

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}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," *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}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." 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.

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DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Request for Public Comment

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of request for public comment.

SUMMARY: The Department of Commerce's International Trade Administration is seeking industry's involvement in providing information to inform the work program of the recently established Trilateral Committee on Transborder Data Flows under the Security and Prosperity Partnership of North America (SPP). In advance of its inaugural stakeholders' forum, tentatively scheduled for September 2008, the Committee is soliciting assistance in identifying and analyzing impediments to transborder data flows that impact on commercial activities. The Committee, composed of government representatives of each of the three countries, will work in consultation with the business community to identify and address impediments to electronic information flows across borders that impact economic growth. The Committee will also look at regulatory uncertainties related to the transborder flow of data and analyze the impact that they are having on the marketplace. The objective is to foster an integrated approach to information flows in North America while supporting regulatory cooperation to remove barriers to electronic information flows. Specifically, the Department is seeking: (1) A description of your company's activities. (2) How your company's activities involve cross-border data transfers and computerized information flows. (3) Impediments to cross-border data transfers and information flows. Impediments include legislative and regulatory requirements and other barriers. (4) Implications and costs for the company of these impediments (trade and investment). Business proprietary information should be marked accordingly.

Once this process has been completed, the Committee will make recommendations to Ministers responsible for SPP on how to solve identified impediments to such information flows.

DATES: August 18, 2008.

ADDRESSES: Input on the Committee's work program or inquiries about participation in the forum should be addressed to the contact below, and

received by close of business on Monday, August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Joshua Harris, U.S. Department of Commerce, Office of Technology and Electronic Commerce, 1401 Constitution Avenue, NW., Room 2003, Washington, DC 20230; Telephone: 202-482-0142; e-mail: joshua.harris@mail.doc.gov.

SUPPLEMENTARY INFORMATION: The SPP was launched in March of 2005 to increase security and enhance prosperity among the United States, Canada and Mexico through greater cooperation and information sharing. Consistent with those goals, and to serve as a catalyst for the development of electronic commerce and online business in North America, officials from Industry Canada, Mexico's Ministry of the Economy, and the United States Department of Commerce recently signed the Statement on the Free Flow of Information and Trade in North America (http://spp.gov/pdf/Eng_Statement_of_Free_Flow.pdf), which formally established the Trilateral Committee. The Statement was announced at the SPP Leaders meeting April 21-22 in New Orleans.

Dated: July 2, 2008.

Robin Layton,

Director, Office of Technology and Electronic Commerce.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-X191

Marine Mammals; File Nos. 848-1695 and 932-1489

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit amendments.

SUMMARY: Notice is hereby given that the NMFS Pacific Islands Fisheries Science Center, Marine Mammal Research Program (MMRP) has been issued an amendment to scientific research and enhancement Permit No. 848-1695; and Dr. Teri Rowles, NMFS Marine Mammal Health and Stranding Response Program, has been issued an amendment to scientific research and enhancement Permit No. 932-1489.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment