

SUPPLEMENTARY INFORMATION:**Petitioner**

The petitioner in this investigation is Magnum Magnetics Corporation (petitioner).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation (POI), is January 1, 2006, through December 31, 2006.

Case History

On February 25, 2008, the Department published in the **Federal Register** its preliminary affirmative determination in the countervailing duty (CVD) investigation of RFM from the PRC. See *Raw Flexible Magnets from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 9998 (February 25, 2008) (*RFM Preliminary Determination*).

On April 29, 2008, we received a case brief from the Government of the People's Republic of China (GOC). Petitioner submitted a rebuttal brief on May 5, 2008. Neither the GOC nor petitioner requested a hearing.

Scope of Investigation

The products covered by this investigation are certain flexible magnets regardless of shape,¹ color, or packaging.² Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized.

Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

¹ The term "shape" includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

² Packaging includes retail or specialty packaging such as digital printer cartridges.

Specifically excluded from the scope of this investigation are printed flexible magnets, defined as flexible magnets (including individual magnets) that are laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: a trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (e.g., "print this side up," "this side up," "lamine here"); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re-printed); printing on the back (magnetic side); or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of this investigation. The products subject to the investigation are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of this proceeding is dispositive.

Scope Comments

Interested parties submitted comments on the scope of investigation. Those comments are fully addressed in the Decision Memorandum, which is hereby adopted by this notice.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended, (the Act), section 701(a)(2) of the Act applies to this investigation. Accordingly, the International Trade Commission (ITC) must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to a U.S. industry. On November 9, 2007, the ITC published its preliminary determination that there is

DEPARTMENT OF COMMERCE**International Trade Administration**

(C-570-923)

Raw Flexible Magnets from the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of raw flexible magnets (RFM) from the People's Republic of China (PRC). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: July 10, 2008.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-4793.

a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from the PRC of subject merchandise. *See Raw Flexible Magnets from China and Taiwan*, Investigation Nos. 701-TA-452 and 731-TA-1129 and 1130 (Preliminary), 72 FR 63629 (November 9, 2007).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Decision Memorandum. Attached to this notice as an Appendix is a list of the issues that parties raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit (CRU). In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Application of Facts Available, Including the Application of Adverse Inferences

For purposes of this final determination, we have relied on facts available and have used adverse inferences to determine the countervailable subsidy rates for the two mandatory respondents: China Ningbo Cixi Import Export Corporation (Cixi) and Polyflex Magnets Ltd. (Polyflex), in accordance with sections 776(a) and (b) of the Act. A full discussion of our decision to apply adverse facts available (AFA) is presented in the Decision Memorandum in the section "Application of Facts Available and Use of Adverse Inferences" and in "Analysis of Comments" at Comment 6.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the companies under investigation, Cixi and Polyflex. With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case,

the rate calculated for the two investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which we could determine an all-others rate. As a result, we have used the AFA rate calculated for Cixi and Polyflex as the all-others rate. This method is consistent with the Department's past practice. *See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina*, 66 FR 37007, 37008 (July 16, 2001); *see also Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India*, 68 FR 68356, 68357 (December 8, 2003).

Producer/Exporter	Subsidy Rate
China Ningbo Cixi Import Export Corporation	109.95 percent <i>ad valorem</i>
Polyflex Magnets Ltd.	109.95 percent <i>ad valorem</i>
All Others	109.95 percent <i>ad valorem</i>

As a result of our *RFM Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed the U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of RFM from the PRC which were entered or withdrawn from warehouse, for consumption on or after February 25, 2008, the date of the publication of the *RFM Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered on or after June 24, 2008, but to continue the suspension of liquidation of entries made from February 25, 2008, through June 24, 2008.

We will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-

privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: July 2, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Comment 1: Application of CVD Law to China

Comment 2: Imposition of CVD Law on China and Administrative Procedures Act

Comment 3: Specificity of Tax Programs to Foreign-Invested Enterprises

Comment 4: Countervailability of Value Added Tax (VAT) Export Rebates

Comment 5: VAT and Import Duty Exemptions on Imported Equipment Are One Program

Comment 6: AFA Rates for Provincial Programs

[FR Doc. E8-15735 Filed 7-9-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

A-570-922

Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from the People's Republic of China

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

EFFECTIVE DATE: July 10, 2008.

SUMMARY: The Department of Commerce (the "Department") has determined that raw flexible magnets from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended (the "Act"). The final dumping margins for this investigation are listed in the "Final Determination Margins" section of this notice.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge or Shawn Higgins; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3518 and (202) 482-0679, respectively.

SUPPLEMENTARY INFORMATION:**Case History**

On April 25, 2008, the Department published in the **Federal Register** its preliminary determination that raw flexible magnets from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in the Act. *See Preliminary Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from the People's Republic of China*, 73 FR 22327 (April 25, 2008) ("Preliminary Determination"). For the *Preliminary Determination*, the Department assigned a 185.28 percent dumping margin to the PRC-wide entity – including Polyflex Magnets Ltd. ("Polyflex") – and a 105.00 percent dumping margin to Guangzhou Newlife Magnet Co., Ltd. ("Newlife"), a separate rate applicant. In May and June 2008, Magnum Magnetics Corporation ("Petitioner"), Target Corporation ("Target"), A-L-L Magnetics LLP ("A-L-L"), and SH Industries, LLC ("SH Industries") filed comments regarding

the scope of the investigation, pursuant to the Department's request for scope comments contained in the *Preliminary Determination*. See "Scope Comments" section below. No party submitted case briefs.

Changes since the Preliminary Determination

As discussed below, we have made certain changes to the language describing the scope of this investigation. Otherwise, because no party submitted case briefs and there are no other circumstances which warrant the revision of our *Preliminary Determination*, we have not made changes to our analysis or the dumping margins assigned in the *Preliminary Determination*.

Period of Investigation

The period of investigation ("POI") is January 1, 2007, through June 30, 2007. This period comprises the two most recently completed fiscal quarters prior to the month in which the petition was filed (*i.e.*, September 2007). See 19 CFR 351.204(b)(1).

Scope of the Investigation

The products covered by this investigation are certain flexible magnets regardless of shape,¹ color, or packaging.² Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized.

Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

Specifically excluded from the scope of this investigation are printed flexible magnets, defined as flexible magnets (including individual magnets) that are

laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: a trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (*e.g.*, "print this side up," "this side up," "laminated here"); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re-printed); printing on the back (magnetic side); or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of this investigation. The products subject to the investigation are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of this proceeding is dispositive.

Scope Comments

In the *Preliminary Determination*, the Department explained that, on November 7, 2007, SH Industries, a U.S. importer of subject merchandise, argued that magnetic photo pockets, which are flexible magnets with clear plastic material fused to the magnet to form a pocket into which photographs and other items may be inserted for display, should be excluded from the scope of the antidumping and countervailing duty investigations on raw flexible magnets from the PRC and Taiwan. On November 13, 2007, Petitioner filed a response to the request by SH Industries, arguing that magnetic photo pockets are within the scope of the investigations. On April 11, 2008, Petitioner submitted additional arguments concerning this issue. Because we received this letter only four business days before the statutory deadline for the *Preliminary Determination*, we did not have an

opportunity to consider it prior to issuance of the *Preliminary Determination*.

In the *Preliminary Determination*, 73 FR at 22333, the Department invited interested parties to submit comments on Petitioner's April 11, 2008, submission and to present evidence concerning the meaning of the terms "sheeting, strips, and profiles" as those terms are used within the industry. Additionally, because the scope language stated that "subject merchandise may be of any color and may or may not be laminated or bonded with paper, plastic or other material, which paper, plastic or other material may be of any composition and/or color," the Department encouraged interested parties to comment on whether the plastic photo pocket fused to the flexible magnet satisfies this description. In addition, the Department stated that interested parties could submit information that would be relevant in an analysis conducted pursuant to 19 CFR 351.225(k)(2).

In May and June 2008, Petitioner, Target, A-L-L, and SH Industries filed comments and rebuttal comments regarding the scope of the investigations and magnetic photo pockets. On June 9, 2008, officials from the Department met with representatives of Target to discuss the scope of the investigations. See "Memorandum to the File," dated June 10, 2008. On June 13, 2008, counsel for Petitioner met with officials from the Department to discuss the scope of the investigations. See "Memorandum to the File," dated June 16, 2008.

The Department has analyzed the comments submitted by SH Industries, Target, A-L-L, and Petitioner and has determined that magnetic photo pockets are within the scope of the investigations. The Department has also modified the language describing the scope of these investigations to clarify the product coverage. In its request, SH Industries acknowledges that its magnetic photo pockets consist of flexible magnet material with a layer of plastic laminate fused along the sides of the flexible magnet. At no point does SH Industries argue that the flexible magnetic material in its photo pockets does not meet the physical description of the flexible magnets covered by the scope of the investigations. Rather, SH Industries argues that the attachment of a layer of clear plastic to the flexible magnet results in a product that is outside the scope of the investigations because the purpose of the product is to protect photographs.

Similarly, Target asserts that, rather than being a raw flexible magnet, magnetic photo pockets are properly

¹ The term "shape" includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

² Packaging includes retail or specialty packaging such as digital printer cartridges.

characterized as finished retail products which use magnetic sheeting as an input. Target also argues that the clear plastic laminate is neither bonded nor laminated to the magnetic sheeting.

A-L-L argues that the scope should be limited to products produced by the Petitioner as evidenced by inclusion on the Petitioner's website.

As an initial matter, the Department does not generally define subject merchandise by end-use application. Moreover, because the language of the scope stated originally that "{s}ubject merchandise may be of any color and may or may not be laminated or bonded with paper, plastic, or other material, which paper, plastic, or other material may be of any composition and/or color," *Preliminary Determination*, 73 FR at 22332, the plastic laminate fused to the sides of the flexible magnet does not remove the photo pockets from the scope of the investigations. Finally, the issue of whether an item appears on the Petitioner's website is not relevant to our analysis. For these reasons, we have determined that the magnetic photo pockets described by SH Industries are within the scope of the investigations. In addition, we have clarified that "{s}ubject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color." Finally, because we have received inquiries concerning the terminology in the scope language and product coverage, we have clarified product coverage by reordering the scope language and including certain explanatory definitions. Our revised scope language neither enlarges nor contracts product coverage. See "Scope of Investigation" section above.

The Department received a scope-ruling request from Magnet LLC on May 21, 2008. Because this request was made after the *Preliminary Determination*, the Department has not addressed this request in this final determination. The Department will consider Magnet LLC's scope-ruling request in the event the Department publishes an antidumping duty order in this proceeding.

Non-Market Economy Treatment

In the *Preliminary Determination*, the Department considered the PRC to be a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the*

People's Republic of China: Preliminary Results of 2001-2002 Administrative Review and Partial Rescission of Review, 68 FR 7500 (February 14, 2003), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003). No party has commented on the Department's classification of the PRC as an NME. Therefore, for the final determination, we continue to consider the PRC to be an NME.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994), and 19 CFR 351.107(d).

In the *Preliminary Determination*, we found that Newlife demonstrated its eligibility for separate-rate status. Since the publication of the *Preliminary Determination*, no party has commented on Newlife's eligibility for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by Newlife demonstrates both a *de jure* and *de facto* absence of government control with respect to its respective exports of the merchandise under investigation. Thus, we continue to find that Newlife is eligible for separate-rate status. Normally the separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding *de minimis* margins or margins based entirely on adverse facts available ("AFA"). See section 735(c)(5)(A) of the Act. In this case, given the absence of participating respondents and having calculated no margins, we have assigned to Newlife the simple average of the margins alleged in the petition, *i.e.*, 105.00

percent. See section 735(c)(5)(B) of the Act and *Preliminary Determination*, 73 FR at 22329-30.

We determined in the *Preliminary Determination* that because Polyflex withdrew from the investigation, thus preventing the Department from asking additional questions on its separate rate status and preventing the Department from verifying its responses, the Department has no basis upon which to grant Polyflex a separate rate. We received no comments on this denial of a separate rate. Although Polyflex remains a mandatory respondent, the Department will continue to consider Polyflex part of the PRC-wide entity because it failed to demonstrate that it qualifies for a separate rate.

The PRC-Wide Rate

In the *Preliminary Determination*, the Department found that certain companies did not respond to our requests for information. See *Preliminary Determination*, 73 FR at 22330. We treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. *Id.* In addition, in the *Preliminary Determination*, the Department applied total AFA to Polyflex. We determined, as AFA, that Polyflex was not eligible for a separate rate and we are treating Polyflex as part of the PRC-wide entity. No additional information was placed on the record with respect to any of these companies after the *Preliminary Determination*. Therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate.

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. 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 (February 4, 2000). See also "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 870 (1994). We determine that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within an NME country are subject to government control, and because only Newlife has overcome that presumption, we are applying a single antidumping rate (*i.e.*, the PRC-wide entity rate) to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. *See, e.g., Synthetic Indigo From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide entity rate applies to all entries of subject merchandise except for entries from Newlife.

In the *Preliminary Determination*, we assigned to the PRC-wide entity the highest margin alleged in the petition, as revised in Petitioner's supplemental responses, *i.e.*, 185.28 percent. *See Preliminary Determination*, 73 FR at 22331. We received no comments on this rate. For the final determination, we have continued to assign to the PRC-wide entity the rate of 185.28 percent.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted "corroborate" to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil*, 65 FR 5554, 5568 (February 4, 2000); *see, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

Because there are no cooperating mandatory respondents, to corroborate the 105.00 and 185.28 percent margins used as facts available for Newlife and as AFA for the PRC-wide entity, respectively, we relied upon our pre-initiation analysis of the adequacy and accuracy of the information in the petition. *See* "Import Administration AD Investigation Initiation Checklist: Raw Flexible Magnets from the People's Republic of China," (October 11, 2007). During the initiation stage, we examined evidence supporting the calculations in

the petition and the supplemental information provided by Petitioner to determine the probative value of the margins alleged in the petition. During our pre-initiation analysis, we examined the information used as the basis of export price ("EP") and normal value ("NV") in the petition, and the calculations used to derive the alleged margins. Also during our pre-initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition, which corroborated key elements of the EP and NV calculations. *Id.* We received no comments as to the relevance or probative value of this information. Therefore, for the final determination, the Department finds that the rates derived from the petition for purposes of initiation have probative value for the purpose of being selected as the facts available rate for Newlife and the AFA rate assigned to the PRC-wide entity.

Final Determination Margins

We determine that the following percentage dumping margins exist for the POI:

Manufacturer/Exporter	Margin (Percent)
Guangzhou Newlife Magnet Electricity Co., Ltd. ³	105.00
PRC-wide Entity (including Polyflex)	185.28

³Newlife both manufactures and exports subject merchandise.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of raw flexible magnets from the PRC, as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after April 25, 2008, the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin amount by which the NV exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in

this final determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide entity rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: July 2, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E8-15732 Filed 7-9-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-583-842]

Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan

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

DATES: *Effective Date:* July 10, 2008.

SUMMARY: The Department of Commerce determines that imports of raw flexible magnets from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins are listed below in the section entitled "Final Determination of Investigation."

FOR FURTHER INFORMATION CONTACT: Kristin Case or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-3174 and (202) 482-4477, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On April 25, 2008, the Department of Commerce (the Department) published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of raw flexible magnets from Taiwan. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan*, 73 FR 22332 (April 25, 2008) (*Preliminary Determination*). Interested parties were invited to comment on our Preliminary Determination.

Period of Investigation

The period of investigation is July 1, 2006, through June 30, 2007.

Scope of Investigation

The products covered by this investigation are certain flexible magnets regardless of shape,¹ color, or packaging.² Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element,

¹ The term "shape" includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

² Packaging includes retail or specialty packaging such as digital printer cartridges.

which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized.

Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

Specifically excluded from the scope of this investigation are printed flexible magnets, defined as flexible magnets (including individual magnets) that are laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: a trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (e.g., "print this side up," "this side up," "lamine here"); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re-printed); printing on the back (magnetic side; or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of this investigation. The products subject to the investigation are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of this proceeding is dispositive.

Scope Comments

In the *Preliminary Determination*, the Department explained that, on November 7, 2007, SH Industries, a U.S. importer of subject merchandise, argued that magnetic photo pockets, which are flexible magnets with clear plastic material fused to the magnet to form a pocket into which photographs and other items may be inserted for display, should be excluded from the scope of the antidumping and countervailing duty investigations on raw flexible magnets from the People's Republic of China and Taiwan. On November 13, 2007, Magnum Magnetics Corporation (Petitioner) filed a response to the request by SH Industries, arguing that magnetic photo pockets are within the scope of the investigations. On April 11, 2008, Petitioner submitted additional arguments concerning this issue. Because we received this letter only four business days before the statutory deadline for the *Preliminary Determination*, we did not have an opportunity to consider it prior to issuance of the *Preliminary Determination*.

In the *Preliminary Determination*, 73 FR at 22333, the Department invited interested parties to submit comments on Petitioner's April 11, 2008, submission and to present evidence concerning the meaning of the terms "sheeting, strips, and profiles" as those terms are used within the industry. Additionally, because the scope language stated that "subject merchandise may be of any color and may or may not be laminated or bonded with paper, plastic or other material, which paper, plastic or other material may be of any composition and/or color," the Department encouraged interested parties to comment on whether the plastic photo pocket fused to the flexible magnet satisfies this description. In addition, the Department stated that interested parties could submit information that would be relevant in an analysis conducted pursuant to 19 CFR 351.225(k)(2).

In May and June 2008, Petitioner, Target, A-L-L, and SH Industries filed comments and rebuttal comments regarding the scope of the investigations and magnetic photo pockets. On June 9, 2008, officials from the Department met with representatives of Target to discuss the scope of the investigations. See Memorandum to the File, dated June 10, 2008. On June 13, 2008, counsel for Petitioner met with officials from the Department to discuss the scope of the investigations. See Memorandum to the File, dated June 16, 2008.

The Department has analyzed the comments submitted by SH Industries, Target, A-L-L, and Petitioner and has determined that magnetic photo pockets are within the scope of the investigations. The Department has also modified the language describing the scope of these investigations to clarify the product coverage. In its request, SH Industries acknowledges that its magnetic photo pockets consist of flexible magnet material with a layer of plastic laminate fused along the sides of the flexible magnet. At no point does SH Industries argue that the flexible magnetic material in its photo pockets does not meet the physical description of the flexible magnets covered by the scope of the investigations. Rather, SH Industries argues that the attachment of a layer of clear plastic to the flexible magnet results in a product that is outside the scope of the investigations because the purpose of the product is to protect photographs.

Similarly, Target asserts that, rather than being a raw flexible magnet, magnetic photo pockets are properly characterized as finished retail products which use magnetic sheeting as an input. Target also argues that the clear plastic laminate is neither bonded nor laminated to the magnetic sheeting.

A-L-L argues that the scope should be limited to products produced by the Petitioner as evidenced by inclusion on the Petitioner's Web site.

As an initial matter, the Department does not generally define subject merchandise by end-use application. Moreover, because the language of the scope stated originally that "{s}ubject merchandise may be of any color and may or may not be laminated or bonded with paper, plastic, or other material, which paper, plastic, or other material may be of any composition and/or color," *Preliminary Determination*, 73 FR at 22332, the plastic laminate fused to the sides of the flexible magnet does not remove the photo pockets from the scope of the investigations. Finally, the issue of whether an item appears on the Petitioner's Web site is not relevant to our analysis. For these reasons, we have determined that the magnetic photo pockets described by SH Industries are within the scope of the investigations. In addition, we have clarified that "{s}ubject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color." Finally, because we have received inquiries concerning the terminology in the scope language and product coverage, we have

clarified product coverage by reordering the scope language and including certain explanatory definitions. Our revised scope language neither enlarges nor contracts product coverage. See *Scope of Investigation* section above.

The Department received a scope-ruling request from Magnet LLC on May 21, 2008. Because this request was made after the *Preliminary Determination*, the Department has not addressed this request in this final determination. The Department will consider Magnet LLC's scope-ruling request in the event the Department publishes an antidumping duty order in this proceeding.

Changes Since Preliminary Determination

As discussed above, we have made certain changes to the language describing the scope of this investigation. Otherwise, because no party submitted case briefs and there are no other circumstances which warrant the revision of our *Preliminary Determination*, we have not made changes to our analysis or the dumping margins assigned in the *Preliminary Determination*.

Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, Kin Fong Magnets Co., Ltd. (Kin Fong), Magruba Flexible Magnets Co., Ltd. (Magruba), and JASDI Magnet Co., Ltd. (JASDI), all mandatory respondents, did not act to the best of their ability in responding to our requests for information. Thus, the Department continues to find that the use of adverse facts available is warranted for these companies under sections 776(a)(2) and (b) of the Act. See *Preliminary Determination*, 73 FR at 22334. As we explained in *Preliminary Determination*, the rate of 38.03 percent we selected as the adverse facts-available rate is the highest margin alleged in the petition. *Id.* 73 FR at 22335. See also *Antidumping Duty Investigation Initiation Checklist: Raw Flexible Magnets from Taiwan* (October 18, 2007) (*Taiwan Initiation Checklist*). We included the range of margins from our Taiwan Initiation Checklist in *Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan*, 72 FR 59071, 59075 (October 18, 2007). Further, as discussed in *Preliminary Determination*, we corroborated the adverse facts-available rate pursuant to section 776(c) of the Act.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the all-others rate, the simple average of the margins in the petition. See *Notice of Final Determination of Sales at Less Than Fair Value: Glycine from the Republic of Korea*, 72 FR 67275 (November 28, 2007); see also *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan*, 72 FR 67271 (November 28, 2007). Consistent with our practice we calculated a simple average of the rates in the *Petition*, as listed in the *Initiation Notice*, and assigned this rate to all other manufacturers/exporters. For details of these calculations, see the memorandum from Catherine Cartsos to File entitled "Antidumping Duty Investigation on Raw Flexible Magnets from Taiwan—Analysis Memo for All-Others Rate," dated April 18, 2008.

Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period July 1, 2006, through June 30, 2007:

Manufacturer or exporter	Margin (percent)
Kin Fong	38.03
Magruba	38.03
JASDI	38.03
All Others	31.20

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Taiwan entered, or withdrawn from warehouse, for consumption on or after April 25, 2008, the date of the publication of *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) The rate for the mandatory respondents will be the rates we have determined in this

final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 31.20 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: July 2, 2008.

David M. Spooner,

*Assistant Secretary for Import
Administration.*

[FR Doc. E8-15743 Filed 7-9-08; 8:45 am]

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