

Allegation - Canadian Magnesium New Shipper Review," dated September 6, 2002, which is on file in the Commerce Department's Central Records Unit in Room B-099 of the main Commerce Department Building ("CRU").

### Scope of the Review

The products covered by this review are shipments of alloy magnesium from Canada. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes. The alloy magnesium subject to review is currently classifiable under item 8104.19.0000 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 subject to the order is dispositive.

Secondary and granular magnesium are not included in the scope of this order. Our reasons for excluding granular magnesium are summarized in *Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada*, 57 FR 6094 (February 20, 1992).

### Subsidies Valuation Information

#### Allocation Period

Pursuant to 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life ("AUL") of the renewable physical assets used to produce the subject merchandise. Section 351.524(d)(2) of the regulations creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System ("the IRS Tables"). For magnesium, the IRS Tables prescribe an AUL of 14 years.

In order to rebut the presumption in favor of the IRS Tables, the challenging party must show that the IRS Tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry in question, and that the difference between the company-specific or country-wide AUL and the IRS tables is significant. (See 19 CFR 351.524(d)(2)(i).) For this difference to be considered significant, it must be one year or greater. (See 19 CFR 351.524(d)(2)(ii).)

Late in these proceedings, Magnola claimed a 28-year company-specific AUL. The company was unable to provide historical or actual depreciation costs because it was still in its start-up phase and not yet operating at commercial levels. Instead, Magnola

provided an AUL calculation based on a prediction of future depreciation expenses and asset values (based on pre-production costs) over a 40-year horizon. Therefore, we preliminarily find that Magnola has not satisfied the requirements of section 351.524(d)(2)(iii) of our regulations and has not demonstrated that its proposed company-specific AUL reflects actual depreciation expenses and asset values for magnesium. We therefore have allocated Magnola's non-recurring benefits over 14 years as prescribed in the IRS Tables.

For non-recurring subsidies, we applied the "0.5 percent expense test" described in section 351.524(b)(2) of our regulations. In this test, we compare the amount of subsidies approved under a given program in a particular year to sales (total or export, as appropriate) in that year. If the amount of subsidies is less than 0.5 percent of sales, the benefits are expensed in their entirety in the year of receipt rather than allocated over the AUL period.

#### Discount Rates

In accordance with section 351.524(d)(3) of the regulations, it is the Department's preference to use a company's long-term fixed-rate cost of borrowing in the same year a grant was approved as the discount rate. However, where a company does not have a loan that could be used as a discount rate, the Department's next preference is to use the average cost of long-term fixed-rate loans in the country in question.

Magnola did not have long-term, fixed-rate, Canadian dollar loans or other debt obligations during 1998 or 2000, the years in which the MTM grants were approved. Therefore, we used the Canadian average rate of return on long-term commercial bonds as discount rates for the years 1998 and 2000.

### Analysis of Programs

#### I. Program Preliminarily Found to Confer Countervailable

##### • Subsidies Emploi-Québec Manpower Training Mandate ("MTM")

Emploi-Québec ("E-Q") is a labor-focused government unit created under the laws of Québec that administers the manpower and employment policies on behalf of Québec's Ministry of Employment and Solidarity (*Ministère de L'Emploi et de la Solidarité sociale*). The goal of the E-Q is to improve and develop the labor market in the region of Québec. To accomplish this goal, in 1998 the MTM program was established to provide financial support, in the form of grants, to companies with approved

training programs. Up to 50 percent of a company's training expenses, normally over a period of 24-months, are reimbursed under the MTM program with funding from the Labor Market Development Fund (*Fonds de développement du marché du travail*) ("LMDF"), a central fund established by the Government of Québec to finance the labor objectives of the E-Q. With the exception of government-affiliated agencies, companies in all industries are eligible for these benefits.

Under the MTM program, there are two funding levels under which companies may receive reimbursement of labor training expenses: small-scale economic projects and major economic projects. Projects at both funding levels must satisfy the E-Q's five policy objectives of job preparation, job integration, job management, job stabilization, and job creation, before becoming eligible for reimbursement. Once the five objectives are met, companies are eligible to receive reimbursement of 50 percent of their labor training expenses. Small-scale project recipients are eligible to receive a maximum reimbursement of \$100,000.

The \$100,000 reimbursement limit does not apply to major economic projects. However, major economic projects are required to: 1) create either 50 jobs or 100 jobs in 24 months, depending on whether the company is a new company or a company that has been in operation; 2) have the approval of the Ministry's *Commission des partenaires du marché du travail* ("CPMT"); and 3) agree to close monitoring by the E-Q. The LMDF sets aside \$40 million annually to finance major economic projects and while all industries are eligible to receive funding, priority is given to manufacturing sectors where exporting is a priority and to projects from the service, commerce and accommodation sectors, if they have the potential to attract an international clientele or foreign business to Québec.

In 1998, Magnola submitted a human resource development plan to the E-Q that described its new magnesium plant, the new technology it would be using and the training programs that Magnola needed to develop a sufficiently skilled workforce. Magnola met the criteria for eligibility as a major economic project. In 1998 and 2000, the E-Q approved grants to reimburse 50 percent of Magnola's training expenses.

Because there are two funding levels in the MTM program, we are conducting an analysis to determine if the two levels are integrally linked and should be treated as one program. According to § 351.502(c) of the Department's