PRC) for the period January 1, 2010, through December 31, 2010, with respect to all companies. This rescission is based on the timely withdrawal requests by all the parties that requested a review.

**DATES:** Effective Date: February 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1396.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On September 2, 2011, the Department published a notice of opportunity to request an administrative review of the countervailing duty order on OTR Tires from the PRC. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 76 FR 54735 (September 2, 2011). Guizhou Tyre Co., Ltd., Guizhou Advance Rubber Co., Ltd. and Guizhou Tyre Import and Export Corporation (collectively, GTC), and Tianjin United Tire & Rubber International Co., Ltd. (TUTRIC), timely requested an administrative review of the countervailing duty order on September 27 and 30, 2011, respectively. Also on September 30, 2011, Bridgestone Americas, Inc. and Bridgestone Americas Tire Operations, LLC. (collectively, Bridgestone), a domestic producer of subject merchandise and interested party in the original investigation, timely requested a review of seventy-three OTR Tires producers/exporters from the PRC, including GTC and TUTRIC. In accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.221(c)(1)(i), the Department initiated an administrative review of the countervailing duty order. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 76 FR 67133 (October 31, 2011).

Due to the large number of OTR Tires producers/exporters for which we received a request for review, the Department selected, in accordance with section 777A(e)(2) of the Act, the two companies that exported the largest volume of subject merchandise during the POR, GTC and Xuzhou Xugong Tyres Co., Ltd. (Xugong), as mandatory respondents. See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, "Administrative

Review of the Countervailing Duty Order on Certain New Pneumatic Off-the-road Tires from the People's Republic of China: Respondent Selection," dated December 13, 2011. The Department issued a countervailing duty questionnaire to the government of the PRC and the two mandatory respondents on December 13, 2011.

#### **Rescission of Countervailing Duty Administrative Review**

On January 6, 2011, Bridgestone timely withdrew its review request with regard to all companies identified in its review request. Subsequently, on January 13, 2011, both GTC and TUTRIC timely withdrew their requests for review. The Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation. See 19 CFR 351.213(d)(1). Since all parties timely withdrew their requests for review within the 90-day deadline, in accordance with 19 CFR 351.213(d)(1), the Department is fully rescinding this administrative review of the countervailing duty order.

#### **Assessment**

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. For all companies identified in the requests for review, liquidation was suspended following the initiation of the administrative review. As appropriate, countervailing duties will be assessed at rates equal to the cash deposit or bonding rate of the estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

#### **Notification Regarding Administrative Protective Order**

This notice serves as a final 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), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

<sup>1</sup> In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

GGNRA Planning Division at [goga\\_planning@nps.gov](mailto:goga_planning@nps.gov) or (415) 561-4700 for further information.

**ADDRESSES:** Written comments should be mailed to the following address: Superintendent, Golden Gate National Recreation Area, Attn: Alcatraz Ferry Embarkation EIS, Fort Mason, Bldg. 201, San Francisco, CA 94123. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Decision Process:* At this time, it is anticipated that the Draft EIS will be available for public review in mid-2013. Availability of the document for review will be announced by the publication of a Notice of Availability in the **Federal Register**, through local and regional news media, via the project Web site, and by email to project email recipients. Additional public meetings will be held after the Draft EIS is distributed to provide further opportunities to comment on the proposed project. Following due consideration of all comments received on the Draft EIS, preparation of the Final EIS is anticipated to be completed in 2014. As a delegated EIS, the official responsible for the final decision regarding the proposed ferry embarkation site is the NPS Regional Director, Pacific West Region. Subsequently, the official responsible for implementation will be the GGNRA Superintendent.

Dated: April 6, 2012.

**Patricia L. Neubacher,**

*Acting Regional Director, Pacific West Region.*

[FR Doc. 2012-13398 Filed 5-31-12; 8:45 am]

**BILLING CODE 4312-FN-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-PWRO-KALA-0509-10302; 8896-SZM]

#### Notice of June 14, 2012, Meeting for Kalaupapa Federal Advisory Commission

**AGENCY:** National Park Service, Interior.

**ACTION:** Meeting notice.

**SUMMARY:** This notice sets the date of June 14, 2012, meeting of the Kalaupapa Federal Advisory Commission.

**DATES:** The public meeting of the Kalaupapa Federal Advisory Commission will be held on Thursday, June 14, 2012, at 9:00 a.m. (Hawaii Standard Time).

*Location:* The meeting will be held at Paschoal Hall, Kalaupapa National Historical Park, Kalaupapa, Hawaii 96742.

#### Agenda

The June 14, 2012, Commission meeting will consist of the following:

1. Approval of Agenda
2. Approval of January 23, 2012 Minutes
3. Superintendents' Report
4. Phase II—Vegetation Clearing Project
5. GMP Update
6. Memorial Update
7. Public Comments

#### FOR FURTHER INFORMATION CONTACT:

Further information concerning this meeting may be obtained from the Superintendent, Kalaupapa National Historical Park, P.O. Box 2222, Kalaupapa, Hawaii 96742, telephone (808) 567-6802 x 1100.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 3, 2012.

**Stephen Prokop,**

*Superintendent, Kalaupapa National Historical Park.*

[FR Doc. 2012-13240 Filed 5-31-12; 8:45 am]

**BILLING CODE 4132-GJ-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-895 (Second Review)]

#### Pure Magnesium (Granular) From China; Scheduling of an Expedited Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of an expedited

review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on pure magnesium (granular) from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* May 7, 2012.

#### FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

*Background.*—On May 7, 2012, the Commission determined that the domestic interested party group response to its notice of institution (77 FR 5049, February 1, 2012) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.<sup>1</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.<sup>2</sup>

*Staff report.*—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on August 10, 2012, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued

<sup>1</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

<sup>2</sup> Commissioner Dean A. Pinkert did not participate in this review.

thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

**Written submissions.**—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,<sup>3</sup> and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before August 15, 2012 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by August 15, 2012. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (October 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's web site at <http://edis.usitc.gov>.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Determination.**—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

<sup>3</sup> The Commission has found the responses submitted by US Magnesium LLC to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

Issued: May 25, 2012.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012-13250 Filed 5-31-12; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731-TA-894 (Second Review)]**

### Ammonium Nitrate from Ukraine Institution of a Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on ammonium nitrate from Ukraine would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is July 2, 2012. Comments on the adequacy of responses may be filed with the Commission by August 14, 2012. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

**DATES:** *Effective Date:* June 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 12-5-270, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Background.** On September 12, 2001, the Department of Commerce issued an antidumping duty order on imports of ammonium nitrate from Ukraine (66 FR 47451). Following the five-year reviews by Commerce and the Commission, effective July 9, 2007, Commerce issued a continuation of the antidumping duty order on imports of ammonium nitrate from Ukraine (72 FR 37195). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

**Definitions.** The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Ukraine.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined the *Domestic Like Product* coextensively with the scope of subject merchandise as fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot. In its first full five-year review determination, the Commission defined the *Domestic Like Product* as consisting of all ammonium nitrate, corresponding to Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its first full five-year review, the Commission defined the *Domestic*

Company	Margin (percent)
Volkswagen Zubehor GmbH ....	0.00

**Comments**

We will disclose the calculations we used in our analysis to parties to these reviews within five days of the date of publication of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the

date of publication of this notice. See 19 CFR 351.310(c). If requested, a general-issues hearing and any hearings regarding issues related solely to specific countries will be held at the main Department building at times and locations to be determined.

Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. See 19

CFR 351.310(c). Requests should contain the following: (1) The party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed.

Issues raised in hearings will be limited to those raised in the respective case briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than the following dates:

Case	Briefs due	Rebuttals due
France .....	July 23, 2012 .....	July 30, 2012.
Germany .....	July 23, 2012 .....	July 30, 2012.
Italy .....	July 23, 2012 .....	July 30, 2012.

Parties who submit case briefs (see 19 CFR 351.309(c)) or rebuttal briefs (see 19 CFR 351.309(d)) in these proceedings are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department intends to issue the final results of these administrative reviews, including the results of its analysis of issues raised in any such written briefs or at the hearings, if held, within 120 days of the date of publication of this notice.

**Assessment Rates**

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If the weighted-average dumping margin for particular respondents is above *de minimis* in the final results of these reviews, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value for those sales in accordance with 19 CFR 351.212(b)(1).

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). This clarification will apply to entries of subject merchandise during the period of review produced by companies selected for individual examination in these preliminary results of reviews for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate

unreviewed entries at the country-specific all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. *Id.*

For the companies which were not selected for individual review, we will calculate an assessment rate based on the weighted average of the cash deposit rates calculated for the companies selected for individual review.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of these reviews.

**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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative reviews and rescission in part are issued and published in accordance with sections 751(a)(1), 751(b)(1), and 777(i)(1) of the Act.

Dated: May 30, 2012.

**Paul Piquado,**  
*Assistant Secretary for Import Administration.*

[FR Doc. 2012-13565 Filed 6-4-12; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-864]

**Pure Magnesium in Granular Form From the People's Republic of China: Final Results of Expedited Second Sunset Review of Antidumping Duty Order**

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

**SUMMARY:** On February 1, 2012, the Department of Commerce ("the Department") initiated the second sunset review of the antidumping duty order on pure magnesium in granular form from the People's Republic of China ("the PRC"), pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties, as well as lack of response from respondent interested parties, the Department conducted an expedited (120-day) sunset review. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins likely to prevail are identified in the "Final Results of Review" section of this notice.

**DATES:** *Effective Date:* June 5, 2012.

**FOR FURTHER INFORMATION CONTACT:** Laurel LaCivita or Eugene Degnan, Office 8, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4243 or (202) 482-0414.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 1, 2012, the Department published the notice of initiation of the sunset review of the antidumping duty order on pure magnesium in granular form from the PRC.<sup>1</sup> On February 16, 2012, the Department received a notice of intent to participate from US Magnesium LLC (“US Magnesium”), the domestic interested party, within the deadline specified in section 315.218(d)(1)(i) of the Department’s regulations. US Magnesium claimed interested party status under section 771(9)(C) of the Act, as a producer of the domestic-like product in the United States. On March 2, 2012, the Department received a complete substantive response from US Magnesium within the deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. We did not receive a response from any respondent interested party to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department determined to conduct an expedited review of this order.

**Scope of the Order**

There is an existing antidumping duty order on pure magnesium from the People’s Republic of China (PRC).<sup>2</sup> The scope of this order excludes pure magnesium that is already covered by the existing order on pure magnesium in ingot form, and currently classifiable under item numbers 8104.11.00 and 8104.19.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”).

The scope of this order includes imports of pure magnesium products, regardless of chemistry, including, without limitation, raspings, granules, turnings, chips, powder, and briquettes, except as noted above.

Pure magnesium includes: (1) Products that contain at least 99.95 percent primary 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 primary magnesium, by weight (generally referred to as “pure” magnesium); (3) chemical combinations

of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy”<sup>3</sup> (generally referred to as “off specification pure” magnesium); and (4) physical mixtures of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight. Excluded from this order are mixtures containing 90 percent or less pure magnesium by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures. The non-magnesium granular materials of which the Department is aware used to make such excluded reagents are: lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, aluminum, 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, dolomitic lime, and colemanite. A party importing a magnesium-based reagent which includes one or more materials not on this list is required to seek a scope clarification from the Department before such a mixture may be imported free of antidumping duties.

The merchandise subject to this order is currently classifiable under item 8104.30.00 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.<sup>4</sup>

**Analysis of Comments Received**

All issues raised in this review are addressed in the “Issues and Decision Memorandum” (“Decision Memorandum”) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant

<sup>3</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

<sup>4</sup> The Department has issued four scope rulings with respect to pure magnesium in granular form. See *Notice of Scope Rulings and Anticircumvention Inquiries*, 68 FR 7772, 7774 (February 18, 2003); Memorandum to the File “Pure Magnesium in Granular Form from the People’s Republic of China: Final Scope Ruling: ESM Group Inc.,” dated September 18, 2006; Memorandum to Christian Marsh, “Pure Magnesium in Granular Form from the People’s Republic of China: Final Scope Ruling on Granular Magnesium Ground in Mexico,” dated October 27, 2011; Memorandum to Christian Marsh, “Pure Magnesium in Granular Form from the People’s Republic of China: Final Scope Ruling for ESM Group Inc. (Atomized Magnesium),” dated October 28, 2011.

<sup>1</sup> See *Initiation of Five-Year (“Sunset”) Review*, 77 FR 4995 (February 1, 2012) (“Initiation Notice”).

<sup>2</sup> See *Notice of Antidumping Duty Orders: Pure Magnesium From the People’s Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium From the Russian Federation*, 60 FR 25691 (May 12, 1995).

Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. The Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit (“CRU”), Main Commerce Building, Room 7046, and is also accessible on the Web at <http://ia.ita.doc.gov/frn> under the heading “June 2012.” The paper copy and electronic versions of the Decision Memorandum are identical in content.

**Final Results of Review**

We determine that revocation of the antidumping duty order on pure magnesium in granular form from the PRC would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/exporters/producers	Weighted average margin (percent)
China Minmetals Precious & Rare Minerals Import and Export Corp. ....	24.67
PRC-Wide Entity .....	305.56

This notice also serves as the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department’s regulations. 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 terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 29, 2012.

**Paul Piquado,**  
Assistant Secretary for Import Administration.

[FR Doc. 2012–13580 Filed 6–4–12; 8:45 am]

**BILLING CODE 3510-DS-P**

**APPENDIX B**  
**COMMISSION'S STATEMENT ON ADEQUACY**



## EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

*Pure Magnesium from China*  
Inv. No. 731-TA-895 (Second Review)

On May 7, 2012, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).<sup>1</sup>

The Commission received one response from a U.S. producer of magnesium, US Magnesium LLC (“US Mag”). The Commission determined that the individual response of US Mag was adequate. Because US Mag accounted for a substantial share of domestic production of magnesium, the Commission determined that the domestic interested party group response was adequate. The Commission received no response from any respondent interested party and determined that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response, or any other circumstance that warranted a full review, the Commission determined to conduct an expedited review.

A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (<http://www.usitc.gov>).

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<sup>1</sup> Commissioner Pinkert is not participating in this review.