

Dated: October 6, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II—List of Sections in the Issues and Decision Memorandum

I. Summary

II. Background

III. Discussion of the Issues

Comment 1. Whether the Petitioner has Standing in This Investigation

Comment 2. The Application of Adverse Facts Available (AFA) to Vestas Wind Technology India Private Limited (Vestas India)

Comment 3. The AFA Rate to Apply to Vestas India

Comment 4. Selection of Appropriate Rate for All Other Exporters/Producers

Comment 5. Whether Commerce Should Reject the Multinational Corporation (MNC) and the Particular Market Situation (PMS) Allegations

IV. Recommendation

[FR Doc. 2021–22245 Filed 10–12–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896]

Magnesium Metal From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021

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

SUMMARY: The Department of Commerce (Commerce) is conducting the administrative review of the antidumping duty (AD) order on magnesium metal from the People’s Republic of China (China). The period of review (POR) is April 1, 2020, through March 31, 2021. Commerce preliminarily determines that Tianjin Magnesium International Co., Ltd. (TMI) and Tianjin Magnesium Metal Co., Ltd. (TMM) did not have any shipments of subject merchandise during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable October 13, 2021.

FOR FURTHER INFORMATION CONTACT: Deborah Cohen, 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) 482–4521.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2021, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on magnesium metal from China for the POR.¹ On June 11, 2021, in response to a timely request from US Magnesium LLC (the petitioner),² and in accordance

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 86 FR 17137 (April 1, 2021); see also *Notice of Antidumping Duty Order: Magnesium Metal from the People’s Republic of China*, 70 FR 19928 (April 15, 2005) (*Order*).

² See Petitioner’s Letter, “Magnesium Metal from the People’s Republic of China/Request for Administrative Review,” dated April 30, 2021.

with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order* with respect to TMI and TMM.³

Scope of the Order

The product covered by the *Order* is magnesium metal from China, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by the *Order* includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes; magnesium ground, chipped, crushed, or machined into rasping, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an “ASTM Specification for Magnesium Alloy”⁴ and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as “alloy” magnesium).

The scope of the *Order* excludes: (1) All forms of pure magnesium, including chemical combinations of 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”;⁵ (2) magnesium that is in liquid or molten form; and (3) mixtures

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 31282 (June 11, 2021).

⁴ The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

⁵ The material is already covered by existing antidumping orders. See *Notice of Antidumping Duty Orders: Pure Magnesium from the People’s Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995); see also *Antidumping Duty Order: Pure Magnesium in Granular Form from the People’s Republic of China*, 66 FR 57936 (November 19, 2001).

containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al₂O₃), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.⁶ The merchandise subject to this *Order* is classifiable under items 8104.19.00, and 8104.30.00 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 is dispositive.

Preliminary Determination of No Shipments

We received timely submissions from TMI and TMM certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.⁷ On June 14, 2021, we requested the U.S. Customs and Border Protection (CBP) entry data of subject merchandise imported into the United States during the POR, and exported by TMM and/or TMI.⁸ This query returned no entries during the POR.⁹ Additionally, on June 23, 2021, Commerce submitted a no-shipments inquiry to CBP with regard to TMI and TMM, to which CBP responded that it found no shipments of subject

merchandise by TMI and TMM during the POR.¹⁰

Accordingly, and consistent with our practice, we preliminarily determine that TMI and TMM had no shipments and, therefore, no reviewable entries during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies, but rather to complete the review with respect to TMI and TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy (NME) cases.¹¹

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments, filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), within 30 days after the date of publication of these preliminary results of review.¹² ACCESS is available to registered users at <https://access.trade.gov>. Rebuttal briefs, limited to issues raised in the case briefs, must be filed within seven days after the time limit for filing case briefs.¹³ Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities.¹⁴ Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.¹⁵

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to Commerce within 30 days of the date of publication of this notice.¹⁶ Requests should contain: (1) The party's name, address, the telephone number; (2) the number of participants; and (3)

¹⁰ *Id.* at Attachment 3; *see also* "Magnesium Metal from the People's Republic of China; No Shipment Inquiry for Tianjin Magnesium International Co., Ltd and Tianjin Magnesium Metal Co., Ltd. during the period 04/01/2020 through 03/31/2021," dated July 06, 2021.

¹¹ *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2014–2015*, 81 FR 72567 (October 20, 2016), and the "Assessment Rates" section, below.

¹² *See* 19 CFR 351.309(c)(1)(ii).

¹³ *See* 19 CFR 351.309(d)(1) and (2); *see also* *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

¹⁴ *See* 19 CFR 351.309(c) and (d); *see also* 19 CFR 351.303 (for general filing requirements).

¹⁵ *See Temporary Rule*.

¹⁶ *See* 19 CFR 351.310(c).

a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held.¹⁷ Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP will assess, antidumping duties on all appropriate entries covered by this review.¹⁸ Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication). Pursuant to Commerce's practice in NME cases, if we continue to determine in the final results that TMI and TMM had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the China-wide rate.¹⁹

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) For TMI, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI in the most recently completed review of the company; (2) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate

¹⁷ *See* 19 CFR 310(d).

¹⁸ *See* 19 CFR 351.212(b)(1).

¹⁹ For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

⁶ This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 49345 (September 27, 2001); *see also* *Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

⁷ *See* TMI's Letter, "Magnesium Metal from the People's Republic of China; A–570–896; No Shipment Certification," dated June 14, 2021; *see also* TMM's Letter, "Magnesium Metal from the People's Republic of China; A–570–896; No Shipment Certification," dated June 14, 2021.

⁸ *See* Memorandum, "Antidumping Duty Administrative Review of Magnesium Metal from the People's Republic of China, 04/01/2020–03/31/2021: Entry Data and No Shipment Inquiry," dated July 14, 2021 at Attachment 1.

⁹ *Id.* at Attachment 2.

published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate (including TMM, which claimed no shipments, but has not been found to be separate from China-wide entity), the cash deposit rate will be China-wide rate of 141.49 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: October 6, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-821]

Utility Scale Wind Towers From Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that utility scale wind towers (wind towers) from Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation July 1, 2019, through June 30, 2020.

DATES: Applicable October 13, 2021.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4047.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 2021, Commerce published in the **Federal Register** a preliminary negative determination in the LTFV investigation of wind towers from Malaysia.¹ Commerce invited interested parties to comment on the *Preliminary Determination*.² On August 23, 2021, we issued a post-preliminary determination to address the petitioner's³ allegation that Commerce should determine normal value (NV) under section 773(d) of the Tariff Act of 1930, as amended (the Act), with respect to CS Wind Corporation and CS Wind Malaysia Sdn Bhd (collectively, CS Wind).^{4,5} On August 31, 2021, we received case briefs from CS Wind and the petitioner.⁶ On September 8, 2021, we received rebuttal briefs from CS Wind and the petitioner.⁷ On September 22, 2021, we held a public hearing at the request of the petitioner.⁸ A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.⁹

Scope of the Investigation

The products covered by this investigation are wind towers from

¹ See *Utility Scale Wind Towers from Malaysia: Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination*, 86 FR 27828 (May 24, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See *Preliminary Determination*, 86 FR at 27829.

³ The petitioner in this investigation is the Wind Tower Trade Coalition, whose members are Arcosa Wind Towers Inc. and Broadwind Towers, Inc.

⁴ See Petitioner's Letter, "Utility Scale Wind Towers from Malaysia: Multinational Corporation Allegation," dated February 2, 2021.

⁵ See Memorandum, "Post-Preliminary Decision Memorandum in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia," dated August 23, 2021.

⁶ See CS Wind's Letter, "CS Wind' Case Brief," dated August 31, 2021; and Petitioner's Letter, "Case Brief," dated August 31, 2021.

⁷ See CS Wind's Letter, "CS Wind's Rebuttal Brief," dated September 8, 2021; and Petitioner's Letter, "Petitioner's Rebuttal Brief," dated September 8, 2021.

⁸ See Transcript to Public Hearing, dated September 22, 2021.

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Malaysia. For a complete description of the scope of this investigation, see Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.¹⁰

Changes Since the Preliminary Determination

Based on our review of the record and comments received from interested parties, we made certain changes to our calculation of CS Wind's dumping margin. For a discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act, provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce determined an estimated weighted-average dumping margin for the individually-examined respondent, *i.e.*, CS Wind, that is not zero, *de*

¹⁰ See Commerce's In-Lieu-Of-Verification Questionnaire, dated August 13, 2021; see also CS Wind's Letter, "Utility Scale Wind Towers from Malaysia: In Lieu of Verification Questionnaire Response," dated August 23, 2021.