

published the preliminary results of the third administrative review. *See Notice of Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination to Revoke the Order in Part, and Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon From Chile*, 67 FR 51182 (August 7, 2002) (*Preliminary Results*). In our notice of preliminary results, we stated our intention to issue the final results of this review no later than December 5, 2002.

#### **Extension of Time Limit for Final Results of Review**

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the final results until no later than February 3, 2003. *See* Decision Memorandum from Constance Handley to Gary Taverman, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the main Commerce building.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 27, 2002.

**Gary Taverman,**

*Acting Deputy Assistant Secretary, Group II, Import Administration.*

[FR Doc. 02-30628 Filed 12-2-02; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[C-122-815]

#### **Pure and Alloy Magnesium from Canada: Correction of Notice of Initiation and Partial Rescission of Countervailing Duty Administrative Review**

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

**ACTION:** Correction of Notice of Initiation and Partial Rescission of Countervailing Duty Administrative Review.

**EFFECTIVE DATE:** December 3, 2002.

#### **FOR FURTHER INFORMATION CONTACT:**

Melanie Brown, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4987.

#### **Correction of Notice of Initiation**

On September 25, 2000, the Department of Commerce published in

the **Federal Register** (67 FR 60210) the notice of initiation of the countervailing duty administrative review of pure and alloy magnesium from Canada. The notice of initiation incorrectly stated the period of review ("POR") as January 1, 2001 to December 31, 2002. The correct POR is January 1, 2001 to December 31, 2001.

#### **Partial Rescission of Review**

This initiation was based on a request made on August 28, 2002, by the petitioner, U.S. Magnesium, LLC., with respect to the imports of pure and alloy magnesium produced by Norsk Hydro Canada Inc. and Magnola Metallurgy ("Magnola"). Magnola is currently a party in a new shipper review ("NSR") covering the same POR and the same subject merchandise. (*See Pure and Alloy Magnesium from Canada: Notice of Initiation of New Shipper Countervailing Duty Review*, 67 FR 15767, (April 3, 2002)). Therefore, in accordance with 19 CFR 351.213(d) we are rescinding this administrative review with respect to Magnola.

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: November 24, 2002.

**Susan Kuhbach,**

*Acting Deputy Assistant, Secretary for Import Administration, Group 1.*

[FR Doc. 02-30624 Filed 12-2-02; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

#### **Overseas Trade Missions**

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

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce invites U.S. companies to participate in the below listed overseas trade missions. For a more complete description, obtain a copy of the mission statement from the Project Officer indicated below.

#### **Aerospace Executive Service at the Australian International Airshow**

Avalon Airport, Melbourne, Australia.  
February 12-14, 2003.

*Recruitment closes on January 3, 2003.*

For further information contact: Ms. Diane Mooney, U.S. Department of Commerce, telephone 206-553-7261, or e-mail to [dmooney@mail.doc.gov](mailto:dmooney@mail.doc.gov).

#### **Environmental Technologies Trade Mission**

Milan, Italy.

March 5-8, 2003.

Recruitment closes on January 10, 2003.

For further information contact: Ms. Yvonne Jackson, U.S. Department of Commerce, telephone 202-482-2675, or e-mail to [Yvonne.Jackson@mail.doc.gov](mailto:Yvonne.Jackson@mail.doc.gov).

#### **U.S. Microelectronics Trade Mission to Shanghai, China**

March 10-14, 2003.

Recruitment closes on January 31, 2003.

For further information contact: Ms. Marlene Ruffin, U.S. Department of Commerce, telephone 202-482-0570, or e-mail to [Marlene\\_Ruffin@ita.doc.gov](mailto:Marlene_Ruffin@ita.doc.gov).

#### **ACE/Infrastructure Trade Mission to China**

Beijing, Shanghai and Hong Kong (SAR).

April 7-15, 2003.

Recruitment closes on January 31, 2003.

For further information contact: Mr. Sam Dhir, U.S. Department of Commerce, telephone 202-482-4756, or e-mail to [Sam.Dhir@mail.doc.gov](mailto:Sam.Dhir@mail.doc.gov).

Recruitment and selection of private sector participants for these trade missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997. For further information contact Mr. Thomas Nisbet, U.S. Department of Commerce, telephone 202-482-5657, or e-mail [Tom\\_Nisbet@ita.doc.gov](mailto:Tom_Nisbet@ita.doc.gov).

Dated: November 26, 2002.

**Thomas H. Nisbet,**

*Director, Export Promotion Coordination, Office of Planning, Coordination and Management.*

[FR Doc. 02-30629 Filed 12-2-02; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[A-588-846]

#### **Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan**

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

**SUMMARY:** Consistent with section 129 of the Uruguay Round Agreements Act (URAA), which governs the

Department's actions following WTO reports, the Department has calculated new rates with respect to the antidumping duty investigation on hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from Japan, in order to implement findings of the World Trade Organization (WTO) Appellate Body. These new rates will apply to unliquidated entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after November 22, 2002.

**EFFECTIVE DATE:** November 22, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Mark Hoadley, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3148.

**SUPPLEMENTARY INFORMATION:**

**The Applicable Statute**

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2001). Finally, citation to "section 129" refers to section 129 of the URAA, codified at 19 U.S.C. § 3538.

**Background**

On April 28, 1999, the Department of Commerce issued a final determination of sales at less than fair value in the antidumping investigation on hot-rolled steel from Japan. *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan*, 64 FR 24329 (May 6, 1999) (*Final Determination*). Following an affirmative injury determination issued by the United States International Trade Commission, the Department issued an antidumping duty order on this product on June 23, 1999. *Antidumping Duty Order; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan*, 64 FR 34778 (June 29, 1999).

Subsequently, the Government of Japan requested the establishment of a WTO dispute resolution panel (the Panel) to consider, among other issues, various aspects of the Department's final determination in this case. The Panel circulated its report on February 28, 2001. *United States Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/R (February 28, 2001).

The United States and Japan appealed certain findings and conclusions in the

Panel report. The WTO Appellate Body (the Appellate Body) issued its report on July 24, 2001. *United States Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/AB/R (July 24, 2001). The Appellate Body report and the Panel report, as modified by the Appellate Body report, were adopted by the WTO Dispute Settlement Body (DSB) on August 23, 2001. *United States - Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan*, WT/DS184/8 (August 23, 2001).

On September 10, 2001, the United States informed the DSB that it would implement the recommendations and rulings of the DSB in a manner consistent with its WTO obligations. On November 5, 2002, pursuant to section 129(b)(2) of the URAA, the United States Trade Representative requested that the Department issue a determination that would render the Department's actions in the investigation not inconsistent with the findings of the DSB.

Section 129 of the URAA is the applicable provision governing the nature and effect of determinations issued by the Department to implement findings by WTO panels and the Appellate Body. Specifically, section 129(b)(2) provides that "[n]otwithstanding any provision of the Tariff Act of 1930 . . .," within 180 days of a written request from the U.S. Trade Representative, the Department shall issue a determination that would render its actions not inconsistent with an adverse finding of a WTO panel or the Appellate Body. 19 U.S.C. § 3538(b)(2). The Statement of Administrative Action for the URAA (SAA) variously refers to such a determination by the Department as a "new," "second," and "different" determination. SAA at 1025, 1027. This determination is subject to judicial review separate and apart from judicial review of the Department's original determination. 19 U.S.C. § 1516a(a)(2)(B)(vii).

In addition, section 129(c)(1)(B) of the URAA expressly provides that a determination under section 129 applies only with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which the U.S. Trade Representative directs the Department to implement that determination. In other words, as the SAA clearly provides, "such determinations have prospective effect only." SAA at 1026. Thus, "relief available under subsection 129(c)(1) is distinguishable from relief in an action brought before a court or a NAFTA

binational panel, where . . . retroactive relief may be available." *Id.*

Accordingly, this new determination, pursuant to section 129 of the URAA (*Section 129 Determination*), does not render moot the federal court appeal currently pending with respect to the antidumping duty order on hot-rolled steel. As detailed below, the *Section 129 Determination* rates will apply only to cash deposits for entries made after the effective date, and subsequent assessments on such entries, should no administrative review be requested under section 351.213 of the Department's regulations.

On November 8, 2002, the Department issued a draft **SECTION 129 DETERMINATION** to the Government of Japan and to the parties to the less than fair value investigation segment of the proceeding, soliciting comments by November 15, 2002 and rebuttal comments by November 19, 2002. On November 15, two petitioning parties provided joint comments on the draft determination. No other affirmative or rebuttal comments were received.

**Appellate Body Findings and Conclusions**

In its report, the Appellate Body found, *inter alia*, that certain aspects of the Department's final determination in the hot-rolled steel investigation were inconsistent with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Antidumping Agreement).

1. The Appellate Body's report, at paragraph 240(a), upholds the finding, in paragraph 8.1(a) of the Panel Report, that the United States acted inconsistently with Article 6.8 and Annex II of the Antidumping Agreement in applying "facts available" to Nippon Steel Corporation (Nippon) and NKK Corporation (NKK) with respect to sales affected by their failure to timely provide weight conversion factors. The information, which was needed to allow the Department to compare steel sold on an actual weight basis with steel sold on a theoretical weight basis, was provided by the two companies after the stipulated deadline.

2. The Appellate Body's report, at paragraph 240(b), upholds the finding, in paragraph 8.1(a) of the Panel Report, that the United States acted inconsistently with Article 6.8 and Annex II of the Antidumping Agreement in applying adverse facts available to Kawasaki Steel Corporation (Kawasaki).

3. The Appellate Body's report, at paragraph 240(c), upholds the Panel's findings that the United States' application of section 735(c)(5)(A) of the United States Tariff Act of 1930, as

amended, to determine the “all others” rate in this case, was inconsistent with the United States’ obligations under Article 9.4 of the Antidumping Agreement.

4. The Appellate Body’s report, at paragraph 240(d), upholds the finding, in paragraph 8.1(c) of the Panel Report, that the United States acted inconsistently with Article 2.1 of the Antidumping Agreement by excluding from the calculation of normal value, as outside “the ordinary course of trade,” certain home market sales to parties affiliated with an investigated exporter, on the basis of the “99.5 percent” or “arm’s length” test.

### Implementation

The Department is implementing the recommendations and rulings of the DSB as follows:

1. All three investigated companies (Kawasaki, NKK, and Nippon) made home market sales through affiliates. In order to determine which of these related party sales may have been made at arm’s length and thus may be considered for use in calculating normal value, the Department applied a new arm’s length methodology. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). Specifically, under the new methodology, for sales by the exporter or producer to an affiliate to be included in the normal value calculation, those sales prices must fall, on average, within a defined range, or band, around sales prices of the same or comparable merchandise sold by that exporter or producer to all unaffiliated customers. The band established for this test provides that the overall ratio calculated for an affiliate be between 98 percent and 102 percent, inclusive, of prices to unaffiliated customers in order for sales to that affiliate to be considered “in the ordinary course of trade” and used in the normal value calculation. This new test is consistent with the view, expressed by the Appellate Body at paragraph 148 of its report, that rules aimed at preventing the distortion of normal value through sales between affiliates should reflect, “even-handedly,” that “both high and low-priced sales between affiliates might not be ‘in the ordinary course of trade.’” Additionally, under the new methodology, the Department will compare sales to affiliates with sales to unaffiliated parties of the most similar merchandise, when sales of identical merchandise to unaffiliated parties are unavailable.

In comparing merchandise sold in the United States with merchandise sold in

the home market, the Department makes an adjustment, where appropriate, to normal value for differences in physical characteristics. This adjustment normally is based on differences in the variable costs of manufacturing attributable to the physical differences between the products. While product characteristics differ from case to case, the Department generally does not compare a comparison market product to a given product sold in the United States if the difference in variable manufacturing costs of the two products is greater than 20 percent. Under the new arm’s length methodology, the Department has applied a comparable adjustment to prices of similar merchandise sold to unaffiliated customers.

As a result of the application of this new methodology, the home market sales used to calculate normal value changed somewhat, in this *Section 129 Determination*, for each of the three companies examined during the investigation.

2. In the *Final Determination*, the Department applied adverse facts available to sales of Nippon and NKK that were affected by the absence of weight conversion factors on the record. Commerce has placed the weight conversion factor data submitted by Nippon and NKK on the record of this *Section 129 Determination*, and has used these factors in calculating the margins for affected sales, rather than using facts available margins for those sales. Refer to the proprietary *Memorandum to the File from Mark Hoadley through Sally Gannon, Analysis of Nippon Steel Corp.*, dated November 12, 2002, and the proprietary *Memorandum to the File from Mark Hoadley through Sally Gannon, Analysis of NKK Corp.*, dated November 12, 2002, for the conversion factors used.

3. In the *Final Determination*, the Department used adverse facts available to determine the margin for U.S. sales made by Kawasaki through its affiliate California Steel Industries (CSI), because Kawasaki did not provide requested information with respect to these sales. The Department stated in the *Final Determination* that, in not providing these data, Kawasaki had failed to cooperate by not acting to the best of its ability to obtain the CSI data, and, thus, that the use of an adverse inference was warranted in selecting facts available for the CSI sales. However, the Appellate Body report stated that the Department’s determination that Kawasaki had not cooperated was inconsistent with Article 6.8 and Annex II of the

Antidumping Agreement. Therefore, under the circumstances in this case, in selecting the facts available for the missing sales made through CSI, the Department has, in this *Section 129 Determination*, applied neutral facts available to these sales. Specifically, the Department has applied the weighted-average margin calculated for sales to all customers other than CSI.

4. Using the new rates for examined respondents, the Department also recalculated the “all others” rate. The Appellate Body’s report, at paragraph 129, stated:

[S]ection 735(c)(5)(A) of the United States Tariff Act of 1930, as amended, requires the inclusion of margins established, in part, on the basis of facts available, in the calculation of the ‘all others’ rate, and to the extent that this results in an ‘all others’ rate in excess of the maximum allowable rate under Article 9.4, we uphold the Panel’s finding that section 735(c)(5)(A) of the United States Tariff Act of 1930, as amended, is inconsistent with Article 9.4 of the *Anti-Dumping Agreement*.

As required by section 735(c)(5) of the Act, the Department has calculated the “all others” rate for this *Section 129 Determination* as the amount equal to the weighted average of the estimated margins established for the exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely on the basis of the facts available. In this *Section 129 Determination*, none of the exporters and producers individually examined had a rate which was zero, *de minimis*, or determined entirely on the basis of the facts available. Therefore, the “all others” rate for this *Section 129 Determination* is the weighted average of the recalculated company-specific rates for Nippon, NKK, and Kawasaki, the three individually examined producers and exporters. This rate is 22.92 percent.

Article 9.4 of the Antidumping Agreement requires that, when the authorities have limited their examination of the known exporters or producers in accordance with Article 6.10, any antidumping duty applied to imports from exporters or producers not included in the examination *shall not exceed* the weighted average margin of dumping established with respect to the selected exporters or producers. Article 9.4 further provides that, for purposes of that calculation, the authorities shall disregard any zero and *de minimis* margins and “margins established under the circumstances referred to in paragraph 8 of Article 6.”

The "all others" rate in this *Section 129 Determination* conforms to the requirements of Article 9.4 because the new "all others" rate of 22.92 percent *does not exceed* the rate of 25.95 percent, which is the weighted average of the company-specific rates for NKK and Kawasaki, the rates which are based solely on the data provided by those respondents for the purposes requested. Therefore, this weighted average is made up of margins that are not "established under the circumstances referred to in paragraph 8 of Article 6." The new rate for Nippon, in contrast, is based in part on the application of a facts-available "plug" to U.S. sales matched to home market products ("CONNUMs") for which Nippon failed to report product-specific costs. For those sales, the Department used the highest margin calculated for other sales, and averaged those margins into the overall margin for Nippon, thereby changing that margin. 64 FR 24329, 24348 (May 6, 1999). This methodology was not contested before either the WTO Panel or the Appellate Body. In contrast, Kawasaki's margin was calculated solely on the basis of the information Kawasaki provided with respect to the non-CSI sales, and was not altered by any use of facts available. Thus, Kawasaki's overall margin was not "established under the circumstances referred to in paragraph 8 of Article 6."

#### Comment 1

Two petitioning steel companies stated that the Department's draft *Section 129 Determination* adequately implemented the findings of the Appellate Body, but that it was ambiguous as to the nature and effect of that determination. They urged the Department to make clear that it is a new and different determination, rather than an amendment to the original determination in the investigation, and that it has prospective effect only. They also asked that the Department address the proper assessment rates for entries made prior to the date of implementation of the *Section 129 Determination*.

#### Department Position

We agree with petitioners' first argument, and have clarified, in this notice, the nature and effect of this *Section 129 Determination*. We do not agree, however, that a section 129 Determination should necessarily include a discussion of the proper assessment rates for entries made prior to the effective date of that determination, *i.e.*, entries to which that determination expressly does not apply.

Under U.S. law, such prior entries, if reviewed, are governed by the results of the relevant review. Section 751(a)(1) and (a)(2)(C) of the Act. If such prior entries are not reviewed, they are liquidated as entered. 19 CFR § 351.212(c).

#### Section 129 Determination Margins

As a result of the changes to the calculations, we determine that the following Section 129 Determination margins exist:

Kawasaki .....	40.26%
NKK .....	17.70%
Nippon .....	18.37%
All Others .....	22.92%

#### Continuation of Suspension of Liquidation

In accordance with section 129(c)(1)(B) of the URAA, we will instruct the U.S. Customs Service (Customs) to continue to suspend liquidation of all imports of hot-rolled steel from Japan that are entered, or withdrawn from warehouse, for consumption on or after November 22, 2002, the date on which the Trade Representative directed the Department under subsection (b)(4) of that section to implement this *Section 129 Determination*. Customs shall continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price. The suspension of liquidation instructions will remain in effect until further notice.

Because we completed an administrative review of Kawasaki subsequent to the issuance of the order in this proceeding, we will not issue a new cash deposit rate for Kawasaki pursuant to this *Section 129 Determination*. We have not conducted reviews of Nippon and NKK, however. Thus, we will instruct Customs to revise the cash deposit rates for these two firms with respect to subject merchandise entered, or withdrawn from warehouse, for consumption on or after November 22, 2002. The *Section 129 Determination* "all others" rate will be the new cash deposit rate for all exporters of subject merchandise other than Nippon, NKK and Kawasaki, with respect to entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after November 22, 2002.

This Section 129 Determination is issued and published in accordance with section 129(c)(2)(A) of the URAA.

Dated: November 22, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-30621 Filed 12-2-02; 8:45 am]

BILLING CODE 3510-DS-S

#### DEPARTMENT OF COMMERCE

#### National Institute of Standards and Technology (NIST)

#### Proposed Information Collection; Comment Request; Manufacturing Extension Partnership (MEP) Management Information Reporting

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506 (2)(A)).

**DATES:** Written comments must be submitted on or before February 3, 2003.

**ADDRESSES:** Direct written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Brian Clark, National Institute of Standards and Technology, Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Gaithersburg, MD 20899-4800, 301-975-8841 (phone) and 301-926-3787 (fax).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Manufacturing Extension Partnership (MEP), sponsored by NIST, is a national network of locally-based manufacturing extension centers working with small manufacturers to help improve their productivity, improve profitability and enhance their economic competitiveness.

The collected information will provide the MEP with information regarding the centers' performance in the delivery of technology, and business solutions to US-based manufacturers. The information obtained will assist in