

DEPARTMENT OF COMMERCE

International Trade Administration

[C-508-605]

Notice of Extension of Time Limit for Countervailing Duty Administrative Review of Industrial Phosphoric Acid From Israel

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

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the administrative review of the countervailing duty order on industrial phosphoric acid from Israel, covering the period January 1, 1998 through December 31, 1998.

EFFECTIVE DATE: November 14, 2000.

FOR FURTHER INFORMATION CONTACT:

Sean Carey, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-3964.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act"), the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 120 days after the date on which the notice of preliminary results was published in the **Federal Register**. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. See Memorandum from Barbara E. Tillman to Joseph A. Spetrini (November 1, 2000). Therefore, pursuant to section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results to no later than March 5, 2001, which is 180 days after the publication date in the **Federal Register** of the notice of preliminary results for this review. The preliminary results were published in the **Federal Register** on September 6, 2000 (65 FR 53984).

Dated: November 1, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement Group III.

[FR Doc. 00-29081 Filed 11-13-00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-508-810]

Notice of Initiation of Countervailing Duty Investigation: Pure Magnesium From Israel

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

EFFECTIVE DATE: November 14, 2000.

FOR FURTHER INFORMATION CONTACT:

Marian Wells, Blanche Ziv, or Ryan Langan, Office of CVD/AD Enforcement I, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482-6309, (202) 482-4207, or (202) 482-1279, respectively.

Initiation of Investigation*The Applicable Statute and Regulations*

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

The Petition

On October 17, 2000, the Department of Commerce ("the Department") received a petition filed in proper form by the Magnesium Corporation of America ("Magcorp") and the United Steel Workers of America, Local 8319. On October 26, 2000, the petitioners amended the petition to include the United Steelworkers of America, Local 482, as co-petitioners. (Collectively, these entities are hereinafter referred to as "the petitioners.") The Department received information supplementing the petition throughout the initiation period.

On November 3 and November 6, 2000, we received a submission from producers of granular pure magnesium. On November 6, 2000, petitioners filed a response. The Department has taken these submissions into consideration in making the initiation determination.

In accordance with section 702(b)(1) of the Act, the petitioners allege that manufacturers, producers, or exporters of the subject merchandise from Israel receive countervailable subsidies within the meaning of section 701 of the Act.

The petitioners state that they have standing to file the petition because they are interested parties, as defined under sections 771(9)(C) and (D) of the Act. See *Determination of Industry Support for the Petition* section below.

Scope of the Investigation

The scope of this investigation includes imports of pure magnesium products, regardless of chemistry, form, or size, including, without limitation, ingots, raspings, granules, turnings, chips, powder, and briquettes.

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); and (3) products that contain 50 percent or greater, but less than 99.8 percent primary magnesium, by weight, and that do not conform to an "ASTM Specification for Magnesium Alloy"¹ (generally referred to as "off-specification pure" magnesium).

The merchandise subject to this investigation is classifiable under 8104.11.00, 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

¹ 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*.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of Israel ("GOI") for consultations with respect to the petition filed. The Department held consultations with the GOI on October 31, 2000. (See the October 31, 2000 memorandum to the File regarding these consultations.)

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) 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 702(c)(4)(D) 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, the Department shall either poll the industry or rely on other information in order to determine if there is support for the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether or not "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department'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 the law.²

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 subtitle." 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.

The domestic like product described in the petitions is pure magnesium in all forms. Based upon our review of petitioners' claims we concur that there is a single domestic like product: pure magnesium, regardless of chemistry, form, or size, including, without limitation, ingots, raspings, granules, turnings, chips, powder, and briquettes. Moreover, because the Department specifically excluded granular magnesium from earlier proceedings covering pure magnesium (see *Preliminary Determination of Sales at Less than Fair Value; Pure and Alloy Magnesium from Canada*, 57 FR 6094, 6095 (February 20, 1992), which was upheld in the final determination), we have examined whether conditions in the magnesium industry have changed to an extent that it is now appropriate to include both forms in this proceeding. Based on our review of the information provided in the petition, we have concluded that conditions have changed and that we should include both granular magnesium and magnesium in ingot form in the same proceeding. See the Memorandum from the team to Richard W. Moreland, Deputy Assistant Secretary, Office of AD/CVD Enforcement, Group I entitled "Like Product and Industry Support Determinations in the Antidumping Duty Investigations of Pure Magnesium from Israel, the People's Republic of China, and the Russian Federation and the Countervailing Duty Investigation of Pure Magnesium from Israel," dated November 6, 2000 ("Like Product/Industry Support Memo").

Concerning industry support, the petitioners established industry support by demonstrating that they account for over 25 percent of total production of the domestic like product (see Initiation Checklist, dated November 6, 2000 (Initiation Checklist) and the Like Product/Industry Support Memo),

² See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

thereby meeting the first requirement under section 702(c)(4)(A) of the Act. On October 30, 2000, the Department obtained information from another significant producer of pure magnesium indicating that this company is neutral with respect to the petition (see November 2, 2000, memorandum to the file regarding submission of additional domestic production data). Since those parties expressing an opinion support the petition, the second requirement under section 702(c)(4)(A) of the Act is also met.

Because the petitioners represent less than 50 percent of the domestic industry we have additionally examined industry support as required by section 702(c)(4)(D) of the Act. We find that based on other information, there is sufficient support for the petition. Specifically, the vast majority of the industry has officially stated its position for the record, as either supportive or neutral, meaning that any potential opposition could not represent over 50 percent of the industry that has support or opposition to the petition. Accordingly, we determine that the petition is filed on behalf of the domestic industry within the meaning of section 702(c)(4)(A) of the Act. (See Like Product/Industry Support Memo.)

Injury Test

Because Israel is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Israel materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petition 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. The petitioner contends that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (see Initiation Checklist).

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioners supporting the allegations.

Initiation of Countervailing Duty Investigation

The Department has examined the countervailing duty petition on pure magnesium from Israel and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of pure magnesium from Israel receive countervailable subsidies. See Initiation Checklist.

Privatization

According to the information in the petition and presented at consultations, one of the parent companies of the Israeli manufacturer of magnesium, Dead Sea Magnesium ("DSM"), was almost entirely privatized as of 1998. Since some of the alleged subsidies were provided prior to that date, the Department intends to examine whether those subsidies continue to benefit the privatized company, in light of the Court of Appeals for the Federal Circuit's ruling in *Delverde, SRL v. United States*, 202 F.3d 1360 (Fed. Cir. 2000).

Creditworthiness

The petitioners allege DSM was uncreditworthy from its inception through the end of the POI. This allegation was supported by financial ratios for DSM and its parent company. We will investigate DSM's creditworthiness in years in which we find that government equity infusions, loans or loan guarantees were provided.

Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Israel:

1. Encouragement of Capital Investments Law ("ECIL") Grants.
2. Reduced Tax Rates under ECIL.
3. ECIL Preferential Accelerated Depreciation.
4. Encouragement of Research and Development Law ("EIRD") Grants.

5. The Infrastructure Grant Program. We are not including in our investigation the following programs alleged to be benefitting producers and exporters of the subject merchandise in Israel: Subsidies under the Magnesium Research Institute and the Consortium Research Programs.

The petitioners allege that the Magnesium Research Institute ("MRI") and the Consortium Research programs should be investigated by the Department to determine whether the Israeli government is conferring countervailable subsidies as a result of the involvement of public universities in these programs. The petitioners support their allegation with documentation from DSM's web page concerning research. The petitioners explain that one of the Israeli Ministry of Industry and Trade's major goals is to transition from capital investment grants to alternative forms of aid, including research and development grants. Petitioners request that the Department initiate an investigation to determine whether the Israeli government is conferring countervailable subsidies by means of the academic involvement in these programs.

The petitioners have not provided sufficient evidence regarding the nature of the financial contribution or the benefits conferred on DSM/DSM. Accordingly, we are not including this program in our investigation.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public version of the petition have been provided to the GOI. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition, as provided for under section 351.203(c)(2) of the Department's regulations.

ITC Notification

Pursuant to section 702(d) of the Act, we will notify the ITC of this initiation.

Preliminary Determination by the ITC

The ITC will determine by December 1, 2000, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of pure magnesium from Israel. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: November 6, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00-29080 Filed 11-13-00; 8:45 am]

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THE COMMISSION OF FINE ARTS

2001 National Capital Arts and Cultural Affairs Program

Notice is hereby given that Public Law 99-190, as amended, authorizing the National Capital Arts and Cultural Affairs Program, has been funded for 2001 in the amount of \$7,000,000.00. All requests for information and applications for grants should be received by December 31, 2000 and addressed to: Charles H. Atherton, Secretary, Commission of Fine Arts, National Building Museum, Suite 312, 441 F Street, NW., Washington, DC 20001. Phone: 202-504-2200.

Deadline for receipt of grant applications is March 1, 2001.

This program provides grants for general operating support of organizations whose primary purpose is performing exhibiting, and/or presenting the arts. To be eligible for a grant, organizations must be located in the District of Columbia, must be non-profit, non-academic institutions of demonstrated national repute, and must have annual incomes, exclusive of federal funds, in excess of one million dollars for each of the past three years.

Charles H. Atherton,

Secretary.

[FR Doc. 00-29076 Filed 11-13-00; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

Availability of Patents for Exclusive, Partially Exclusive or Nonexclusive Licenses

AGENCY: U.S. Army Soldier and Biological Chemical Command, U.S. Army, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under the following patents that are listed in the **SUPPLEMENTARY INFORMATION** paragraph. Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier