to the POI using the electricity-specific price index published by the Reserve Bank of India.

We valued grinding services provided by a subcontractor using the factors of production reported for this company, because we were unable to obtain a surrogate value for its services. Specifically, we valued the labor and electricity factors of production using the same sources noted above. In addition, we added amounts for factory overhead, depreciation, SG&A expenses, and interest expenses derived from the financial statements of Southern Magnesium and Chemicals Ltd., an Indian magnesium metal producer. This information was supplied by the petitioners in the petition. Because these financial statements showed a loss, we calculated a profit ratio using the 1998/1999 financial aggregates and ratios data published by the Economic Intelligence Service and the Centre for Monitoring Indian Economy. This information was supplied by Minmetals/CNNMIT in its February 13, 2001, surrogate value submission. For further discussion, see the April 23, 2001, concurrence memorandum from the team.

To value plastic bags, plastic wrapper, and wooden pallets (*i.e.,* the packing materials reported by the respondent), we used import values from the *Monthly Statistics*.

To determine factory overhead, depreciation, SG&A expenses, and interest expenses, and profit for the finished product, we relied on rates derived from the financial statements noted above.

Verification

As provided in section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of any entries of pure magnesium from PRC entered, or withdrawn from warehouse, for consumption on or after the date on which this notice is published in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Manufacturer/exporter	Percent margin
Minmetals Precious & Rare Minerals Import and Export/China National Nonferrous Metals Industry Trading Group Corp	8.76
PRC-wide	305.56

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding within five days of the publication of this notice. *See* 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

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, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–10684 Filed 4–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–813]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation

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

EFFECTIVE DATE: April 30, 2001.

FOR FURTHER INFORMATION CONTACT: James Nunno or Christopher Priddy, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0783 or (202) 482–1130, respectively.

The Applicable Statute

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

Preliminary Determination

We preliminarily determine that pure magnesium from the Russian Federation (Russia) is not being, nor is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Act.

Case History

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Pure Magnesium from Israel, the Russian Federation, and the People's Republic of China*, 65 FR 68121 (Nov. 14, 2000) (*Notice of Initiation*)), the following events have occurred:

On December 1, 2000, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case. *See* ITC Investigation No. 731–TA–895–897 (December 2000).

Also on December 1, 2000, the petitioners in this case (*i.e.,* the Magnesium Corporation of America (Magcorp) and the United Steel Workers of America, Locals 482 and 8319) requested that the Department modify the scope of this investigation to exclude certain magnesium products that are prepared solely for use as a desulfurizer in steel-making from the scope of the investigation. On December 4, 2000, we received comments on the scope of the investigation from ESM Group, Inc. (ESM), a U.S. manufacturer of magnesium powder and desulfurizing reagents. In its submission, ESM requested that the Department should exclude from the scope: (1) Magnesium-based reagents, in accordance with the petitioners' intention not to capture such products; and (2) pure magnesium in granular form, because it is a separate class or kind of merchandise from magnesium ingots. For further discussion, see the ''Scope of Investigation'' and ''Comments on Scope'' sections of the notice, below.

On December 11, 2000, we issued an antidumping questionnaire to the Trade Representative of the Russian Federation in the United States and requested that the Trade Representative forward the questionnaire to all companies which manufactured and/or exported the subject merchandise during the period of investigation (POI). We also sent courtesy copies of the questionnaire to all companies which were identified in the petition as possible exporters/producers of the subject merchandise during the POI. The letters provided to the Trade Representative and those companies identified in the petition as producers and/or exporters of pure magnesium set out the deadlines for responses to the different sections of the questionnaire.

In January 2001, the Department received responses from two U.S. trading companies which are exporters of Russian magnesium (*i.e.,* Greenwich Metals Inc. (Greenwich) and Interlink Metals, Inc. (Interlink)), and two Russian producers/exporters of magnesium (*i.e.,* Avisma Titanium Magnesium Works (Avisma) and Solikamsk Magnesium Works (SMW)). In January, February, and March 2001, we issued supplemental questionnaires to Avisma, Greenwich, and SMW and received responses to these supplemental questionnaires during January, February, and March 2001.

Also in January 2001, the Department requested that Interlink provide additional information concerning the proper date of sale for its U.S. sales. On January 24, 2001, we received a response to this supplemental questionnaire. In addition, we received comments from the petitioners and SMW regarding the appropriate date of sale in this case. Based on this information, we concluded that Interlink had no sales of subject merchandise during the POI. Consequently, we have not analyzed Interlink's response for purposes of this investigation. *See* the ''Period of Investigation'' section of the notice, below, for further discussion.

On January 19, 2001, the Department invited interested parties to comment on surrogate country selection and to provide publicly available information for valuing the factors of production. We received responses to this letter from the petitioners, Avisma, and Interlink on February 9, 2001. Each of these parties filed rebuttal comments on surrogate country and surrogate value information on February 20, 2001.

On March 1, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request and, on March 6, 2001, postponed the preliminary determination until no later than April 23, 2001. *See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Pure Magnesium From Israel, the Russian Federation, and the People's Republic of China and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations: Pure Magnesium From Israel,* 66 FR 14546 (Mar. 13, 2001).

Scope of 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.

The scope of this investigation 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 pure 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''[1] (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, except that mixtures containing 90 percent or less pure magnesium, by weight, when mixed with lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon slag coagulants, and/or fluorspar, are excluded.

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.

Comments on Scope

In accordance with our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit such comments within 20 calendar days of publication of the *Notice of Initiation*. *See Notice of Initiation*, 65 FR at 68123. On December 1, 2000, the petitioners requested that the Department clarify that the scope of this investigation excludes finished mixtures containing pure magnesium and/or off-specification pure magnesium prepared solely for use as a desulfurizer in steel-making, unless such mixtures contain only minimal amounts of non-magnesium materials in order to circumvent an antidumping order. On December 4, 2000, ESM submitted a letter supporting the petitioners' position that magnesium-based reagents should not be included in the scope of the Department's investigation. On January 30, 2001, the petitioners submitted proposed language to further clarify their intent with respect to the scope of this investigation. Based on this submission, we have revised the scope to exclude reagent magnesium.

[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.*

In its December 4 submission, ESM also argued that pure magnesium ingot and granular magnesium constitute separate classes or kinds of merchandise and that the Department should exclude granular magnesium from the scope of the investigation. However, because (1) the respondents only sold pure magnesium ingot during the POI, and (2) we have made a preliminary finding of no sales at less than fair value, we have not addressed this issue for purposes of the preliminary determination. In the event that we make an affirmative final determination, we will consider this issue then.

On April 10, 2001, Rossborough Manufacturing Co., L.P., requested that the Department amend the scope of this investigation to exclude certain additional reagent mixtures and imports of granular magnesium used for making reagent mixtures. Rossborough's submission was filed too late to be given proper consideration for purposes of the preliminary determination, but we will consider these issues for the final determination.

Period of Investigation

Pursuant to 19 CFR 351.204(b)(1), the POI for an investigation involving merchandise from a non market economy is the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* October 2000). Therefore, in this case, the POI is April 1, 2000, through September 30, 2000.

Both Interlink and SMW requested that the Department extend the POI to cover shipments of pure magnesium made pursuant to long-term contracts signed in the fourth quarter of 1999 and the first quarter of 2000. Pursuant to 19 CFR 351.204(b)(1), the Department may examine merchandise sold during any additional or alternate period that the Department concludes is appropriate. However, based on the arguments and evidence presented on this issue, the Department does not believe it is appropriate to extend the POI in this investigation. Thus, we have continued to use the six-month period defined by 19 CFR 351.204(b)(1). For further discussion, see the March 23, 2001, memorandum from Christopher Priddy to Richard W. Moreland entitled ''Date of Sale for Long-Term Contracts and Period of Investigation.''

Nonmarket Economy Country Status for Russia

The Department has treated Russia as a nonmarket economy (NME) country in all past antidumping duty investigations and administrative reviews. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); *Titanium Sponge from the Russian Federation: Final Results of Antidumping Administrative Review*, 64 FR 1599 (Jan. 11, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 61787 (Nov. 19, 1997); *Notice of Final Determination of Sale at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation*, 60 FR 16440 (Mar. 30, 1995) (*Magnesium from Russia Original Investigation Final Determination*). A designation as a NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act.

When the Department is investigating imports from a NME country, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Normal Value'' section, below.

No party in this investigation has requested a revocation of Russia's NME status. We have, therefore, preliminarily continued to treat Russia as a NME.

Separate Rates

It is the Department's policy to assign all exporters of subject merchandise in an NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Avisma and SMW have submitted separate rates information in their section A responses, have stated that there is no element of government ownership or control, and have requested a separate, company-specific rate.

Regarding Greenwich, this exporter is located in a market-economy country and is not affiliated with a Russian producer or exporter. Consequently, we do not need to perform a separate rates test for Greenwich, and we are calculating a separate rate for it in accordance with our practice. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (Apr. 30, 1996).

The Department's separate rate test is unconcerned, in general, with macroeconomic/ border-type controls (*e.g.,* export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value,* 62 FR 61754, 61757 (Nov. 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279 (Nov. 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value,* 60 FR 14725, 14726 (Mar. 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991), as modified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the NME respondents can demonstrate the absence of both de jure and de facto governmental control over export activities. *See Silicon Carbide* and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22545 (May 8, 1998).

1. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Regarding Avisma and SMW, these companies have placed on the record a number of documents to demonstrate absence of de jure control, including: (1) The Federal Law on Joint Stock Companies (Nov. 24, 1995); (2) the Russian Federation Federal Act on State Regulation of Foreign Trade Activity (July 7, 1995) (amended as Federal Law No. 32-FZ (Feb. 10, 1999)); (3) the President of the Russian Federation's Decree No. 721 (July 1, 1992); and (4) the Russian Federation Civil Code (Oct. 21, 1994) at Articles 49 and 50.

In prior cases, the Department has analyzed these laws and found that they establish an absence of de jure control. *See, e.g., Notice of Preliminary*

Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, 64 FR 61261, 61268 (Nov. 10, 1999); *see* also *Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 1139, 1142 (Jan. 7, 2000).[2] We have no new information in this proceeding Federation, 65 FR 1139, 1142 (Jan. 7, 2000).[3] We have no new information in this proceeding which would cause us to reconsider this determination.

According to Avisma and SMW, pure magnesium exports are not affected by export licensing provisions or export quotas. Avisma and SMW claim to have autonomy in setting the contract prices for sales of pure magnesium through independent price negotiations with their foreign customers without interference from the Russian government. Based on the assertions of Avisma and SMW, we preliminarily determine that there is an absence of de jure government control over the pricing and marketing decisions of Avisma and SMW with respect to these companies' pure magnesium export sales.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

Avisma and SMW have asserted the following: (1) Each company establishes its own export prices; (2) each company negotiates contracts without guidance from any governmental entities or organizations; (3) each company makes its own personnel decisions; and (4) each company retains the proceeds of its export sales and uses profits according to its business needs. Additionally, Avisma's and SMW's questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of de facto governmental control of the export functions of these companies. Consequently, we preliminarily determine that Avisma and SMW have met the criteria for the application of separate rates.

Russia-Wide Rate

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the ''NME entity.'' The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Information on the record of this investigation indicates that Avisma and SMW were the only Russian producers and/or exporters of the subject merchandise with sales or shipments to the United States during the POI. Based upon our examination and clarification of Customs data, we have determined that there are no other Russian producers and/or exporters of the subject merchandise and consequently none which were required to respond to the Department's questionnaire. *See* the memorandum from Christopher Priddy to the file entitled ''Examination of Customs Data for Pure Magnesium Russian Imports During the Period of Investigation'' dated April 23, 2001. For this reason, we have not assigned a Russia-wide rate in this investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Avisma, Greenwich, and SMW to or within the United States were made at LTFV, we compared the export price (EP) or the constructed export price (CEP), as appropriate, to NV based on an NME analysis, as described below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs and CEPs to the NVs.

Export Price and Constructed Export Price

A. Avisma

For Avisma, we used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise appropriate. We made no deduction from the starting price to account for either export taxes paid by Avisma to the Russian government or export procedure fees because (a) the actual amounts paid are an internal expense within an NME country and (b) there is no quantifiable good or service factor for which a surrogate value can be determined. *See Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations: Pure and Alloy Magnesium From the Russian Federation,* 59 FR 55427, 55430 (Nov. 7, 1994) (*Pure and Alloy Magnesium from Russia*).[4]

We calculated EP based on packed CFR[5] prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for inland freight from the factory to the port of export, foreign brokerage and handling, third-country freight, third-country warehousing, ocean freight, and marine insurance, in accordance with section 772(c)(2)(A) of the Act. We valued Avisma's movement provided by NME suppliers using South African freight rates; for those freight services provided by market-economy companies, we used the actual prices which Avisma paid to the freight supplier in our EP calculation. For further discussion of our use of surrogate data in an NME proceeding, as well as selection of South Africa as the appropriate surrogate country, see the ''Normal Value'' section of this notice, below.

B. Greenwich

For Greenwich, we used CEP methodology in accordance with section 772(b) of the Act, because sales to the first unaffiliated purchaser in the United States took place after importation. In accordance with our practice, we excluded trial shipments from our

[2] The Department's findings in the preliminary determinations of these proceedings were unchanged in the final determinations. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 65 FR 5510, 5518 (Feb. 4, 2000) (*Russian Cold-Rolled Final Determination*) and *Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 42669, 42671 (July 11, 20000).

[3] The Department's findings in the preliminary determinations of these proceedings were unchanged in the final determinations. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 65 FR 5510, 5518 (Feb. 4, 2000) (*Russian Cold-Rolled Final Determination*) and *Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 fr 42669, 42671 (July 11, 2000).

[4] This was unchanged in the final determination. *See Magnesium from Russia Original Investigation Final Determination,* 60 FR 16442.

[5] ''CFR,'' an official INCO Term for international trade and shipping, denotes that the seller is responsible for the cost of the freight expenses to the named port of destination but is not responsible for insurance expenses.

analysis for purposes of the preliminary determination because they were made in small quantities. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan,* 64 FR 8291, 8295 (Feb. 19, 1999). For further discussion, see ''Preliminary Determination of Antidumping Duty Investigation of Pure Magnesium from the Russian Federation Concurrence Memorandum'' (*Concurrence Memorandum*) dated April 23, 2001.

We calculated CEP based on ex-dock, ex-warehouse, CIF, or delivered prices to unaffiliated purchasers in the United States. We deducted from the starting price amounts for foreign inland freight from the Russian plant to the reseller's warehouse, foreign inland freight in the country of exportation, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight, U.S. warehousing, U.S. inland insurance, U.S. terminal charges, and U.S. customs brokerage fees and duties in accordance with section 772(c)(2)(A) of the Act. We valued Greenwich's movement expenses provided by NME suppliers using South African freight rates; for those freight services provided by market-economy companies, we used the actual prices which Greenwich paid to the freight supplier in our CEP calculation.

We made additional deductions from CEP for credit expenses, and U.S. indirect selling expenses, including U.S. inventory carrying costs and other indirect selling expenses, in accordance with section 772(d)(1) of the Act. We recalculated credit expenses for one sale for which Greenwich had not received payment as of the date of its last questionnaire response. As the date of payment for this sale, we used the date of the preliminary determination.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. We calculated the CEP profit ratio for Greenwich based on the financial data reported in its income statement for the year ended June 30, 2000.

C. SMW

For SMW, we used CEP methodology in accordance with section 772(b) of the Act, because sales to the first unaffiliated purchaser in the United States took place after importation. We made no deduction from the starting price to account for either export taxes paid by SMW to the Russian government or export procedure fees because (a) the actual amounts paid are an internal expense within an NME country and (b) there is no quantifiable good or service factor for which a surrogate value can be determined. *See Pure and Alloy Magnesium from Russia,* 59 FR at 55430. We calculated CEP based on ex-dock, ex-warehouse, CIF or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we adjusted the starting price for billing adjustments. We also deducted from the starting price amounts for foreign inland freight, foreign brokerage and handling, foreign inland insurance, ocean freight, marine insurance, U.S. inland freight, U.S. warehousing, U.S. terminal charges, U.S. customs brokerage fees and duties, and U.S. warehousing, in accordance with section 772(c)(2)(A) of the Act. We valued SMW's movement provided by NME suppliers using South African freight rates; for those freight services provided by market-economy companies, we used the actual prices which SMW paid to the freight supplier in our CEP calculation. With respect to ocean freight and marine insurance, we note that SMW used a freight forwarder located in Russia to ship certain of its products. Because SMW was unable to establish that the expenses incurred for these transactions were set by a market-economy supplier in a market-economy currency, we have not used them for purposes of the preliminary determination. Rather, we have based the amount of these expenses on the amounts incurred by SMW on its other transactions arranged by freight forwarders located in a market-economy. For further discussion, see *Concurrence Memorandum.*

We made additional deductions for credit expenses and U.S. indirect selling expenses, including U.S. inventory carrying costs and other indirect selling expenses, in accordance with section 772(d)(1) of the Act. We based the amount for indirect selling expenses incurred by SMW's U.S. affiliate on facts available because SMW did not report these expenses on a POI-basis, despite requests in two supplemental questionnaires that it do so. As facts available, we used the total indirect selling expense amount reported by SMW, which represents all indirect expenses incurred during 2000. For further discussion, see *Concurrence Memorandum.*

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. We calculated the CEP profit ratio using the financial data reflected on the income statement of a South African producer of zinc. For further discussion of the financial statements of this surrogate producer, see the ''Normal Value'' section of this notice, below.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market-economy countries that: (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that Poland, Venezuela, South Africa, Turkey, Colombia, and Tunisia are countries comparable to Russia in terms of overall economic development. *See* the January 12, 2001, memorandum from Jeffrey May to Louis Apple.

According to the available information on the record, we have determined that South Africa meets the statutory requirements for an appropriate surrogate country for Russia. For purposes of the preliminary determination, we have selected South Africa as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using South African values for Russian producers' factors of production except, as noted below, in certain instances where an input was sourced from a market economy country and purchased with a market-economy currency. We have obtained and relied upon publicly available information wherever possible.

B. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Avisma and SMW for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available South African surrogate values.

For purposes of calculating NV, we valued Russian factors of production, in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POI or most contemporaneous with the POI; (3) product-specific; and (4) tax-exclusive.

For a more detailed explanation of the methodology used in calculating various surrogate values, see the ''Preliminary Determination Factors Valuation Memorandum from the Team to the File,'' dated April 23, 2001. In accordance with this methodology, we valued the factors of production as follows:

In selecting the surrogate values, we considered the availability, quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to South African surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corporation* v. *United States,* 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997). Where a producer did not report the distance between the material supplier and the factory, we used as facts available the longest distance reported (*i.e.,* the distance between the Russian seaport and the producer's location). To value rail freight rates, we used a rate for aluminum slabs or ingots provided by Spoornet, a South African rail company. As we were unable to identify a surrogate value for freight by truck, we valued trucking freight expenses using the surrogate value for rail freight. For those values not contemporaneous with the POI, we adjusted for inflation using producer price indices or wholesale price indices published in the International Monetary Fund's International Financial Statistics.

We valued the following inputs using United Nation's Harmonized System import data for South Africa: sodium chloride, magnesium chloride, calcium flouric (flourspar), barium chloride, potassium chloride, potash, and shaped timber/sawn wood.

We valued technical salt, sulphur, and slag using data from the World Trade Atlas of the South African Revenue Service. We valued carnallite concentrate using a price quote provided by a South African raw dolomite producer, and we multiplied the dolomite price quote by a factor of 20 as an estimated value for dehydrated carnallite. We valued sulfuric acid using United Nations commodity trade statistics for imports. The surrogate value for petroleum coke was based on an average of data obtained from the World Trade Atlas of the South African Revenue Service and United Nations commodity trade statistics. We valued magnesium scrap using Customs Union trade import statistics for aluminum scrap. We valued boric acid using data from the U.S. Geological Survey.

We valued both natural gas and heavy oil using data from the International Energy Agency. We valued electricity using the 1999 average electricity rate charged to industrial users by Eskom, a South African electric utility company.

We valued the following packing materials using data from the World Trade Atlas of the South African Revenue Service: nails, tape, labels, wire, thermo-shrinking bags, and silica gel. The surrogate value for steel strips/metal straps was based on United Nations Commodity Trade Statistics. We used the Monthly Abstract of Trade Statistics from the Republic of South Africa in order to value polyethylene film/plastic.

We valued labor based on a regression-based wage rate in accordance with 19 CFR 351.408(c)(3).

To determine factory overhead, SG&A expenses, and profit, we relied on rates derived from the 1998 financial statements of Zinc Corporation of South Africa, a South African producer of comparable merchandise.

Based on the information submitted by Avisma and SMW, we have determined that chlorine gas and potassium chloride flux are by-products. Because they are by-products, we subtracted the sales revenue of chlorine gas and potassium chloride flux from the estimated production costs of pure magnesium. This treatment of by-products is consistent with generally accepted accounting principles. *See Cost Accounting: A Managerial Emphasis (1991)* at pages 539–544. We used a South African price quote to value chlorine and United Nation's Harmonized System data to value potassium chloride.

Currency Conversions

We made currency conversions, in accordance with section 773A(a) of the Act, based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

Because the estimated weighted-average dumping margins for all the examined companies are 0.00 percent, we are not directing the Customs Service to suspend liquidation of entries of pure magnesium from Russia.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, pursuant to section 735(b)(3) of the Act, the ITC will determine within 75 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding within five days of the publication of this notice. *See* 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

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, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination within 75 days of this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 23, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–10685 Filed 4–27–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–508–809]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel

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

EFFECTIVE DATE: April 30, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Andrew Covington, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1778, or (202) 482–3534, respectively.

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 of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR Part 351 (April 2000).

Preliminary Determination

We preliminarily determine that pure magnesium from Israel is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the Suspension of Liquidation section of this notice.

Case History

Since the publication of the notice of initiation of this investigation in the **Federal Register** (*see Initiation of Antidumping Duty Investigations: Pure Magnesium from Israel, the Russian Federation, and the People's Republic of China,* 65 FR 68121 (November 14, 2000) (*Initiation Notice*)), the following events have occurred:

On December 1, 2000, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of pure magnesium from Israel are materially injuring the United States industry. See 65 FR 77910 (December 13, 2000). On December 4, 2000, the Department requested comments from interested parties regarding the criteria to be used for model matching purposes. The parties submitted comments on our proposed model matching criteria on December 8, 2000. On December 12, 2000, the Department issued an antidumping questionnaire to Dead Sea Magnesium (DSM).

DSM submitted its initial responses to the questionnaire on January 25 and February 1, 2001. The petitioners in this case (*i.e.,* the Magnesium Corporation of America (Magcorp) and the United Steel Workers of America, Locals 482 and 8319) filed comments on the questionnaire responses on February 12, 2001. After analyzing the initial responses and the petitioners' comments, we issued a supplemental questionnaire to DSM on February 22, 2001. We received DSM's response to this supplemental questionnaire on March 15, 2001.

On February 8, 2001, the petitioners requested that the Department initiate an investigation of sales below the cost of production (COP) for DSM. On February 20, 2001, based on our review of the petitioners' below cost allegation, we initiated a cost investigation for DSM and requested that DSM respond to Section D of the antidumping questionnaire concerning COP and constructed value (CV) (*see* Memorandum dated February 20, 2001, to Senior Office Director Susan Kuhbach, which is on file in Import Administration's Central Records Unit (*Cost Initiation Memo*)). DSM filed its Section D response on March 21, 2001. On April 2, 2001, we issued a Section D supplemental questionnaire to DSM. DSM submitted supplemental section D information on April 10 and 16, 2001.

On March 1, 2001, the petitioners made a timely request for a postponement of the preliminary determination pursuant to section 733(c)(1)(A) of the Act. On March 6, 2001, the Department postponed the preliminary determination until no later than April 23, 2001 (*see Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Pure Magnesium From Israel, the Russian Federation, and the People's Republic of China and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations: Pure Magnesium From Israel,* 66 FR 14546 (March 13, 2001) (*Postponement Notice*)).

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 pure magnesium, by weight (generally referred to as ''pure'' magnesium); and (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'' [1] (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, except that mixtures containing 90 percent or less pure magnesium, by weight, when mixed with lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon slag coagulants, and/or fluorspar, are excluded.

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.

Comments on Scope

In accordance with our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit such comments within 20 calendar days of publication of the *Initiation Notice* (*see* 65 FR at 68123). On December 1, 2000, the petitioners requested that the Department clarify that the scope of this investigation excludes finished mixtures containing pure magnesium and/or off-specification pure magnesium prepared solely for use as a desulfurizer in steel-making, unless such mixtures contain only minimal amounts of non-magnesium materials in order to circumvent an antidumping order. On

[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.*