2015, Commerce published the *Final Results* and assigned Heze Huayi the separate rate of 53.15 percent from the *Seventh Review*[3] consistent with our past practice because both mandatory respondents received zero margins and none of the separate rate companies had its own calculated rate from the segment immediately prior to the instant segment.

Heze Huayi appealed Commerce's decisions not to treat Heze Huayi as a mandatory or voluntary respondent and not to apply the zero rate of the mandatory respondents to Heze Huayi. While the case was pending before the CIT, in June 2016, Commerce voluntarily sought a remand[4] to consider the impact of the Court of Appeals for the Federal Circuit's decision in *Albemarle Corp.* v. *United States.*[5] On September 11, 2018, the Court held a telephone status conference and ordered that the Government ''advise the court in one week from September 11, 2018, if they have any reason for anything other than a zero rate for all outstanding entries.''[6] Commerce responded within the one-week deadline that Commerce's request for a voluntary remand on this issue was still pending; however, in light of the Court's request, Commerce stated that it had identified no ''reason for anything other than a zero rate'' to be applied to Heze Huayi's entries.[7] On September 28, 2018, the Court ordered Commerce to assign Heze Huayi the mandatory respondents' weighted-average zero rate.[8] On remand, Commerce, under respectful protest, assigned Heze Huayi the mandatory respondents' weighted-average zero rate.[9] On October 24, 2018, the CIT sustained Commerce's Final Redetermination.[10]

Timken Notice

In its decision in *Timken,*[11] as clarified by *Diamond Sawblades,*[12] the Federal Circuit held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's October 24, 2018, judgment constitutes a final decision of that court that is not in harmony with Commerce's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, Commerce will continue suspension of liquidation of subject merchandise pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, Commerce is amending the *Final Results* and assigning Heze Huayi the mandatory respondents' weighted-average zero rate[13] for the period June 1, 2012, through May 31, 2013. In the event the CIT's ruling is not appealed, or, if appealed, is upheld by a final and conclusive court decision, we will instruct U.S. Customs and Border Protection (CBP) to liquidate Heze Huayi's appropriate entries without regard to antidumping duties.

Cash Deposit Rate

Heze Huayi has a superseding cash deposit rate (*e.g.,* from a subsequent administrative review). Therefore, Commerce will not issue revised cash deposit instructions to CBP.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Dated: November 15, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–25298 Filed 11–19–18; 8:45 am]

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Results), and accompanying Decision Memorandum, at 5–6.

[3] *See Chlorinated Isocyanurates from the People's Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review,* 79 FR 4875, 4876 (January 30, 2014) (*Seventh Review*).

[4] *See Heze Huayi Chemical Co. Ltd.,* v. *United States,* Ct. No. 15–27, Defendant's Supplemental Brief and Motion for Voluntary Remand, Docket #68, June 21, 2016 (''In light of the intervening legal decision in *Albemarle,* we respectfully request that the Court grant a voluntary remand for Commerce to consider the application of *Albemarle* to the facts of this case.'')

[5] 821 F.3d 1345 (Fed. Cir. 2016).

[6] *See Heze Huayi Chemical Co., Ltd.* v. *United States,* Ct. No. 15–27, Court Order, Docket #81, Sept. 12, 2018.

[7] *See Heze Huayi Chemical Co., Ltd.,* v. *United States,* Defendant's Response to Court Order, Ct. No. 15–27, Docket #82, at 1–2, Sept. 18, 2018.

[8] *See Remand Order* at 7.

[9] *See* Final Results of Redetermination Pursuant to Court Remand, *Heze Huayi Chemical Co., Ltd.* v. *United States,* Court No. 15–00027, Slip Op. 18–130 (CIT September 28, 2010), dated October 19, 2018 (Final Redetermination).

[10] See *Heze Huayi Chemical Co., Ltd.* v. *United States,* Slip Op. 18–149, Consolidated Court No. 15–00027 (CIT 2018).

[11] *See Timken Co.* v. *United States,* 893 F.2d. 337 (Fed. Cir. 1990) (*Timken*).

[12] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d. 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[13] *See Remand Order* at 7.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–508–812]

Magnesium From Israel: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable November 13, 2018.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen at (202) 482–3683 or Minoo Hatten (202) 482–1690; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On October 24, 2018, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) Petition concerning imports of magnesium from Israel, filed in proper form on behalf of US Magnesium LLC (the petitioner), a domestic producer of magnesium.[1] The AD Petition was accompanied by a countervailing duty (CVD) Petition concerning imports of magnesium from Israel.

On October 29, 2018, and November 5, 2018, Commerce requested supplemental information pertaining to certain aspects of the Petition in three separate supplemental questionnaires, two addressing Volume I of the Petition and the other addressing Volume III of the Petition (*i.e.,* the AD allegation).[2] The petitioner filed its responses to the supplemental questionnaires on October

[1] *See* the petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties in the Matter of: Magnesium from Israel,'' dated October 24, 2018 (Petition).

[2] *See* Commerce Letters, ''Re: Petition for the Imposition of Antidumping Duties on Imports of Magnesium from Israel: Supplemental Questions,'' dated October 29, 2018, ''Re: Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Magnesium from Israel: Supplemental Questions,'' dated October 29, 2018, and Memorandum ''RE: Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Magnesium from Israel—Phone Call with Counsel to the Petitioner,'' dated November 5, 2018.

31, 2018, and November 2, 2018, and November 6, 2018.[3]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of magnesium from Israel are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing magnesium in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegation.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigation.[4]

Period of Investigation

Because the Petition was filed on October 24, 2018, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is October 1, 2017, through September 30, 2018.

Scope of the Investigation

The product covered by this investigation is magnesium from Israel. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Scope Comments

During our review of the Petition, Commerce contacted the petitioner regarding the proposed scope language to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[5] As a result, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[6] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[7] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on December 3, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 13, 2018, which is 10 calendar days from the initial comments deadline.[8]

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[9] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of magnesium to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe magnesium, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on December 3, 2018, which is 20 calendar days from the signature date of this notice.[10] Any rebuttal comments must be filed by 5:00 p.m. ET on December 13, 2018. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets

[3] *See* the petitioner's Letters, ''Re: Magnesium from Israel/Petitioner's Response to the Department's Questions Regarding the General Issues Volume of the Petition,'' dated October 31, 2018 (General Issues Supplement), ''Re: Magnesium from Israel/Petitioner's Response to the Department's Questions Regarding the Petition Volume III (Antidumping),'' dated November 2, 2018 (AD Issues Supplement), and ''Re: Magnesium from Israel/Petitioner's Response to the Department's November 5, 2018 Request,'' dated November 6, 2018 (Second General Issues Supplement).

[4] *See* the ''Determination of Industry Support for the Petition'' section, *infra.*

[5] *See* General Issues Supplement, at 1–4 and Exhibit I–S8; *see also* Second General Issues Supplement, at 2 and Exhibit I–S14.

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[7] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[8] *See* 19 CFR 351.303(b).

[9] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[10] *See* 19 CFR 351.303(b).

this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[11] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[12]

Section 771(10) of the Act defines the 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 title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petition.[13] Based on our analysis of the information submitted on the record, we have determined that magnesium, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[14]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2017.[15] The petitioner also provided letters of support from MagPro LLC and Advanced Magnesium Alloys Corporation, providing each company's 2017 production of the domestic like product and stating each company's support for the Petition.[16] In addition, the petitioner provided a letter of support from the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, which represents workers employed in the production of the domestic like product at the petitioner's plant in Rowley, UT (Local 8319).[17] The petitioner compared the production of the supporters of the Petition to the estimated total production of the domestic like product for the entire domestic industry.[18] We relied on data provided by the petitioner for purposes of measuring industry support.[19]

Our review of the data provided in the Petition, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[20] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[21] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[22] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[23]

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in sections 732(b)(1) and 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting that Commerce initiate.[24]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[25]

The petitioner contends that the industry's injured condition is illustrated by the significant volume and increasing market share of subject imports; reduced market share; underselling and price depression or suppression; declines in capacity, production, U.S. shipments, and capacity utilization; decline in

[11] *See* section 771(10) of the Act.

[12] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[13] *See* Volume I of the Petition, at 11–17; *see also* General Issues Supplement, at 1 and Exhibits S–1 through S–7.

[14] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* ''Enforcement and Compliance Office of AD/CVD Operations Antidumping Duty Investigation Initiation Checklist: Magnesium from Israel'' (AD Initiation Checklist), at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Magnesium from Israel (Attachment II). This checklist is dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[15] *See* Volume I of the Petition, at 2 and Exhibits I–5 and I–6; *see also* General Issues Supplement, at 7–8 and Exhibit I–S13.

[16] *See* Volume I of the Petition, at 1–2 and Exhibits I–3 and I–4.

[17] *Id.* at 1 and Exhibit I–2.

[18] *Id.* at 2–3 and Exhibits I–5 and I–6; *see also* General Issues Supplement, at 6–8 and Exhibits I–S12 and I–S13.

[19] *Id.* For further discussion, *see* AD Initiation Checklist, at Attachment II.

[20] *See* AD Initiation Checklist, at Attachment II.

[21] *See* section 732(c)(4)(D) of the Act; *see also* AD Initiation Checklist, at Attachment II.

[22] *See* AD Initiation Checklist, at Attachment II.

[23] *Id.*

[24] *Id.*

[25] *See* Volume I of the Petition, at 21 and Exhibit I–13.

employment variables; decline in the domestic industry's financial performance; and lost sales and revenues.[26] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[27]

Allegations of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate an AD investigation of imports of magnesium from Israel. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the AD Initiation Checklist.

Export Price

The petitioner based U.S. export price (EP) on the delivered prices for actual sales and/or offers for sale of magnesium produced in Israel by Dead Sea Magnesium, Ltd. (DSM) to unaffiliated customers in the United States.[28] Where appropriate, the petitioner made deductions from U.S. price for U.S. inland freight from warehouse to customer, U.S. warehousing charges, U.S. inland freight from port to warehouse, U.S. brokerage and handling charges, ocean freight and insurance, Israeli brokerage and handling, and Israeli inland freight.[29]

Normal Value Based on Constructed Value

The petitioner contends that the Israeli home market is not viable, because the domestic consumption of magnesium in Israel is estimated to be minimal due to the lack of manufacturing assets in the magnesium consuming industries, and therefore, home market prices would not be an appropriate basis for NV.[30] The petitioner provided information indicating that the third-country prices were below the cost of production (COP), and therefore, the petitioner based NV on constructed value (CV).[31] The petitioner based NV on the average unit values (AUVs) of Brazilian imports of magnesium from Israel.[32] The petitioner made deductions for Israeli brokerage and handling and inland freight.[33]

Pursuant to section 773(b)(3) of the Act, CV consists of the cost of manufacturing; selling, general and administrative (SG&A) expenses; financial expenses; profit; and packing expenses.

The petitioner based its usage rates on its own production experience as a U.S. producer of magnesium, for January 2017 through December 2017, and from DSM-specific information contained in a 2013 third-party report entitled ''Life Cycle Assessment (LCA) of Magnesium in Vehicle Construction,'' which was initiated by the International Magnesium Association (IMA LCA Study). The petitioner valued the material, labor, and energy inputs indicated in the IMA LCA Study based on the petitioner's experience or based on the applicable per-unit values in Israel.[34]

The petitioner relied on the 2017 financial statements of DSM's parent, Israel Chemicals, Ltd. (ICL), to determine the per-unit factory overhead costs associated with the production of magnesium.[35] The petitioner also relied on the 2017 ICL financial statements to determine the SG&A expense ratio used to calculate the per-unit SG&A expenses and the financial expense ratio [36] used to calculate the per-unit financial expenses.[37] The petitioner calculated profit for CV based on the segmented financial results published in ICL's 2017 financial statements.[38]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of magnesium from Israel are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to CV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for magnesium covered by this initiation range from 92.06 percent to 130.61 percent.[39]

Initiation of LTFV Investigation

Based upon the examination of the Petition, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of magnesium from Israel are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

Although Commerce normally relies on import data from using United States Customs and Border Protection (CBP) import statistics to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner identified only one company in Israel, *i.e.,* Dead Sea Magnesium, Ltd., as a producer/exporter of magnesium and provided independent, third-party information as support.[40] We currently know of no additional producers/exporters of magnesium from Israel. Accordingly, Commerce intends to examine all known producers/exporters (*i.e.,* DSM). We invite interested parties to comment on this issue. Such comments may include factual information within the meaning of 19 CFR 351.102(b)(21). Parties wishing to comment must do so within three business days of the publication of this notice in the **Federal Register**. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. ET by the specified deadline.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the government of Israel *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

[26] *Id.* at 18–30 and Exhibits I–5, I–6, I–10, I–12, I–14, and I–15.

[27] *See* AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Magnesium from Israel (Attachment III).

[28] *See* Volume III of the Petition at 6 and Exhibit III–8.

[29] *See* Volume III of the Petition, at 6–7 and Exhibits III–10 through III–12; *see also* AD Issues Supplement, at 1–3 and Exhibits III–S2, III–S3 and III–S9.

[30] *See* Volume III of the Petition, at 3; *see also* AD Issues Supplement, at 4.

[31] *See* AD Initiation Checklist.

[32] *See* Volume III of the Petition, at 4 and Exhibit III–6.

[33] *See* Volume III of the Petition, at 4 and Exhibit III–7.

[34] *Id.*

[35] *Id.*

[36] *See* AD Initiation Checklist.

[37] *Id.*

[38] *Id.*

[39] *Id.*

[40] *See* Volume I of the Petition, at Exhibits I–8 and I–12, Volume III of the Petition, at Exhibit III–2 (ship manifest data published by CBP's Automated Manifest System), and General Issues Supplement at 1.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of magnesium from Israel are materially injuring or threatening material injury to a U.S. industry.[41] A negative ITC determination will result in the investigation being terminated.[42] Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[43] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[44] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value (CV) under section 773(e) of the Act.[45] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial Section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[46] Parties must use the certification formats provided in 19 CFR 351.303(g).[47] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 13, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The products covered by this investigation are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size (including, without limitation, magnesium cast into ingots, slabs, t-bars, rounds, sows, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and any other shapes). Magnesium is a metal or alloy containing at least 50 percent by actual weight the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation also includes blends of primary magnesium, scrap, and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium: (1) Products that contain at least 99.95 percent magnesium, by actual weight (generally referred to as ''ultra-pure'' or ''high purity'' magnesium); (2)

[41] *See* section 733(a) of the Act.

[42] *Id.*

[43] *See* 19 CFR 351.301(b).

[44] *See* 19 CFR 351.301(b)(2).

[45] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[46] *See* section 782(b) of the Act.

[47] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

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

The scope of this investigation excludes mixtures containing 90 percent or less magnesium in granular or powder form by actual weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (A1203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.

The merchandise subject to this investigation is classifiable under items 8104.11.0000, 8104.19.0000, and 8104.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–070]

Rubber Bands From the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of rubber bands from the People's Republic of China (China) for the period of investigation (POI) January 1, 2017, through December 31, 2017.

DATES: Applicable November 20, 2018.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–4793.

SUPPLEMENTARY INFORMATION:

Background

This final determination is made in accordance with section 705 of the Tariff Act of 1930, as amended (the Act). The petitioner in this investigation is Alliance Rubber Co. The mandatory respondents in this investigation are Graceful Imp. & Exp. Co., Ltd. (Graceful), Moyoung Trading Co., Ltd. (Moyoung), and Ningbo Syloon Imp & Exp Co., Ltd. (Ningbo). Neither the mandatory respondents nor the Government of China (GOC) responded to our requests for information in this investigation.

We published the *Preliminary Determination* on July 9, 2018,[1] and the *Preliminary Critical Circumstances and Amended Scope* on September 6, 2018.[2] We invited interested parties to comment on the preliminary determinations. We received scope comments from certain interested parties.

Period of Investigation

The POI is January 1, 2017, through December 31, 2017.

Scope Comments

We invited parties to comment on Commerce's Preliminary Scope Memorandum, and the changes made to the scope of the investigation therein.[3] We have reviewed the briefs submitted by interested parties, considered the arguments therein, but have not made further changes to the scope of the investigation beyond those incorporated in the *Preliminary Critical Circumstances and Amended Scope.* For further discussion, *see* Commerce's Final Scope Decision Memorandum.[4]

Scope of the Investigation

The products covered by this investigation are rubber bands from China. For a complete description of the scope of this investigation, *see* the Appendix to this notice.

Analysis of Subsidy Programs—Adverse Facts Available

For purposes of this final determination, we relied solely on facts otherwise available because neither the GOC nor any of the selected mandatory respondents participated in this investigation.[5] Further, because the mandatory respondents and the GOC did not cooperate to the best of their abilities in responding to our requests for information in this investigation, we drew adverse inferences in selecting from among the facts otherwise available, in accordance with sections 776(a)–(b) of the Act. Therefore, consistent with the *Preliminary Determination,* we continue to apply adverse facts available (AFA) to Graceful, Moyoung, and Ningbo Syloon. No interested party submitted comments on Commerce's preliminary determination to apply AFA. Thus, we made no changes to the subsidy rate for the mandatory respondents for this final determination. A detailed discussion of our application of AFA was provided in the *Preliminary Determination.*[6]

All-Others Rate

As discussed in the *Preliminary Determination,* Commerce based the selection of the all-others rate on the countervailable subsidy rate established for the mandatory respondents, in accordance with section 705(c)(5)(A)(ii) of the Act.[7] We made no changes to the selection of the all-others rate for this final determination.

Final Affirmative Determination of Critical Circumstances, in Part

As noted above, the mandatory respondents did not participate in this investigation, and no interested party submitted comments on critical circumstances. Because Graceful, Moyoung, and Ningbo Syloon did not cooperate to the best of their abilities in this investigation, we continue to determine that it is appropriate to apply AFA, in accordance with sections 776(a)–(b) of the Act, with respect to critical circumstances.

We are making the inconsistency determination with regard to the ''Export Assistance Grants'' program, which had the lowest rate in the *Preliminary Determination* among the programs alleged to be inconsistent with the Subsidies and Countervailing Measures Agreement (SCM

[1] *See Rubber Bands from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination,* 83 FR 31729 (July 9, 2018) (*Preliminary Determination*), and accompanying Preliminary Determination Memorandum (PDM).

[2] *See Rubber Bands from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation, and Amendment to the Scope of the Preliminary Determination in the Countervailing Duty Investigation,* 83 FR 45217 (September 6, 2018) (*Preliminary Critical Circumstances and Amended Scope*).

[3] *See* Memorandum, ''Rubber Bands from the People's Republic of China and Thailand: Scope Comments Decision Memorandum for the Preliminary Antidumping Duty and Countervailing Duty Determinations,'' dated August 29, 2018 (Preliminary Scope Memorandum).

[4] *See* Memorandum, ''Rubber Bands from the People's Republic of China and Thailand: Scope Decision Memorandum for the Final Antidumping Duty and Countervailing Duty Determinations,'' dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

[5] *See* sections 776(a)(1) and (2) of the Act.

[6] *See Preliminary Determination* PDM at Use of Facts Otherwise Available and Adverse Inferences.

[7] *See Preliminary Determination,* 83 FR at 31730.