

**DEPARTMENT OF COMMERCE****International Trade Administration**

A-570-922

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

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

**EFFECTIVE DATE:** April 25, 2008.

**SUMMARY:** The Department of Commerce (the "Department") preliminary determines that raw flexible magnets ("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 estimated dumping margins for this investigation are listed in the "Preliminary 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 or (202) 482-0679, respectively.

**SUPPLEMENTARY INFORMATION:****Case History**

On September 21, 2007, the Department received a petition concerning imports of magnets from the PRC and Taiwan filed in proper form by Magnum Magnetics Corporation ("Petitioner"). On October 4, 2007, in response to a supplemental questionnaire issued by the Department on September 27, 2008, Petitioner submitted a revised version of the petition's margin calculations. See "Petitioner's Response to Questionnaire Received on September 27, 2007 in Investigation No. A-570-922," ("Pre-initiation Supplemental Response") (October 4, 2007). The Department initiated antidumping duty investigations of magnets from the PRC and Taiwan on October 11, 2007. See *Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan*, 72 FR 59071 (October 18, 2007) ("Initiation Notice"). On November 5, 2007, the International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material

injury by reason of imports of magnets from the PRC and Taiwan. 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).

On November 1, 2007, the Department selected Polyflex Magnets Ltd. ("Polyflex") and Qualita Magnetics Ltd. ("Qualita"), as the mandatory respondents in this investigation based upon U.S. Customs and Border Protection ("CBP") entry data. See Memorandum from Abdelali Elouaradia, Office Director, to Stephen J. Claeys, Deputy Assistant Secretary, "Respondent Selection Memorandum," dated November 1, 2007.

On November 1, 2007, the Department issued shipment questionnaires and sections A, C, and D of its antidumping duty questionnaire to the mandatory respondents. On November 9, 2007, Polyflex and Qualita submitted timely responses to the shipment questionnaires. Polyflex confirmed that it exported subject merchandise to the United States during the period of investigation ("POI"). Qualita reported that it did not export such merchandise to the United States during the POI. In November and December 2007, the Department issued shipment questionnaires to additional companies identified as large exporters by CBP entry data. The Department was able to determine through public means that four companies, Logimag Limited ("Logimag"), Marketa International, Ltd. ("Marketa"), Ningbo Magnetics Factory Ltd. ("Ningbo"), and Sinomag Technology Co., Ltd. ("Sinomag"), exported magnets. Ningbo and Sinomag reported that they did not export subject merchandise to the United States during the POI. Logimag and Marketa did not respond to the Department's original shipment letter or our second inquiries.

Polyflex submitted timely responses to sections A, C, and D of the Department's antidumping duty questionnaire during December 2007 and January 2008. The Department received comments from Petitioner and issued supplemental questionnaires to Polyflex in December 2007 and January 2008. On January 10, 2008, Polyflex submitted a timely response to the section A supplemental questionnaire. However, Polyflex did not respond to the sections C and D supplemental questionnaires.

In January 2008, the Department released to interested parties a memorandum from the Department's Office of Policy that listed potential surrogate countries and invited interested parties to comment on

surrogate country and factor value selection. See Memorandum from Carole Showers, Acting Director, Office of Policy, to Mark Manning, Program Manager, AD/CVD Operations, Office 4, "Antidumping Duty Investigation of Raw Flexible Magnets from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated January 14, 2008 ("Office of Policy Surrogate Country Memorandum"). No party responded to the Department's invitation to comment on surrogate country selection. However, on February 4, 2008, Petitioner submitted comments on surrogate values. All of the surrogate value data submitted by Petitioner are from India.

On January 16, 2008, Petitioner requested a 50-day extension of the preliminary determination in this investigation. On January 31, 2008, the Department published the postponement of the preliminary determination. See *Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation: Raw Flexible Magnets from the People's Republic of China*, 73 FR 5794 (January 31, 2008). On February 13, 2008, the Department published a correction to the above-referenced notice. See *Notice of Correction of Postponement of Preliminary Determination of Antidumping Duty Investigation: Raw Flexible Magnets from the People's Republic of China*, 73 FR 8291 (February 13, 2008). On February 12, 2008, Polyflex withdrew from participating in the investigation. See Letter from Garvey Schubert Barer to the Department of Commerce, regarding "Raw Flexible Magnets from the People's Republic of China: Notice of Withdrawal," dated February 12, 2008 ("Polyflex Withdrawal Letter").

On December 14, 2007, the Department received a timely separate rate application from Guangzhou Newlife Magnet Co., Ltd. ("Newlife"). The Department issued supplemental questionnaires to Newlife and received timely responses in February and March 2008.

On April 11, 2008, Petitioner submitted comments on magnetic photo pockets and the application of adverse facts available ("AFA") in calculating dumping margins. See "Raw Flexible Magnets from the People's Republic of China: Comments on Scope and Adverse Facts Available," (April 11, 2008).

**Period of Investigation**

The 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 magnet sheeting, strips, and profile shapes. Subject flexible magnet sheeting, strips, and profile shapes 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 magnet sheeting, strips, and profile shapes are capable of being permanently magnetized, but may be imported in either magnetized or unmagnetized (including demagnetized) condition. 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. Subject merchandise may be uncoated or may be coated with an adhesive or any other coating or combination of coatings. Subject merchandise is within the scope of this investigation whether it is in rolls, coils, sheets, or pieces, and regardless of physical dimensions or packaging, including specialty packaging such as digital printer cartridges.

Specifically excluded from the scope of this investigation is retail printed flexible magnet sheeting, defined as flexible magnet sheeting (including individual magnets) that is laminated 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 magnet sheeting if the printing concerned consists of only: 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 sheeting; 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 sheeting 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 sheeting to be re-printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of the subject merchandise that are not specifically excluded are included in this scope. 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, however, and the written description of the scope of this proceeding is dispositive.

### Scope Comments

In accordance with the Preamble to the Department’s regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (Preamble)), in our *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.

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, the petitioner filed a response to the request by SH Industries, arguing that magnetic photo pockets are properly within the scope of the investigations. On April 11, 2008, the petitioner submitted additional arguments concerning this issue. Because we received this letter only four business days before the statutory deadline for this preliminary determination, we did not have an opportunity to consider it prior to issuance of this preliminary determination.

We invite interested parties to submit comments on the 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 also states 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,” we encourage interested parties to comment on whether the plastic photo pocket fused to the flexible magnet satisfies this description.

Finally, interested parties may submit information that would be relevant in an analysis conducted pursuant to section 351.225(k)(2) of our regulations. The Department deadline for such comments will be 14 days after the publication of this notice. Rebuttal comments must be filed within five days thereafter. Comments should be addressed to Import Administration’s Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, N.W., Washington, D.C. 20230.

### Non-Market Economy Treatment

The Department considers 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 (TRBs), 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 *TRBs, 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). Therefore, in this preliminary determination, we have treated the PRC as an NME country and applied our current NME methodology.

### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department’s policy to assign all exporters of merchandise subject to investigation involving an NME country this single rate unless an exporter can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports.

The Department’s separate-rate test is not concerned, in general, with macroeconomic/border-type controls,

e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). Rather, the test focuses on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Notice of Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61758 (November 19, 1997), and TRBs, *Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”), as further developed in *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) (“*Silicon Carbide*”), and Section 351.107(d) of the Department's regulations. In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

In this case, Polyflex has withdrawn from participating in the investigation. Since Polyflex's withdrawal has prevented the Department from asking additional supplemental questions on its separate rate status, and prevents the Department from verifying its responses, the Department has no basis upon which to grant Polyflex a separate rate. Although Polyflex remains a mandatory respondent, the Department considers Polyflex part of the PRC-wide entity because it failed to demonstrate that it qualifies for a separate rate.

Newlife submitted a timely separate rates application. In its application, Newlife stated that it is a wholly Chinese-owned company. Therefore, the Department must analyze whether this company can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. In its application, it provided company-specific information to

demonstrate that it operates independently of *de jure* and *de facto* government control, and therefore is entitled to a separate rate.

#### A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses, (2) any legislative enactments decentralizing control of companies, and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR 20588 at Comment 1.

The evidence provided by Newlife supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) an absence of restrictive stipulations associated with Newlife's business and export licenses, and (2) the existence of legislative enactments decentralizing control of companies. *See* “Supplemental Separate Rate Questionnaire Response of Guangzhou Newlife Magnet Electricity Co., Ltd.” (February 22, 2008). Therefore, the Department has preliminarily found a *de jure* absence of government control over Newlife's export activities.

#### B. Absence of De Facto Control

The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates. Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

The evidence provided by Newlife supports a preliminary finding of *de facto* absence of governmental control based on the following: (1) Newlife sets

export prices independent of the government and without the approval of a government authority; (2) Newlife has the authority to negotiate and sign contracts and other agreements; (3) Newlife has autonomy from the government regarding the selection of management; and (4) Newlife retains proceeds from sales and makes independent decisions regarding the disposition of profits or financing of losses. Therefore, the Department has preliminarily found a *de facto* absence of government control over Newlife's export activities.

The evidence placed on the record of this investigation by Newlife preliminarily demonstrates an absence of *de jure* and *de facto* government control with respect to Newlife's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*.

In determining what rate to assign companies receiving separate rates, the Department's normal practice is to weight-average the individually calculated margins from the mandatory respondents. *See* section 735(c)(5)(A). If, however, the estimated weighted average margins for all individually investigated respondents are *de minimis* or based entirely on AFA, the Department may use any reasonable method. *See* section 735(c)(5)(B). In this investigation, the only other margin is the PRC-wide entity margin which is based on AFA. *See* “Adverse Facts Available” section below. Because the rate for all individually investigated respondents is based on AFA and the only other information on the record concerning dumping rates is contained in the petition, we have relied on information from the petition to determine a rate to be applied to the respondent that has demonstrated entitlement to a separate rate. *See, e.g., 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) (citing *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5527–28 (February 4, 2000) and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada*, 64 FR 15457 (March 31, 1999)). *See also Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479 (February 4, 2008). Therefore, in this case, we have assigned to Newlife the

simple average of the margins alleged in the petition, *i.e.*, 105.00 percent. See Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Antidumping Duty Investigation of Raw Flexible Magnets from the People's Republic of China (PRC): Calculation of Margin Applied to Separate Rate Applicant," dated April 18, 2008 ("Separate Rate Calculation Memorandum").

#### Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party: (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On February 12, 2008, counsel for Polyflex informed the Department that it would not continue participation in the instant investigation. See Polyflex Withdrawal Letter. Because Polyflex ceased participation in the instant investigation prior to submitting responses to the Department's sections C and D supplemental questionnaires, the Department was unable to obtain information necessary to complete the investigation. Furthermore, by ending its participation, Polyflex denied the

Department the ability to ask additional section A supplemental questions, and conduct its verification of Polyflex's responses. Verification is integral to the Department's analysis because it allows the Department to validate that it is relying upon accurate information and calculating dumping margins as accurately as possible. By withdrawing from the investigation, and thereby not allowing verification, Polyflex prevented the Department from corroborating its reported information, including separate rates information, and significantly impeded the proceeding. Moreover, by not allowing verification, Polyflex failed to demonstrate that it operates free of government control and that it is entitled to a separate rate. Therefore, we find that Polyflex is part of the PRC-wide entity. Moreover, because the PRC-wide entity, including Polyflex, failed to respond to our questionnaires, we find that the use of facts available, pursuant to sections 776(a)(2)(A), (C), and (D), is appropriate in determining the applicable dumping margin for the PRC-wide entity.

The Department attempted to identify additional mandatory respondents by issuing shipment letters to Marketa and Logimag on November 15, 2007, and November 29, 2007, respectively. The Department issued a second shipment questionnaire to Marketa on November 28, 2007, and to Logimag on December 12, 2007. These companies did not respond to the Department's requests for information. We have treated the non-responsive PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate. Since the PRC-wide entity withheld information requested by the Department, we find that the use of facts available is appropriate to determine the PRC-wide rate, pursuant to section 776(a)(2)(A) of the Act. See *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986 (January 31, 2003), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

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 *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); *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819-20 (October 16, 1997); *Crawfish Processors Alliance v. United States*, 343 F. Supp. 2d 1242 (CIT 2004) (approving use of AFA when respondent refused to participate in verification); see also *Statement of Administrative Action*, accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103-316, 870 (1994) ("SAA"). Polyflex's withdrawal from participation, non-cooperation in submitting requested information, and the fact that its withdrawal prevents the Department from conducting verification, constitute a failure to cooperate by not acting to the best of its ability to comply with requests for information in accordance with section 776(b) of the Act. Concerning the PRC exporters that refused to respond to the Department's shipment letters, because these exporters failed to respond to the Department's request for information, the Department concludes that these companies have failed to cooperate to the best of their abilities. Since Polyflex and the other PRC exporters did not receive separate rates, the Department considers all of these companies as part of the PRC-wide entity. Therefore, the Department preliminarily finds that the PRC-wide entity has not cooperated to the best of its ability. In selecting from among the facts available, an adverse inference is appropriate, pursuant to section 776(b) of the Act.

Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for AFA, the Department selects one that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate for any respondent in the investigation. See *Final Determination of Sales at Less*

*Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From the People's Republic of China*, 65 FR 34660 (May 21, 2000) and accompanying Issues and Decision Memorandum, at "Facts Available". In this case, as adverse facts available, the Department has selected the highest margin alleged in the petition, 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 *Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Final Determination of Sales at Less Than Fair Value*, 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).

To corroborate the 105.00 and 185.28 percent margins used as facts available for Newlife and as adverse facts available for the PRC-wide entity, respectively, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis. See "Import Administration AD Investigation Initiation Checklist: Raw Flexible Magnets from the People's Republic of China," ("Initiation Checklist") (October 11, 2007). We examined evidence supporting the calculations in the petition and the Pre-initiation Supplemental Response 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 and 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 export price and NV calculations. See *id.* We received no comments as to the

relevance or probative value of this information. Therefore, the Department finds that the rates derived from the petition for purposes of initiation are reliable for the purpose of being selected as the facts available and adverse facts available rates assigned to Newlife and the PRC-wide entity, respectively.

### Preliminary Determination Margins

The Department has determined that the following preliminary dumping margins exist for the POI:

Manufacturer/Exporter	Margin (Percent)
Guangzhou Newlife Magnet Co., Ltd. <sup>1</sup> .....	105.00
PRC-wide Entity (including Polyflex) .....	185.28

<sup>1</sup>Newlife both manufactures and exports subject merchandise.

### Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days after the date of publication of these preliminary results.

### Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") 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 the date of publication of this notice 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 preliminary 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 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.

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of

sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of magnets, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

### Submission of New Factual Information

19 CFR 351.301(b)(1) states that new factual information must be submitted no later than seven days before the date on which verification is to commence.<sup>2</sup> The Department will not verify Polyflex's responses because it has withdrawn from participating in this investigation, as discussed above in the Adverse Facts Available section of this notice. Therefore, the deadline for submission of factual information in 19 CFR 351.301(b)(1) is not applicable. Instead, the deadline for submission of factual information in this investigation will be seven days after the date of publication of this notice.

### Public Comment

Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(i) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a disk containing the public version of those comments.

Any interested party may request a hearing within 21 days of publication of this notice. See 19 CFR 351.310(c). Interested parties that wish to request a hearing or to participate if one is

<sup>2</sup>In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the briefs.

Unless the deadline is extended pursuant to section 735(a)(2) of the Act, the Department will make its final determination within 75 days after the date of this preliminary determination, pursuant to section 735(a)(1) of the Act.

Dated: April 18, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-583-842)

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan

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

**EFFECTIVE DATE:** April 25, 2008.

**SUMMARY:** We preliminarily determine 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 733 of the Tariff Act of 1930, as amended. Interested parties are invited to comment on this preliminary determination. We will make our final determination within 75 days after the date of this preliminary determination.

**FOR FURTHER INFORMATION CONTACT:** Catherine Cartos or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1757 and (202) 482-4477, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 18, 2007, the Department of Commerce (the Department) published in the *Federal Register* the initiation of an antidumping investigation on raw flexible magnets from Taiwan. See *Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's*

*Republic of China and Taiwan*, 72 FR 59071 (October 18, 2007) (*Initiation Notice*). In accordance with the Preamble to the Department's regulations (see *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (Preamble)), in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.

On November 5, 2007, the International Trade Commission (ITC) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of raw flexible magnets from the People's Republic of China and Taiwan. See *Raw Flexible Magnets from China and Taiwan*, 72 FR 63629 (November 9, 2007).

On December 11, 2007, we selected Kin Fong Magnets Co., Ltd. (Kin Fong), Magruba Flexible Magnets Co., Ltd. (Magruba), and JASDI Magnet Co., Ltd. (JASDI), as the mandatory respondents in this investigation. See the Memorandum from Laurie Parkhill to Stephen J. Claeys entitled "Antidumping Duty Investigation on Raw Flexible Magnets from Taiwan - Selection of Respondents," December 11, 2007.

On March 13, 2008, the petitioner alleged that JASDI made home-market sales of raw flexible magnets at prices below the cost of production during the period of investigation. On March 26, 2008, we initiated an investigation to determine whether JASDI made home-market sales of raw flexible magnets at prices below the cost of production during the period of investigation. See Memorandum from Richard Rimlinger to Laurie Parkhill entitled "Raw Flexible Magnets from Taiwan: Request to Initiate Cost Investigation of JASDI Magnet Co., Ltd.," dated March 26, 2008.

##### 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 magnet sheeting, strips, and profile shapes. Subject flexible magnet sheeting, strips, and profile shapes 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 magnet sheeting, strips, and profile shapes are capable of being permanently magnetized, but may be imported in either magnetized or unmagnetized (including demagnetized) condition. 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. Subject merchandise may be uncoated or may be coated with an adhesive or any other coating or combination of coatings. Subject merchandise is within the scope of this investigation whether it is in rolls, coils, sheets, or pieces and regardless of physical dimensions or packaging, including specialty packaging such as digital printer cartridges.

Specifically excluded from the scope of this investigation is retail printed flexible magnet sheeting, defined as flexible magnet sheeting (including individual magnets) that is laminated 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 magnet sheeting 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 sheeting; 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 sheeting 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 sheeting 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 included in this scope. The products subject to the investigation are currently