

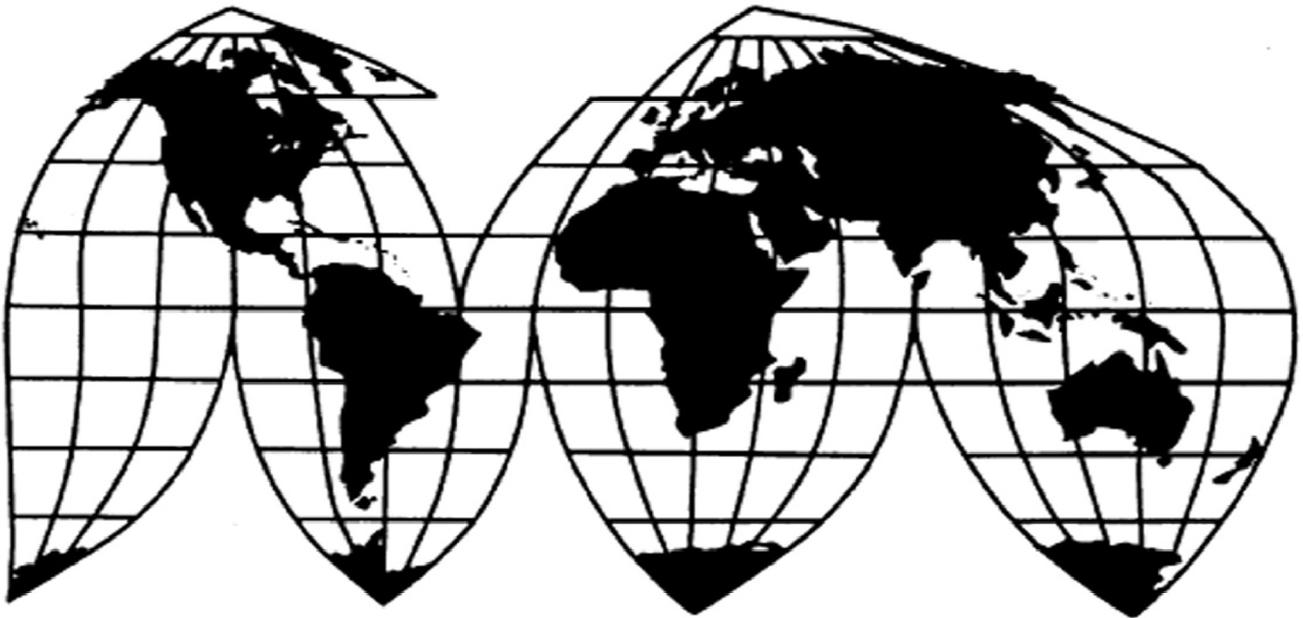
# Raw Flexible Magnets From China and Taiwan

Investigation Nos. 701-TA-452 and  
731-TA-1129 and 1130 (Preliminary)

Publication 3961

November 2007

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.



# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-452 and 731-TA-1129 and 1130 (Preliminary)

## RAW FLEXIBLE MAGNETS FROM CHINA AND TAIWAN

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of raw flexible magnets, provided for in subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States,<sup>2</sup> that are alleged to be subsidized by the Government of China.<sup>3</sup> The Commission further determines, pursuant to section 733(a) of the Act (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China and Taiwan of raw flexible magnets, that are alleged to be sold in the United States at less than fair value (LTFV).<sup>4</sup>

### COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 703(b) and section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 705(a) and section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

### BACKGROUND

On September 21, 2007, a petition was filed with the Commission and Commerce by Magnum Magnetics Corp., alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of raw flexible magnets from China, and by reason of LTFV imports from China and Taiwan. Accordingly, effective September 21, 2007, the Commission

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> Raw flexible magnets were provided for in HTS statistical reporting number 8505.19.0040 prior to December 19, 2004.

<sup>3</sup> Commissioner Charlotte R. Lane determines that there is a reasonable indication that an industry in the United States is materially injured by reason of such imports.

<sup>4</sup> Commissioner Charlotte R. Lane determines that there is a reasonable indication that an industry in the United States is materially injured by reason of such imports.

instituted countervailing duty and antidumping duty investigation Nos. 701-TA-452 and 731-TA-1129 and 1130 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of September 28, 2007 (72 FR 55248). The conference was held in Washington, DC, on October 12, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain flexible magnetic sheeting, strips, and profile shapes (“raw flexible magnets”) from China and Taiwan that are allegedly sold in the United States at less than fair value (“LTFV”), and by reason of imports of raw flexible magnets from China allegedly subsidized by the government of China.<sup>1</sup>

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.<sup>2</sup> In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”<sup>3</sup>

### II. BACKGROUND

The petition in these investigations was filed on September 21, 2007, by domestic producer Magnum Magnetics Corporation (“Petitioner” or “Magnum”) of Marietta, Ohio.<sup>4</sup> Magnum appeared at the conference and filed a postconference brief. Several Respondents have participated in the proceeding: U.S. importers Adams Magnetic Products Co. (“Adams”), Graphic Business Solutions, Inc. (“Graphic Business”), Magnet Sales and Manufacturing, Inc. (“Magnet Sales”), and Master Magnetics, Inc. (“Master”) (collectively, “Adams Respondents”), appeared at the conference (in the case of Adams) and filed a postconference brief, as did Magnet Technology, Inc. (“Magnet Technology”), a domestic producer and importer of subject merchandise.

### III. DOMESTIC LIKE PRODUCT

#### A. In General

In determining whether 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 the subject merchandise, the

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<sup>1</sup> Commissioner Charlotte R. Lane determines that there is a reasonable indication that an industry in the United States is suffering material injury by reason of imports of raw flexible magnets from China and Taiwan. She joins sections I through VI(B)(2)(i) of these Views. See Separate Views of Commissioner Charlotte R. Lane.

<sup>2</sup> 19 U.S.C. § 1673b(a); 19 U.S.C. § 1671b(a); see, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

<sup>3</sup> American Lamb, 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

<sup>4</sup> Magnum accounted for \*\*\* percent of reported domestic production in 2006. Confidential Staff Report (CR) and Public Staff Report (PR) at Table III-1.

Commission first defines the “domestic like product” and the “industry.”<sup>5</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (the “Act”), defines the relevant domestic industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>6</sup> In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . .”<sup>7</sup>

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.<sup>8</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>9</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>10</sup> Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly sold at LTFV,<sup>11</sup> the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>12</sup> The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.<sup>13</sup>

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<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

<sup>7</sup> 19 U.S.C. § 1677(10).

<sup>8</sup> See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See, e.g., Cleo Inc. v. United States, 501 F.3d 1291, 1295 (Fed. Cir. 2007).

<sup>9</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>10</sup> See, e.g., Cleo, 501 F.3d at 1295; see also id. (Congress has indicated that the like product standard “‘should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation.’”) (quoting S. Rep. No. 96-249 at 90-91 (1979)).

<sup>11</sup> See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421 (Fed. Cir. April 25, 2002) at 9 (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

<sup>12</sup> Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

<sup>13</sup> Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

## B. Product Description

In its notices of initiation, Commerce defined the imported merchandise subject to these investigations as follows:

The products covered . . . 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.<sup>14</sup>

The scope further provides that subject merchandise is “capable of being permanently magnetized but may be imported in either magnetized or unmagnetized (including demagnetized) condition.” Subject merchandise may be of “any color or may or may not be laminated or bonded with paper, plastic, or other material . . . .” It may be “uncoated” or “coated with an adhesive or any other coating or combination of coatings.” It is included whether it is “in rolls, coils, sheets, or pieces and regardless of physical dimensions or packaging . . . .”<sup>15</sup>

Specifically excluded from the scope 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.<sup>16</sup>

However, this exclusion does not apply when the referenced printing consists only of –

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 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

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<sup>14</sup> 72 Fed. Reg. 59071 & 59076 (Oct. 18, 2007).

<sup>15</sup> Id.

<sup>16</sup> Id.

easy removal, permitting the flexible magnet sheeting to be re-printed); printing on the back (magnetic) side; or any combination of the above.<sup>17</sup>

Subject flexible magnet sheeting, strips, and profile shapes, referred to as “raw flexible magnets,” are magnets that can be twisted, bent, slit, punched, coiled, or otherwise molded into any shape without loss of magnetic properties. They are made of ferrite powders that are mixed with a flexible resin binder. Key physical characteristics include magnetism, flexibility, lightness in weight, and ease of cutting, which makes them ideal for use as “refrigerator magnets,” as well as for a range of other domestic, commercial, and industrial applications.<sup>18</sup>

### C. Analysis

Petitioner argues that the Commission should find a single domestic like product co-extensive with the scope of the investigations defined by Commerce.<sup>19</sup> For purposes of these preliminary phase investigations, no Respondent has suggested an alternative to Petitioner’s proposed definition.<sup>20</sup> Based on the record, we conclude that under the traditional six-factor test there are no clear dividing lines between different types of raw flexible magnets and, accordingly, find a single domestic like product consisting of raw flexible magnets, co-extensive with the scope.

*Physical Characteristics and End Uses.* Raw flexible magnets, regardless of their form or production process, are made from the same raw materials. These raw materials distinguish raw flexible magnets from other permanent magnets. They are flexible because they are composed of a flexible binder, generally a polymer, such as a synthetic rubber.<sup>21</sup> Their magnetic element is powdered ferrite.<sup>22</sup> They are relatively weak magnetically and require no particular handling precautions.<sup>23</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> CR at I-9-I-11, PR at I-8; Petition at 5.

<sup>19</sup> Petitioner’s Postconf. Brief at 10-14.

<sup>20</sup> Counsel for the Adams Respondents stated: “I would like to make our position perfectly clear, that we are accepting the Petitioner’s definition of like product for purposes of this preliminary investigation.” Staff Conference Transcript (Tr.) at 173 (Ms. Levinson). The President and CEO of Respondent Magnet Technology testified at the staff conference that there are significant differences in terms of uses and customer base between magnetic sheet and “extruded” product, referencing profile shapes for commercial uses, such as in shower doors: “[I]t’s a totally different look. It’s a narrow little piece of material that has a shape and it fits down in that channel in an aluminum extrusion so that it stays in that shower door when you open and close it. That’s what they want. They want that shape tightly controlled and that magnetization to be within a certain range. You don’t want your shower door not having enough pull, but you don’t want it to have too much pull or that becomes undesirable, too. And the sheet, it doesn’t matter. It just has to have enough holding for us to hold that little novelty up on the refrigerator. So it’s a totally different, totally different use.” Tr. at 168-69 (Mr. Mosteller). Counsel for Magnet Technology suggested that a single like product definition might not be appropriate but expressly reserved the issue for Magnet Technology’s postconference brief. Tr. at 169-71 (Mr. Donohue). Magnet Technology, however, did not make any like product argument in its postconference brief. Magnet Technology thus does not appear to argue for a definition other than of a single like product in the preliminary phase of these investigations.

<sup>21</sup> CR at I-11, PR at I-8.

<sup>22</sup> CR at I-11, PR at I-8.

<sup>23</sup> CR at I-14, PR at I-10.

Raw flexible magnets take three basic forms: sheet, strips, and profile shapes. Sheet is the widest form of raw flexible magnet, typically available in widths up to approximately 24 inches.<sup>24</sup> Strips are dimensionally narrower than sheet.<sup>25</sup> Profile shapes are raw flexible magnets that are not square or rectangular in cross section.<sup>26</sup> An example of a profile shape is a raw flexible magnet designed to fit in a channel of a shower door frame for the purpose of holding the door shut.<sup>27</sup>

Raw flexible magnets may be produced to various dimensions and sizes. All are characterized by their flexibility, light weight, and ease of cutting. Other permanent magnets are too thick, rigid, heavy, brittle, or hard to cut or form to be widely used for the typical applications in which raw flexible magnets are used, that is, as printable refrigerator magnets, car signs, magnetic business cards, hobby items, direct-mail promotional items, and refrigerator and shower door gaskets.<sup>28</sup>

Raw flexible magnets thus share common physical characteristics. They also share the same basic holding function while having the capability of being bent or flexed without affecting their performance, whether used as substrate for printed material to be affixed on home appliances or for business, commercial, or industrial purposes. Raw flexible magnets even share specific uses. Profile shapes are typically used in the production of commercial products, such as refrigerator and shower door gaskets.<sup>29</sup> Sheet and strip overlap in various applications, including being used in the production of refrigerator magnets.<sup>30</sup> Strip may also be used in the production of gaskets.<sup>31</sup> Specific performance requirements of raw flexible magnets will depend on the particular application, but it is a characteristic of raw flexible magnets that they may be customized to their intended end uses.<sup>32</sup> Those uses are not dependent on whether raw flexible magnets are extruded or calendared.<sup>33</sup>

*Interchangeability.* Sheet and strip, which constitute the vast majority of domestic shipments, may be produced either through the extrusion or calendaring process and are generally interchangeable.<sup>34</sup> Magnet Technology pointed out that extruded raw flexible magnets used in the production of refrigerator gaskets and similar commercial applications are not interchangeable with raw flexible magnets for printed applications.<sup>35</sup> Magnum agreed, but argued that this reflects ordinary differences along a continuum of products.<sup>36</sup>

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<sup>24</sup> CR at I-10, PR at I-7.

<sup>25</sup> CR at I-10, PR at I-7.

<sup>26</sup> CR at I-11, PR at I-8.

<sup>27</sup> Tr. at 26 (Mr. A. Love).

<sup>28</sup> CR at I-9-I-14, PR at I-7-I-10; Petition at 13-14.

<sup>29</sup> CR at I-11, PR at I-8.

<sup>30</sup> CR at I-11, PR at I-8.

<sup>31</sup> Tr. at 75 (Mr. A. Love) (citing example of sheet of a certain thickness being used in gasketing).

<sup>32</sup> See Tr. at 168-69 (Mr. Mosteller) (describing different requirements for refrigerator gasket magnets versus refrigerator magnets); *id.* at 76 (Mr. T. Love) (to the same effect): “Certainly, somebody producing an engineered product, they demand that it have certain performance requirements specifically measured, and usually, somebody putting it on the refrigerator, . . . they just want it to hold up a note in many cases. We test that too and we regulate it, but usually, an engineered product has a much tighter range of performance than, say, somebody putting it on a refrigerator.”

<sup>33</sup> Tr. at 77-78 (Mr. A. Love).

<sup>34</sup> CR, PR at Table IV-3; CR at I-10-I-11, I-18, PR at I-7-I-8, I-12.

<sup>35</sup> Tr. at 168-69 (Mr. Mosteller).

<sup>36</sup> Tr. at 76 (Mr. T. Love); Petitioner’s Postconf. Brief at 11.

*Channels of Distribution.* Magnum argues that raw flexible magnets are sold in common channels of distribution: directly to commercial printers and advertising specialty firms, through local and national distributors, and in some cases directly to original equipment manufacturers and retailers.<sup>37</sup> Magnet Technology suggests that the extruded product is sold to completely different customers than the calendared product.<sup>38</sup> However, \*\*\*.<sup>39</sup> It appears, therefore, that there is significant overlap in channels of distribution for sheet and strip and some overlap for the extruded product.

*Manufacturing Facilities, Production Processes, and Employees.* Magnet Technology suggested that the manufacturing facilities are distinct for extruded and calendared raw flexible magnet products.<sup>40</sup> In the calendaring process, the magnetic particulate is fed through a machine (a “calendar”), in which it is pressed between two large rotating steel rolls to create sheet or strip of uniform thickness and surface finish. In the extrusion process, the magnetic particulate is forced through a shaped die to create rectangular or square sheets, strips or other profile shapes.<sup>41</sup> Magnum and \*\*\* employ both processes and accounted for \*\*\* percent of total domestic production in 2006.<sup>42</sup> \*\*\*.<sup>43</sup> Magnum produces approximately \*\*\* percent extruded and \*\*\* percent calendared magnets. It produces both products in the same plant, using the same production employees.<sup>44</sup>

Raw flexible magnets are therefore made in common facilities and share equipment and employees. With the exception of certain profile shapes that may only be made using the extrusion process and constitute a smaller part of the market,<sup>45</sup> the determination whether to produce raw flexible magnets using the extrusion or calendared processes appears to be economic rather than technical, dictated by cost-effectiveness given a particular customer’s order.<sup>46</sup>

*Producer and Customer Perceptions.* Magnum argues that producers and purchasers generally perceive all flexible magnets to be a single product category.<sup>47</sup> With the possible exception of Magnet Technology’s asserted distinction between certain extruded magnets and calendared magnets, Respondents have not disputed this point.

*Price.* Magnum argues that there is a narrow range in the prices of raw flexible magnet products, contending that they vary within ranges of \$\*\*\* to \$\*\*\* per pound of plain materials and \$\*\*\* to \$\*\*\*

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<sup>37</sup> *Id.* at 12.

<sup>38</sup> Tr. at 170 (Mr. Donohue).

<sup>39</sup> CR at I-19, PR at I-13.

<sup>40</sup> Tr. at 170 (Mr. Donohue). Magnet Technology accounts for \*\*\* percent of domestic production and produces exclusively using the extruded process. CR at I-17, PR at I-12.

<sup>41</sup> CR at I-13, PR at I-10. A third process is the coating process, in which the magnetic material is coated onto a carrier material such as paper, using a slot die or similar coating method. *Id.*

<sup>42</sup> CR, PR at Table III-1.

<sup>43</sup> CR at I-17-I-18, PR at I-12.

<sup>44</sup> CR at I-18, PR at I-12.

<sup>45</sup> Profile shapes constituted 15.4 percent of U.S. producers’ U.S. shipments in 2006, compared to 55.2 percent for sheet and 29.4 percent for strips. CR, PR at Table IV-3.

<sup>46</sup> As Magnum testified, “we have to look at what’s the most economic way to make the product, and we interchange sometimes.” Tr. at 79 (Mr. A. Love).

<sup>47</sup> Petitioner’s Postconf. Brief at 13.

per pound of laminated materials.<sup>48</sup> Record data on average unit values are consistent with this contention.<sup>49</sup>

*Conclusion.* Based on the foregoing information and application of the six-factor test, we find that raw flexible magnets share the same general physical characteristics and overlapping uses and are sold in overlapping channels of distribution. They are made from the same raw materials and in common facilities and share equipment and production employees. The nature of the production process does not provide a basis for differentiating between extruded and calendared magnets given the overlap of product that may be produced by either process and the lack of an apparent price premium for one process compared to the other. Producers and consumers of raw flexible magnets view extruded and calendared magnets as within the same product category. In short, the record demonstrates that raw flexible magnets, regardless of their shape or production process, are part of a continuum with no clear dividing lines. There are limitations in interchangeability among various types of raw flexible magnets, notably between the products produced for gaskets and those produced for refrigerator magnets, but a lack of complete interchangeability among types of products comprising a continuum is not unexpected. Accordingly, we determine in these preliminary phase investigations that raw flexible magnets constitute a single domestic like product co-extensive with the scope of the investigations.

#### **IV. DOMESTIC INDUSTRY**

The domestic industry is defined as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>50</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.<sup>51</sup> Based on our domestic like product determination, we define the domestic industry as U.S. producers of raw flexible magnets, which includes the firms Electrodyne, FlexMag, Glatfelter, Holm, Magnet Technology, and Magnum.<sup>52</sup> We address below the issues of (1) whether firms that only engage in certain finishing operations (so-called converters) are also part of the domestic industry and (2) whether Magnet Technology, a related party, should be excluded from the industry pursuant to 19 U.S.C. § 1677(4)(B).

##### **A. Converters**

Petitioner and other producers engage in a range of finishing activities in the production of raw flexible magnets, including cutting, scoring, slitting, or die-cutting into many different sizes. Some types of raw flexible magnet sheeting are also laminated with paper or plastic or coated with an adhesive or other material.<sup>53</sup> Finishing operations such as cutting, slitting, scoring, die-cutting, and laminating raw flexible magnets are performed by independent firms as well. Two such firms appear to do so on a non-

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<sup>48</sup> *Id.*

<sup>49</sup> CR at I-19, PR at I-13.

<sup>50</sup> 19 U.S.C. § 1677(4)(A).

<sup>51</sup> United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>52</sup> CR, PR at Table III-1. As discussed further below, \*\*\*. *See, e.g.*, CR at III-4 n.13, PR at III-3 n.13; CR, PR at VI-1 n.1.

<sup>53</sup> CR at I-13, PR at I-9. The full manufacturing process for raw flexible magnets is outlined in CR, PR at Figure I-2.

toll basis: Respondent Adams, which describes itself as a “distributor/fabricator,” and Rochester Magnet Co. (“Rochester”), which describes itself as a “leading manufacturer of magnetic assemblies, converter of magnetic materials and supplier of anything magnetic.”<sup>54</sup> In addition, there appear to be several firms that engage in finishing operations on a toll basis for \*\*\*.<sup>55</sup>

The Commission generally considers six factors in assessing the domestic production activity associated with a particular operation and whether it constitutes sufficient activity to bring that operation within the meaning of domestic industry for purposes of the Act: (1) source and extent of the firm’s capital investment; (2) technical expertise involved in U.S. production activities; (3) value added to the product in the United States; (4) employment levels; (5) quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to production of the like product.<sup>56</sup> No single factor is determinative, and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation.<sup>57</sup>

In this case, Petitioner argues that converters do not engage in sufficient production-related activities to warrant inclusion in the domestic industry.<sup>58</sup> Respondents, including Adams, have not objected to Petitioner’s proposed definition of the domestic industry.

The record contains production-related information only for Adams and Rochester. Both firms reported capital investment in their conversion operations. Adams indicated that it \*\*\*. Rochester reported \*\*\*.<sup>59</sup> Adams described the operation of this equipment as \*\*\*; Rochester estimated \*\*\* and reported \*\*\*.<sup>60</sup>

The combined value added by the two converters in 2006 was \*\*\* percent based on the ratio of conversion costs (direct labor plus other factory costs) to cost of goods sold.<sup>61</sup> Petitioner estimated the value added by the various finishing operations as follows: approximately \*\*\* percent for slitting, for which Magnum typically charges \*\*\*; approximately \*\*\* percent for cutting depending upon method of cutting and format of the material, for which Magnum typically charges \*\*\*; approximately \*\*\* percent for scoring depending upon the method of scoring and format of the material; approximately \*\*\* percent for laminating, which Magnum noted is typically performed by the manufacturer or printer, not a converter; and approximately \*\*\* percent for die-cutting depending on the method used and the size of the piece to be cut.<sup>62</sup> Petitioner also noted that slitting, cutting, and scoring can be combined, thus resulting in cumulated added values.<sup>63</sup>

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<sup>54</sup> CR at III-3, PR at III-2.

<sup>55</sup> CR at III-3-III-4, PR at III-2. The only available information regarding toll converters indicates that they provide finishing work for \*\*\* master rolls, with \*\*\*. CR at III-4 n.13, PR at III-3 n.13. \*\*\* constituted \*\*\* percent of reported U.S. production in 2006. CR, PR at Table III-2. Another firm, \*\*\*, did not provide data. CR, PR at Table III-1 n.4.

<sup>56</sup> See, e.g., Artists’ Canvas from China, Inv. No. 731-TA-1091 (Final), USITC Pub. 3853 (May 2006) at 8-9.

<sup>57</sup> See, e.g., Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 (June 1994) at I-8-I-9 & n.34 (“no single factor – including value added – is determinative and ... value added information becomes more meaningful when other production activity indicia are taken into account”), aff’d, Aramide Maatschappij V.O.F. v. United States, 19 CIT 884 (1995).

<sup>58</sup> Petitioner’s Postconf. Brief at 18-19 & Exh. 1 at 3-5.

<sup>59</sup> CR at III-4, PR at III-3.

<sup>60</sup> CR at III-4-III-5, PR at III-3.

<sup>61</sup> CR at III-4, PR at III-3.

<sup>62</sup> Petitioner’s Postconf. Brief Exh. 1 at 3-5.

<sup>63</sup> Id. at 5.

Combined, the two converters reported having \*\*\* employees in 2006.<sup>64</sup> In comparison, the reporting integrated producers identified 386 production and related workers producing raw flexible magnets in 2006.<sup>65</sup>

The primary raw materials that Adams and Rochester use are \*\*\*, sourced exclusively \*\*\* in 2006, at a cost of \$\*\*\*. Other parts sourced in the United States include adhesives, tools, dies, packaging, and cores.<sup>66</sup>

The available information on production-related activities of converters therefore appears mixed. Based on the limited record in these preliminary phase investigations,<sup>67</sup> we find that converters are not part of the domestic industry. We intend to gather additional data regarding converters for purposes of defining the domestic industry in any final phase investigations.

## **B. Related Parties**

We consider whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B), which allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or that are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation. The parties do not argue for the exclusion of any party under 19 U.S.C. § 1677(4)(B).

Magnet Technology reported that it imported subject imports from China during the period for which data were collected,<sup>68</sup> thus qualifying as a related party under 19 U.S.C. § 1677(4)(B). Magnet Technology imported \*\*\*.<sup>69</sup> Magnet Technology reported that it has imported from China to supplement capacity, for the characteristics of a particular product, and for price.<sup>70</sup> The company, which represented \*\*\* percent of domestic production in 2006, publicly opposes the petition and is participating in the investigations as a Respondent.<sup>71</sup>

Magnet Technology produced \*\*\* pounds of raw flexible magnets (exclusively extruded product) in 2004, \*\*\* pounds in 2005, and \*\*\* pounds in 2006. The company's ratio of subject imports to production was therefore \*\*\*.<sup>72</sup> Accordingly, its import volume, while \*\*\*, is \*\*\* in relation to its domestic production and, with the \*\*\*, was \*\*\*.<sup>73</sup>

Based on the absolute and relative volume of its subject imports, Magnet Technology's business interests and focus primarily are in domestic production rather than importation. The company's \*\*\*

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<sup>64</sup> CR at III-4, PR at III-3.

<sup>65</sup> CR, PR at Table III-6.

<sup>66</sup> CR at III-4, PR at III-3.

<sup>67</sup> We also have financial information for these converters for only part of the period of investigation. We note further that Adams and Rochester combined reported sales of less than \$\*\*\* in 2006. CR at III-4, PR at III-3. The six integrated producers identified above reported combined net sales of \$97.8 million in 2006. CR, PR at Table VI-1. Given the size of the converters, the impact of their inclusion in the domestic industry would be \*\*\* based on the available information.

<sup>68</sup> Tr. at 182 (Mr. Mosteller).

<sup>69</sup> CR at Table III-4, PR at III-3. During this period\*\*\*. Id.

<sup>70</sup> CR at III-11, PR at III-7.

<sup>71</sup> CR, PR at Table III-1; Tr. at 119 (Mr. Mosteller).

<sup>72</sup> CR, PR at Table III-4. The ratio \*\*\*.

<sup>73</sup> The company \*\*\*. CR, PR at Table III-4.

does not suggest that its production operations have benefitted substantially from its imports so as to warrant the firm's exclusion from the domestic industry.<sup>74 75 76</sup>

Given the absence of any factors or argument supporting Magnet Technology's exclusion from the domestic industry as a related party, we find that appropriate circumstances do not exist to exclude it from the domestic industry.

## V. CONDITIONS OF COMPETITION AND THE BUSINESS CYCLE

Several conditions of competition are pertinent to our analysis in the preliminary phase of these investigations.

### A. Captive Production

Petitioner argues that for purposes of these preliminary phase investigations the Commission should focus primarily on the merchant market for the domestic like product pursuant to the captive production provision.<sup>77</sup> Respondents make no separate argument regarding the provision's applicability during these preliminary phase investigations, but focus their argument on the domestic industry's condition on the industry as a whole.<sup>78</sup>

The captive production provision, 19 U.S.C. § 1677(7)(C)(iv), provides as follows:

If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that --

- (I) the domestic like product produced that is internally transferred for processing into the downstream article does not enter the merchant market for the domestic like product,
- (II) the domestic like product is the predominant material input in the production of that downstream article, and

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<sup>74</sup> Magnet Technology's operating income as a ratio to net sales \*\*\* percentage points from 2004 to 2006, from \*\*\* percent in 2004 to \*\*\* percent in 2006, and was \*\*\* percent in interim 2007. CR, PR at Table VI-4.

<sup>75</sup> Consistent with her practice in past investigations and reviews, Vice Chairman Shara L. Aranoff does not rely on individual-company operating income margins in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic shipments and whether its primary interests lie in domestic production or importation.

<sup>76</sup> For purposes of these preliminary investigations, Commissioner Pinkert does not rely upon Magnet Technology's financial performance as a factor in determining whether there are appropriate circumstances to exclude it from the domestic industry and relies instead on other information relevant to this issue. The present record is not sufficient to infer from Magnet Technology's profitability on U.S. operations whether it has derived a specific benefit from importing. See Allied Mineral Products, Slip Op. 04-139, at 8. For the final investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to whether this company is benefitting financially from its status as a related party.

<sup>77</sup> Petitioner's Postconf. Brief at 16-18.

<sup>78</sup> Adams Respondents' Postconf. Brief at 3.

- (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,

then the Commission, in determining market share and the factors affecting financial performance ..., shall focus primarily on the merchant market for the domestic like product.<sup>79</sup>

*Threshold Criterion.* The statutory provision may apply only if, as a threshold matter, significant production of the domestic like product is internally transferred for the production of a downstream article and significant production of the domestic like product is sold in the merchant market. The record indicates that between 2004 and 2006, internal consumption accounted for an increasing share of the reported quantity of U.S. producers' U.S. shipments of raw flexible magnets, rising from \*\*\* percent in 2004 to \*\*\* percent in 2005 to \*\*\* percent in 2006. This share was \*\*\* percent in interim 2007 compared to \*\*\* in interim 2006.<sup>80</sup> Merchant shipments accounted for a decreasing share of the reported quantity of U.S. producers' U.S. shipments of raw flexible magnets between 2004 and 2006, declining from \*\*\* percent in 2004 to \*\*\* percent in 2005 and \*\*\* percent in 2006. This share was \*\*\* percent in interim 2007 compared to \*\*\* percent in interim 2006.<sup>81</sup> Two of the six reporting U.S. producers, \*\*\* and Holm, reported both internal consumption and merchant shipments, while four U.S. producers reported no internal consumption.<sup>82</sup> Based on the percentages of internal consumption and merchant market shipments for the industry, we find that domestic producers internally consume significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market. We therefore conclude that the threshold criterion is satisfied.

*First Statutory Criterion.* In applying the first of the other statutory criteria, we focus on whether any of the domestic like product that is internally transferred for further processing is in fact sold on the merchant market. In these preliminary phase investigations, U.S. producers reported internal consumption of raw flexible magnets for the production of refrigerator gaskets (Holm) and for \*\*\*. All transferred product appears to be captively consumed. No producer reported diverting raw flexible magnets intended for internal consumption to the merchant market.<sup>83</sup> Based on the foregoing information, we find that the first statutory criterion is satisfied.

*Second Statutory Criterion.* In applying the second statutory criterion, we generally consider whether the domestic like product is the predominant material input into a downstream product by referring to its share of the raw material cost of the downstream product. Raw flexible magnets reportedly comprise \*\*\* percent of the finished cost of refrigerator gaskets and an estimated \*\*\* percent of \*\*\* costs for producing \*\*\*.<sup>84</sup> Based on this information, we find that the second statutory criterion is satisfied.

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<sup>79</sup> 19 U.S.C. § 1677(7)(C)(iv).

<sup>80</sup> CR, PR at Table III-3; CR at III-8-III-9, PR at III-6.

<sup>81</sup> CR, PR at Table III-3; CR at III-8-III-9, PR at III-6.

<sup>82</sup> CR at III-9, PR at III-6. For purposes of this calculation, transfers to a related company by \*\*\*, which consistently accounted for less than \*\*\* percent of the quantity of reported U.S. shipments, were treated as non-captively consumed. CR at III-9 n.22, PR at III-6 n.22. We will explore the nature of these transactions and how the transferred product is used in any final phase investigations.

<sup>83</sup> CR at III-9-III-10, PR at III-6.

<sup>84</sup> CR at III-9-III-10, PR at III-6. \*\*\*. CR at III-10 n.26, PR at III-6 n.26.

*Third Statutory Criterion.* In applying the third statutory criterion, we inquire whether the merchant market purchaser generally uses the domestic like product in the production of the same downstream article or articles as the integrated domestic producer. If the merchant market purchaser is not generally using the domestic like product in the production of the same downstream article or articles as the integrated domestic producer, then the statutory criterion is satisfied.

The record in these preliminary phase investigations shows that raw flexible magnets captively produced for use in the production of refrigerator gaskets accounted for \*\*\* percent of internal consumption reported by U.S. producers in 2006, with the remaining \*\*\* percent used for \*\*\*.<sup>85</sup> Sales of raw flexible magnets for use in refrigerator gaskets reportedly constituted \*\*\* percent of merchant sales.<sup>86</sup> Sales of raw flexible magnets for use in \*\*\* reportedly accounted for approximately \*\*\* percent of merchant sales.<sup>87</sup> Because there is little overlap in the merchant market with respect to raw flexible magnets consumed internally for refrigerator gaskets and, while such overlap is greater for \*\*\*, such magnets account for a much smaller share of total captive production, the record on balance indicates that merchant market purchasers do not “generally” use the domestic like product in the production of the same downstream article or articles as the integrated domestic producers. Therefore, we find that the third statutory criterion is satisfied.

*Conclusion.* Accordingly, we conclude that all elements of the statutory captive production provision are met for purposes of these preliminary phase investigations. The statute therefore directs us to focus primarily on the merchant market for the domestic like product in determining market share and examining the factors affecting financial performance, although we also analyze these factors with respect to the total market as a condition of competition. We intend to revisit the issue of captive production in any final phase investigations.

## **B. Other Conditions of Competition and the Business Cycle**

*Demand.* Because raw flexible magnets are used in a wide variety of applications, including in promotional magnets, magnetic signs, trade show displays, custom parts, office supplies, refrigerator gaskets, and schedules, the overall demand for such magnets is closely linked to demand for those end-use products.<sup>88</sup> Producers and importers were mixed in their responses as to how demand in the U.S. market had changed since 2004. Two producers reported an increase, two a decrease, and two no change; six importers reported an increase, five a decrease, and seven no change.<sup>89</sup>

Apparent U.S. consumption in the merchant market was generally unchanged overall (showing an increase of \*\*\* percent) between 2004 and 2006, increasing \*\*\* percent from 2004 to 2005 and then decreasing \*\*\* percent in 2006. It was \*\*\* percent lower in interim 2007 than in interim 2006.<sup>90 91</sup>

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<sup>85</sup> CR at III-10, PR at III-6. Holm accounts for the former, \*\*\* the latter.

<sup>86</sup> CR at III-10, PR at III-6.

<sup>87</sup> CR at III-10, PR at III-6. \*\*\* estimated that \*\*\* percent of the volume of its merchant sales was used by its customers in the production of the same downstream products that it produces from captively produced raw flexible magnets (the \*\*\*). CR at III-10 n.29, PR at III-7 n.29.

<sup>88</sup> CR at II-4, PR at II-3.

<sup>89</sup> CR at II-4-II-5, PR at II-3 .

<sup>90</sup> CR, PR at Table C-2. Apparent U.S. consumption in the merchant market was \*\*\* pounds in 2004, \*\*\* pounds in 2005, and \*\*\* pounds in 2006. In interim 2007, it was \*\*\* pounds; in interim 2006, it was \*\*\* pounds. CR, PR at Table IV-5.

Apparent U.S. consumption in the total market increased 9.3 percent from 83.3 million pounds in 2004 to 91.0 million pounds in 2006. It was 13.2 percent lower in interim 2007 (39.3 million pounds) than in interim 2006

(continued...)

*Supply.* The U.S. market is generally supplied by domestic production and subject imports. The domestic industry's production capacity increased 29.8 percent from 2004 to 2006 (from 117.0 million pounds in 2004 to 151.8 million pounds in 2006), and was 5.6 percent higher in interim 2007 (80.5 million pounds) than in interim 2006 (76.3 million pounds).<sup>92</sup> Domestic production increased between 2004 and 2005 (from 85.3 to 89.1 million pounds), remained essentially steady between 2005 and 2006 (89.1 and 89.8 million pounds, respectively), and was lower in interim 2007 (38.8 million pounds) than in interim 2006 (45.3 million pounds).<sup>93</sup>

Domestic producers' share of apparent U.S. consumption in the merchant market increased between 2004 and 2005 (from \*\*\* percent to \*\*\* percent) and declined between 2005 and 2006 to \*\*\* percent (an overall decline of \*\*\* percentage points from 2004 to 2006). It was \*\*\* percentage points lower in interim 2007 than in interim 2006 (\*\*\* percent compared to \*\*\* percent).<sup>94</sup> With non-subject imports constituting \*\*\* to \*\*\* percent of apparent U.S. consumption in the merchant market throughout the period of investigation, domestic producers' loss of market share, particularly in the interim periods, tracked subject imports' gain. Subject imports' share of apparent U.S. consumption in the merchant market decreased between 2004 and 2005 from \*\*\* percent to \*\*\* percent and increased between 2005 and 2006 to \*\*\* percent (an overall gain of \*\*\* percentage points from 2004 to 2006). It was \*\*\* percentage points higher in interim 2007 than in interim 2006 (\*\*\* percent compared to \*\*\* percent).<sup>95</sup>

*Substitutability.* Domestically produced and imported raw flexible magnets are generally substitutable. Petitioner and Respondents agreed that raw flexible magnets are commodity products.<sup>96</sup> Petitioner and Respondents also indicated that price is an important factor in purchasing decisions for raw

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<sup>90</sup> (...continued)  
(45.3 million pounds). CR, PR at Tables IV-4, C-1.

<sup>91</sup> Demand for raw flexible magnets appears to fluctuate within the course of any given year. Magnum reported that there is a factor of seasonality in its sales, with 40 percent occurring in the first half of the year and 60 percent occurring in the second half, which Magnum attributes to advertisement budget cycles and the issuance of new calendars. CR at II-4, PR at II-3.

<sup>92</sup> CR, PR at Tables III-2, C-1. The domestic industry consolidated in the spring of 2005, when Magnum acquired the assets of Magnetic Specialties, Inc. ("MSI"), the firm that originally developed the raw flexible magnet industry in the 1950s. Magnum reduced the workforce by \*\*\* employees and moved some of the MSI equipment to its plant in Ohio. CR, PR at III-1.

<sup>93</sup> CR, PR at Table III-2.

<sup>94</sup> CR, PR at Table IV-7.

<sup>95</sup> CR, PR at Table IV-7. The domestic industry's share of apparent U.S. consumption in the total market increased from 94.8 percent to 95.5 percent between 2004 and 2005 before declining to 93.6 percent in 2006, and was 90.4 percent in interim 2007 compared to 93.8 percent in interim 2006. CR, PR at Tables IV-6. Non-subject imports' share of apparent U.S. consumption was \*\*\* to \*\*\* percent during the entire period for which data were collected. CR, PR at Table IV-6. Subject imports' share of apparent U.S. consumption in the total market declined from \*\*\* percent to \*\*\* percent between 2004 and 2005 before increasing to \*\*\* percent in 2006. Subject imports' share of apparent U.S. consumption was \*\*\* percent in interim 2007 as compared to \*\*\* percent in interim 2006. CR, PR at Table IV-6.

<sup>96</sup> Tr. at 48 (Mr. Button), 178 (Ms. Levinson); Respondent Magnet Technology's Postconf. Brief at 12.

flexible magnets,<sup>97</sup> which is consistent with the views of other questionnaire respondents,<sup>98</sup> although quality was also identified as a purchaser consideration.<sup>99 100</sup>

The majority of U.S. producers that compared raw flexible magnets from China and Taiwan with those produced in the United States reported that they are “always” or “frequently” interchangeable.<sup>101</sup> Ten of 16 responding U.S. importers reported that subject imports from China were “always” or “frequently” interchangeable with the domestic product; three of six reported that subject imports from Taiwan and the domestic product were “always” or “frequently” interchangeable, while the remaining three reported that these products were “sometimes” interchangeable.<sup>102</sup> Two of three responding U.S. importers reported that the imports from China and Taiwan were “always” interchangeable.<sup>103</sup>

The majority of U.S. producers’ shipments of raw flexible magnets were comprised of sheeting (55.2 percent), followed by strip (29.4 percent) and profile shapes (15.4 percent). U.S. importers’ U.S. shipments of raw flexible magnets from China and Taiwan were of all three forms.<sup>104</sup> Subject imports were concentrated in sheeting, with 76.1 percent of product from China and \*\*\* percent of product from Taiwan in this form, followed by profile shapes (14.5 percent and \*\*\* percent, respectively) and strips (9.5 percent and \*\*\* percent, respectively).<sup>105</sup>

## **VI. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS<sup>106</sup>**

### **A. General Legal Standards**

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted.”<sup>107</sup> The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole” in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.<sup>108</sup> In making our

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<sup>97</sup> Tr. at 49 (Mr. Button), 161 (Mr. Mosteller), 162 (Mr. Lewis).

<sup>98</sup> CR, PR at Table II-2.

<sup>99</sup> See, e.g., CR at II-10, PR at II-7.

<sup>100</sup> One witness testified at the staff conference that requirements contracts were a significant condition of competition in the U.S. market. Tr. at 50-51 (Mr. Button). We will explore this issue further in any final phase investigations.

<sup>101</sup> CR, PR at Table II-1.

<sup>102</sup> Id.

<sup>103</sup> Id.

<sup>104</sup> CR, PR at Table IV-3.

<sup>105</sup> Id.

<sup>106</sup> Negligibility is not at issue in these investigations. The shares of the total quantity of U.S. imports for each of the subject countries for the period July 2006 through June 2007 are as follows: \*\*\*. CR at IV-8 n.11, PR at IV-5 n.11.

<sup>107</sup> 19 U.S.C. § 1677(7)(F)(ii).

<sup>108</sup> 19 U.S.C. § 1677(7)(F)(ii).

determination, we consider all statutory threat factors that are relevant to these investigations.<sup>109 110</sup> Based on our evaluation of the record compiled in the preliminary phase of these investigations, we have determined that there is a reasonable indication that the domestic raw flexible magnet industry is threatened with material injury by reason of subject imports from China and Taiwan.

## **B. Cumulation**

### **1. In General**

For purposes of evaluating the volume and price effects for a present material injury determination, Section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.<sup>111</sup> In assessing whether subject imports compete with each other and with the domestic like product,<sup>112</sup> the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographical markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.<sup>113</sup>

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<sup>109</sup> 19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved. *Id.*

<sup>110</sup> In its notices of initiation, Commerce estimated *ad valorem* weighted-average dumping margins for imports of raw flexible magnets from China ranging from 26.46 percent to 185.28 percent and margins for imports from Taiwan ranging from 25.04 percent to 38.03 percent. 72 Fed. Reg. 59071 (Taiwan); 72 Fed. Reg. 59076 (China). Commerce also initiated investigations into 20 potentially countervailable subsidy programs in China, which it grouped under the following headings: (1) Government of China income tax programs; (2) provincial and local income tax programs; (3) indirect tax programs and import tariff program; (4) Government of China loan program; (5) grant programs; and (6) provision of goods or services for less than adequate remuneration. 72 Fed. Reg. 59076.

<sup>111</sup> 19 U.S.C. § 1677(7)(G)(i).

<sup>112</sup> The Uruguay Round Agreements Act, Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, 103rd Cong., 2d Sess. (1994) (at 848) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” (citing *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898, 902 (Ct. Int’l Trade), *aff’d* 859 F.2d 915 (Fed. Cir. 1988)).

<sup>113</sup> See *Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff’d*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int’l Trade), *aff’d*, 859 F.2d 915 (Fed. Cir. 1988).

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.<sup>114</sup> Only a “reasonable overlap” of competition is required.<sup>115</sup>

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation for material injury analysis are satisfied.<sup>116</sup> In addition to considering the four cumulation factors described above, the Commission has considered other factors such as the similarity of the volume trends and pricing data of subject imports from the countries under investigation.<sup>117</sup>

Respondents have indicated that they do not object to cumulating subject imports in these preliminary phase investigations,<sup>118</sup> and Petitioner assumes cumulation in the arguments it makes on the merits of its threat case.<sup>119</sup>

## 2. Analysis

In these investigations, the threshold criterion is satisfied because Petitioner filed a petition with respect to each of the subject countries on the same day. None of the four statutory exceptions applies.<sup>120</sup> Consideration of the four factors traditionally analyzed for cumulation shows that there is a reasonable overlap of competition between subject imports and the domestic product and among subject imports.

### i. Reasonable Overlap of Competition

*Fungibility.* For all the reasons discussed in connection with our findings on substitutability above, the record shows that subject imports from China and Taiwan are at least reasonably fungible with both the domestic like product and each other.

*Geographic Markets.* All six responding producers sell raw flexible magnets nationally. U.S. importers are dispersed throughout the country, but with concentrations in California, Florida, and New Jersey/New York/Pennsylvania.<sup>121</sup> Ten of 19 responding importers reported selling raw flexible magnets throughout the continental United States, while four reported selling to multiple geographic areas.<sup>122</sup> Importers of raw flexible magnets from China are geographically distributed throughout the country. The major importer of raw flexible magnets from Taiwan, \*\*\*, is located in \*\*\* and reports that it markets to

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<sup>114</sup> See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>115</sup> See, e.g., id. at 52 (“Completely overlapping markets are not required”).

<sup>116</sup> 19 U.S.C. § 1677(7)(H).

<sup>117</sup> See Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int’l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int’l Trade 1988).

<sup>118</sup> Tr. at 175 (Ms. Levinson) & 176 (Mr. Donohue).

<sup>119</sup> Petitioner’s Postconf. Brief at 47-50.

<sup>120</sup> See 19 U.S.C. § 1677(7)(G)(ii).

<sup>121</sup> CR, PR at II-1.

<sup>122</sup> Id.

the \*\*\*.<sup>123</sup> The record therefore shows that subject imports and the domestic like product compete in the same or overlapping geographic markets.

*Channels of Distribution.* There were two channels of distribution surveyed for domestic and imported raw flexible magnets, distributors and end users. Subject imports from China and Taiwan and the domestic like product are primarily sold directly to end users. In 2006, for example, 84.5 percent of domestic producers' U.S. shipments were to end users, with the remainder to distributors; 60.2 percent of U.S. importers' U.S. shipments of raw flexible magnets from China were to end users, with the remainder to distributors, and \*\*\* percent of U.S. importers' U.S. shipments of raw flexible magnets from Taiwan were to end users, with the remainder to distributors.<sup>124</sup> Subject imports from China and Taiwan and the domestic like product therefore compete in the same channels of distribution.

*Simultaneous Presence in the Market.* Imports of raw flexible magnets from China and Taiwan entered the United States in every year of the period examined and were present in the market in interim 2006 and interim 2007. Subject imports have therefore been simultaneously present in the U.S. market throughout the period examined.<sup>125</sup>

*Conclusion.* Based on the reasonable degree of fungibility between subject imports and the domestic like product and among subject imports, competition in the same geographic markets and channels of distribution, and the simultaneous presence of the subject imports and the domestic like product in the U.S. market, we find that there is a reasonable overlap of competition among subject imports and between the subject imports and the domestic like product.

## **ii. Discretionary Factors**

Based on the record in these investigations, we find no ground for not exercising our discretion to assess cumulatively the volume and price effects of subject imports from China and Taiwan for purposes of our threat of material injury analysis in these preliminary determinations. We will revisit whether subject imports from the two countries would likely compete under different conditions of competition in the U.S. market in any final phase investigations if necessary.

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<sup>123</sup> CR at IV-10, PR at IV-8.

<sup>124</sup> CR, PR at Table I-2. In contrast, U.S. importers' shipments of raw flexible magnets from all other sources have \*\*\* been to distributors. *Id.*

<sup>125</sup> CR at IV-10, PR at IV-9.

### C. Analysis of Statutory Threat Factors<sup>126 127</sup>

The volume and market penetration of the subject imports increased during the period of investigation, indicating the likelihood of substantially increased imports in the imminent future. The quantity of subject imports increased by \*\*\* percent from 2004 to 2006 (from \*\*\* pounds to \*\*\* pounds) and was \*\*\* percent higher in interim 2007 than in interim 2006 (\*\*\* pounds compared to \*\*\* pounds).<sup>128</sup> Subject imports' share of U.S. consumption in the merchant market, by quantity, increased by \*\*\* percentage points overall, to \*\*\* percent of the market in 2006; subject imports' share of the market was \*\*\* percent in interim 2007 compared to \*\*\* percent in interim 2006.<sup>129</sup> With non-subject imports consistently accounting for between \*\*\* and \*\*\* percent of apparent U.S. consumption in the merchant market, subject imports captured market share directly at the expense of the domestic industry, and the shift is more pronounced in comparing the interim periods, when subject imports accounted for almost \*\*\* percent of the U.S. market.<sup>130</sup>

Information regarding subject country capacity and production also indicates a likelihood of substantially increased imports in the imminent future. The data, which are understated given the limited response to foreign producer questionnaires,<sup>131</sup> show that cumulated subject capacity \*\*\* between 2004

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<sup>126</sup> As noted above, the parties agree and the record reflects that raw flexible magnets are a commodity product. See, e.g., Tr. at 48 (Mr. Button), 178 (Ms. Levinson); Respondent Magnet Technology's Postconf. Brief at 12. Therefore, one of the predicates for application of the Bratsk "replacement/benefit" test is met. See Bratsk Aluminium Smelter v. United States, 444 F.3d 1369, 1375 (Fed. Cir. 2006). However, the information collected in these investigations indicates that the presence of non-subject imports is not a significant factor in the U.S. market. For example, during the period for which data were collected, non-subject imports' share of apparent U.S. consumption ranged between \*\*\* percent and \*\*\* percent in the merchant market and between \*\*\* percent and \*\*\* percent in the total market. CR, PR at Tables C-2, C-1. As a share of total imports, non-subject imports declined from \*\*\* percent in 2004 to \*\*\* percent in 2006. Interim 2007 data show a decline in interim 2007 (\*\*\* percent compared to \*\*\* percent in interim 2006). CR, PR at Table IV-2. Accordingly, we need not apply the analysis dictated by Bratsk because the second predicate of that analysis (i.e., that imports from non-subject countries are a significant factor in the U.S. market) is not present here. In any final phase investigations, any party holding a contrary view should so indicate, and provide the basis for its view, when providing written comments on the draft questionnaires. If warranted, we will reconsider the applicability of Bratsk in any final phase investigations.

<sup>127</sup> Chairman Pearson and Commissioner Okun concur that the preliminary record reflects that non-subject imports are not a significant factor in the U.S. market and that, therefore, the second predicate of the Bratsk test is not met. Accordingly, they do not address the remaining requirements of the Bratsk test. For a complete statement of Chairman Pearson's and Commissioner Okun's interpretation of Bratsk in a preliminary investigation, see Separate and Additional Views of Chairman Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States in Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Preliminary), USITC Pub. 3912 (Apr. 2007) at 19-25.

<sup>128</sup> CR, PR at Tables IV-2, C-1, C-2.

<sup>129</sup> CR, PR at Table C-2.

<sup>130</sup> CR, PR at Table C-2. The overall trends for the entire market were similar. Non-subject imports' share of apparent U.S. consumption ranged between \*\*\* percent and \*\*\* percent. Subject imports' share increased by \*\*\* percentage points between 2004 and 2006 (from \*\*\* percent to \*\*\* percent). Subject imports accounted for \*\*\* percent of apparent U.S. consumption in interim 2007 compared to \*\*\* percent in interim 2006. CR, PR at Tables IV-6, C-1.

<sup>131</sup> With respect to the industry in China, the Commission received a questionnaire response from Polyflex, which claimed to account for approximately \*\*\* percent of production in China in 2006. CR at VII-2, PR at VII-1. Polyflex accounted for \*\*\* percent of reported subject imports from China in 2006, although it estimated that it accounted \*\*\* of exports from China. *Id.* With respect to the industry in Taiwan, the Commission received a questionnaire response from Jasdi, which claimed to account for \*\*\* percent of production in Taiwan in 2006. CR

(continued...)

and 2006 and is projected to increase further in 2007 and 2008.<sup>132</sup> Similarly, reported production in the subject countries \*\*\* between 2004 and 2006 and is projected to increase further in 2007 and 2008.<sup>133</sup> The industries in the subject countries have a \*\*\* export orientation, with exports consistently accounting for \*\*\* percent of reported total shipments.<sup>134</sup> The U.S. market accounted for between \*\*\* percent and \*\*\* percent of subject producers' reported total shipments during the period of investigation.<sup>135</sup> Based on the \*\*\* increase in volume of subject imports, particularly in interim 2007, as well as the growing capacity and export-oriented focus of reporting subject producers, we find that the industries in the subject countries have the ability and incentive to ship substantially increased volumes of raw flexible magnets to the United States in the imminent future.<sup>136</sup>

The Commission considered pricing developments during the period of investigation and likely developments in the imminent future. The record in these preliminary phase investigations, as noted above, indicates that raw flexible magnets are a fungible, commodity product and that price is an important factor in their sale. The Commission collected pricing data on three products. The reported data show mixed underselling. Imports from China undersold the domestic product in the majority of available quarterly comparisons of sales prices (22 of 39), with an average underselling margin of \*\*\* percent.<sup>137</sup> In addition, in order to capture the imports from China that were not sold as raw magnets in the U.S. market, but as value added products, the Commission also collected importer purchase prices.<sup>138</sup> In 27 of 30 available quarterly comparisons, the purchase price of subject imports from China was lower than the selling price reported by U.S. producers, which tends to confirm underselling by subject imports from China.<sup>139</sup>

With respect to subject imports from Taiwan, the collected data showed underselling in 13 of 36 available quarterly comparisons, by an average margin of \*\*\* percent.<sup>140</sup> However, almost all of the instances of overselling occurred during a period for which the Commission was unable to obtain pricing data from \*\*\*.<sup>141</sup> Prices reported by \*\*\* were \*\*\* lower, and quantities were \*\*\* higher, than those reported by the other importers of product from Taiwan. Therefore, higher prices for sales of product

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<sup>131</sup> (...continued)

at VII-4, PR at VII-2. Jasdi estimated its share of exports to the United States to be \*\*\* percent, but this appears understated given that its exports to the United States equaled \*\*\* percent of U.S. imports from Taiwan in 2006. Id.

<sup>132</sup> CR, PR at Table VII-3.

<sup>133</sup> CR, PR at Table VII-3. Foreign producers' inventories, according to the same data, are \*\*\*, ranging between \*\*\* pounds and \*\*\* pounds during the period of investigation.

<sup>134</sup> CR, PR at Table VII-3. Chinese producer \*\*\*. Foreign Producer Questionnaire Response of \*\*\* at II-8a.

<sup>135</sup> CR, PR at Table VII-3.

<sup>136</sup> We also note that U.S. importers' end-of-period inventories of subject imports increased during the period of investigation, from \*\*\* pounds in 2004 to \*\*\* pounds in 2006, and were \*\*\* pounds in interim 2007 compared to \*\*\* pounds in interim 2006. CR, PR at Table VII-4.

We further note that, largely because of the limited response to foreign producer questionnaires, the record contains little information on the possibility for product shifting. We intend to explore this issue further in any final investigations.

<sup>137</sup> CR, PR at Table V-5.

<sup>138</sup> CR at V-6 n.12, PR at V-4 n.12. Purchase price data for subject imports from China accounted for 35.8 percent of imports from China. CR at V-6, PR at V-4 n.12.

<sup>139</sup> CR, PR at Table V-5 Note.

<sup>140</sup> CR, PR at Table V-5.

<sup>141</sup> CR, PR at Table V-5 Note. \*\*\* was unable to report data for October-December 2005 through April-June 2007 due to severe health problems that befell the company official doing the reporting. CR at V-6 n.11, PR at V-4 n.11.

from Taiwan in the later period are likely due to the lack of data from \*\*\* and the small reported quantities by other importers.<sup>142</sup> In the period for which the data include \*\*\* imports, the record shows underselling by subject imports from Taiwan in 13 of 18 available quarterly comparisons.<sup>143</sup>

The collected pricing data show that domestic prices were generally flat during the period of investigation.<sup>144</sup> The record also shows that the domestic industry's cost of goods sold as a ratio to total net sales (COGS/sales) increased in the merchant market between 2004 and 2006 and from interim 2006 to interim 2007.<sup>145</sup>

Based on our consideration of the entire record, including the likelihood of substantially increased imports, the commodity nature of raw flexible magnets and the importance of price in this market,<sup>146</sup> and the evidence of underselling,<sup>147</sup> we find that subject imports are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports.

As subject imports increased their presence in the U.S. market, particularly in interim 2007, the domestic industry's performance declined with respect to various trade and financial measures. After increasing between 2004 and 2005, domestic production remained steady between 2005 and 2006 and was 14.4 percent lower in interim 2007 than in interim 2006.<sup>148</sup> Capacity utilization declined steadily throughout the period of investigation. In 2006, capacity utilization was 59.2 percent; it was 48.2 percent in interim 2007 compared to 59.4 percent in interim 2006.<sup>149</sup> After fluctuating between years, U.S. producers' shipments in the merchant market declined overall by \*\*\* percent from 2004 to 2006, and were \*\*\* percent lower in interim 2007 compared to interim 2006.<sup>150</sup> U.S. producers lost market share to subject imports in the merchant market from 2005 to 2006 and from interim 2006 to interim 2007; U.S. producers' market share was \*\*\* percent in interim 2006 and \*\*\* percent in interim 2007, while subject imports reached their highest share of apparent U.S. consumption (\*\*\* percent in interim 2007, compared with \*\*\* percent in interim 2006.<sup>151</sup>

Domestic producers' financial performance fluctuated from year to year and declined overall during the period of investigation. Domestic producers' net sales in the merchant market increased from

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<sup>142</sup> Id.

<sup>143</sup> CR, PR at Tables V-1-V-3.

<sup>144</sup> CR, PR at Figure V-2.

<sup>145</sup> COGS/sales increased by \*\*\* percentage points from 2004 and 2006; the ratio was \*\*\* percentage points higher in interim 2007 than in interim 2006. CR, PR at C-2. The trends for the total market were similar: COGS/sales increased \*\*\* percentage points from 2004 to 2006 and \*\*\* percentage points from interim 2006 to interim 2007. CR, PR at C-1.

<sup>146</sup> One Respondent witness described the market as being about "price, price, and price." Tr. at 161 (Mr. Mosteller).

<sup>147</sup> The Commission also confirmed lost sales and revenue allegations totaling \$\*\*\*. CR, PR at Tables V-6-V-7. Two additional purchasers agreed that they had switched to subject imports for price reasons, but disputed aspects of Petitioner's specific lost sales allegations. CR at V-18, PR at V-11 (\*\*\* and \*\*\*). A third purchaser indicated that it agreed with most of Petitioner's lost revenue allegation. CR, PR at Table V-7 (\*\*\*). Overall, staff contacted 52 purchasers identified by Petitioner, of which 22 responded. Six agreed with the allegations, 11 disagreed, and six neither agreed nor disagreed. CR at V-15, PR at V-11.

<sup>148</sup> CR, PR at Table III-2.

<sup>149</sup> CR, PR at Table III-2.

<sup>150</sup> CR, PR at Table C-2. In the total market, U.S. producers' shipments increased by 7.9 percent between 2004 and 2006 and were 16.4 percent lower from interim 2006 to interim 2007. CR, PR at Table C-1.

<sup>151</sup> CR, PR at Table C-2. In the total market, U.S. producers lost market share to subject imports from 2005 to 2006 and from interim 2006 to interim 2007. CR, PR at Table C-1.

2004 to 2005, declined from 2005 to 2006, and were \*\*\* percent lower in interim 2007 compared with interim 2006.<sup>152</sup> Operating income for merchant market operations declined \*\*\* percent between 2004 and 2006, and was \*\*\* percent lower in interim 2007 than in interim 2006.<sup>153</sup> Operating income margins declined overall in the merchant market from \*\*\* percent in 2004 to \*\*\* in 2006 and were \*\*\* percent in interim 2007 as compared to \*\*\* percent in interim 2006.<sup>154</sup> \*\*\* firms reported operating losses in the merchant market in interim 2007 compared to \*\*\* in interim 2006.<sup>155</sup>

Employment, hours worked, and wages paid in the domestic industry, which had demonstrated some stability earlier in the period of investigation, were significantly lower in interim 2007 than in interim 2006 (18.1, 16.5, and 12.0 percent lower, respectively).<sup>156</sup> Capital expenditures, which had increased between 2004 and 2006, were \*\*\* percent lower in interim 2007 than in interim 2006.<sup>157</sup> Several domestic producers also reported that the subject imports had actual or potential negative effects on their companies' development and production efforts.<sup>158</sup>

Given the condition of the domestic industry demonstrated by the trade and financial data, the increased volume of subject imports during the period of investigation, particularly in interim 2007, and the evidence of some underselling by those imports in a price sensitive market, we find the likely increases in subject imports at low prices will likely result in material injury to the domestic industry unless antidumping duty and countervailing duty orders are issued.<sup>159</sup> Thus, we find, based on the record in these preliminary phase investigations, a reasonable indication that the domestic industry is threatened with material injury by reason of subject imports.

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<sup>152</sup> CR, PR at Table C-2. In the total market, net sales increased between 2004 and 2006 and then declined 15.3 percent in interim 2007 compared to interim 2006. CR, PR at Table C-1.

<sup>153</sup> CR, PR at Table C-2. In the total market, operating income declined 42.2 percent from 2004 to 2006 and was 31.7 percent lower in interim 2007 than in interim 2006. CR, PR at Table C-1.

<sup>154</sup> CR, PR at Table C-2. In the total market, operating income margins declined overall from 10.6 percent in 2004 to 5.8 percent in 2006 and were 4.6 percent in interim 2006 as compared to 5.7 percent in interim 2006. CR, PR at Table C-1.

<sup>155</sup> CR, PR at Table VI-2. See also CR, PR at Table VI-1 (same).

<sup>156</sup> CR, PR at Tables III-6, C-1.

<sup>157</sup> CR, PR at Tables VI-7, C-1.

<sup>158</sup> CR at VI-20-VI-21, PR at VI-7-VI-8 .

<sup>159</sup> Respondents have argued that any injury was not caused by subject imports, but instead was self-inflicted by the business decisions of the Petitioner, particularly its acquisition of MSI and problems resulting from the integration of Petitioner's operations with MSI. They contend, *inter alia*, that the manner in which Petitioner handled the integration led to the migration of business from Petitioner to its domestic competitor, FlexMag. Adams Respondents' Postconf. Brief at 5-13; Magnet Technology Postconf. Brief at 7-11. We intend to explore this issue further in any final phase investigations, including examining differences in product mix among domestic producers.

## **CONCLUSION**

For the above-stated reasons, we find that there is a reasonable indication that the domestic industry producing raw flexible magnets is threatened with material injury by reason of subject imports from China and Taiwan that are allegedly sold in the United States at less than fair value, and by reason of subject imports from China that are allegedly subsidized by the government of China.

## SEPARATE VIEWS OF COMMISSIONER CHARLOTTE R. LANE

Based on the record in the preliminary phase of these investigations, I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of certain flexible magnetic sheeting, strips, and profile shapes (“raw flexible magnets”) from China and Taiwan that are allegedly sold at less than fair value (“LTFV”), and by reason of imports of raw flexible magnets from China that are subsidized by the government of China. I join parts I through VI(B)(2)(ii) of these Views.

### **I. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBSIDIZED AND/OR LESS THAN FAIR VALUE IMPORTS OF RAW FLEXIBLE MAGNETS FROM CHINA AND TAIWAN**

#### **A. General Legal Standards**

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.<sup>1</sup> In making this determination, the Commission shall consider the volume of subject imports, the effect of subject imports on prices for the domestic like product, and the impact of the subject imports on domestic producers of the domestic like product, but only in the context of U.S. product operations.<sup>2</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>3</sup> In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.<sup>4</sup> No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>5</sup>

Based on an evaluation of the relevant statutory factors, I find that there is a reasonable indication that the domestic industry producing raw flexible magnets is materially injured by reason of subject imports from China and Taiwan.

#### **B. Volume of Subject Imports**

Section 771(C)(I) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”<sup>6</sup>

Based on the record evidence, I find the volume of subject imports of raw flexible magnets is significant and increased over the period of investigation, both in absolute and relative terms. The volume of cumulated subject imports increased irregularly, by \*\*\* percent, between 2004 to 2006, from

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<sup>1</sup> 19 U.S.C. §§ 1671b(a) and 1673b(a).

<sup>2</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also *Angus Chemical Co. V. United States*, 140 F.3d 1478 (Fed. Cir. 1998).

<sup>3</sup> 19 U.S.C. § 1677(7)(A).

<sup>4</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>5</sup> *Id.*

<sup>6</sup> 19 U.S.C. § 1677(C)(i).

\*\*\* pounds in 2004, to \*\*\* pounds in 2005, and \*\*\* pounds in 2006.<sup>7</sup> Subject imports increased by \*\*\* percent between interim periods, from \*\*\* pounds in interim 2006 to \*\*\* pounds in interim 2007.<sup>8</sup>

Subject imports' share of apparent U.S. consumption in the merchant market, as measured by quantity, rose from \*\*\* percent in 2004 to \*\*\* percent in 2006.<sup>9</sup> In interim 2007, subject imports' share of apparent U.S. consumption was \*\*\* percent (their \*\*\* level during the period), compared with \*\*\* percent in interim 2006.<sup>10</sup> The ratio of cumulated subject imports to U.S. production dropped from \*\*\* percent in 2004 to \*\*\* percent in 2005, and then rose to \*\*\* percent in 2006.<sup>11</sup> The ratio of subject imports to U.S. production in interim 2007 was \*\*\* percent, compared to \*\*\* percent in interim 2006.<sup>12</sup>

The increase in subject import market share came entirely at the expense of the domestic industry. The domestic industry's market share was \*\*\* percent in 2004, \*\*\* percent in 2005 and \*\*\* percent in 2006; it was \*\*\* percent in interim 2007 as compared to \*\*\* percent in interim 2006.<sup>13</sup> Nonsubject imports, both in absolute terms and relative to U.S. consumption, remained at low levels throughout the period, typically amounting to approximately \*\*\* percent of imports annually during the period of investigation.<sup>14</sup> Nonsubject imports' market share was \*\*\* percent in 2004, 2005, and 2006, and was \*\*\* percent in interim 2006 and interim 2007.<sup>15</sup>

For the foregoing reasons, I find for the purposes of the preliminary phase of these investigations that both the volume and increase in volume of cumulated subject imports are significant, both in absolute terms and relative to consumption and production in the United States.

### **C. Price Effects of the Subject Imports**

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether - (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like product of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>16</sup>

As noted above, Petitioners and Respondents agreed that raw flexible magnets are a fungible, commodity product. The record also indicates that raw flexible magnets are price sensitive and price is therefore an important factor in purchasing decisions.

According to quarterly pricing data in these investigations there was some price underselling by subject imports during the period of investigation, with margins of underselling ranging from \*\*\* percent to \*\*\* percent.<sup>17</sup> Chinese imports undersold the domestic like product in the majority of available

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<sup>7</sup> CR, PR at Table IV-2.

<sup>8</sup> *Id.*

<sup>9</sup> CR, PR at Table C-2.

<sup>10</sup> *Id.* In the total market, U.S. producers' shipments increased by 7.9 percent between 2004 and 2006 and were 16.4 percent lower from interim 2006 to interim 2007. CR, PR at Table C-1.

<sup>11</sup> CR, PR at Table IV-8.

<sup>12</sup> *Id.*

<sup>13</sup> CR, PR at Table IV-7.

<sup>14</sup> CR, PR at Table IV-2.

<sup>15</sup> CR, PR at Table IV-7. Nonsubject imports were \*\*\* pounds in 2004, \*\*\* pounds in 2005, and \*\*\* pounds in 2006; they were \*\*\* pounds in interim 2006 and \*\*\* pounds in interim 2007. CR, PR at Table IV-8.

<sup>16</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>17</sup> CR, PR at Tables V-1, V-2, and V-3.

quarterly price comparisons of sales prices.<sup>18</sup> While there was limited underselling with respect to subject imports from Taiwan, the instances of overselling occurred during a period for which the Commission was unable to obtain pricing data from \*\*\*, whose prices, when reported, undersold the domestic like product in 13 out of 18 available comparisons.<sup>19</sup> Furthermore, the quarterly pricing data indicate that domestic prices for products 1A and 2A exhibited downward trends and that U.S. producers' average quarterly prices for these pricing products declined \*\*\* over the period of investigation.<sup>20</sup> Thus, while there was mixed underselling during the period, there were overall price declines for both of these products, indicting price depression.

I find there is strong evidence of a cost/price squeeze on the domestic industry, which indicates that needed domestic price increases were suppressed by lower-priced subject imports. The unit value of cost of goods sold for the domestic industry increased while the unit value of sales remained flat over the period of investigation. The unit value for cost of goods sold rose from \*\*\* per pound in 2004, to \$\*\*\* per pound in 2005 and \$\*\*\* in 2006.<sup>21</sup> The unit value of domestic producers' U.S. merchant market shipments fluctuated over the period, but remained flat overall, going from \$\*\*\* in 2004, to \$\*\*\* in 2005 and \$\*\*\* in 2006.<sup>22</sup> Cost of goods sold as a ratio to sales increased \*\*\* over the period, rising from \*\*\* percent in 2004 to \*\*\* percent in 2006, and from \*\*\* percent in interim 2006 to \*\*\* percent in interim 2007.<sup>23</sup> The record therefore indicates that significant volumes of low priced subject imports prevented domestic producers from increasing sales prices in order to recover increased cost of goods sold over the period of investigation.

Domestic producers provided the Commission with 36 lost sales and lost revenue allegations involving 19 firms.<sup>24</sup> Several of these allegations have been confirmed in these preliminary investigations.<sup>25</sup> This evidence further supports my conclusion that subject imports have had a significant adverse impact on domestic prices.

In sum, the record indicates some underselling by subject imports during the period of investigation, and it further indicates that subject imports have depressed and/or suppressed domestic prices to a significant degree. Accordingly, I find that subject imports have had significant adverse effects on domestic prices during the period of investigation.

#### **D. Impact of Subject Imports**

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."<sup>26</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered

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<sup>18</sup> CR, PR at Table V-5.

<sup>19</sup> CR, PR at Tables V-1, V-2, V-3, and V-5 Note.

<sup>20</sup> CR, PR at Tables V-1, V-2, and V-3.

<sup>21</sup> CR, PR at Tables VI-2 and C-2.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* In the total market, cost of goods sold as a ratio to sales increased from 72.8 percent in 2004 to 79.7 percent in 2006, and increased from 79.1 percent in interim 2006 to 80.3 percent in interim 2007. CR, PR at Table C-1.

<sup>24</sup> CR at V-15, PR at 11.

<sup>25</sup> CR, PR at Tables V-6 and V-7.

<sup>26</sup> 19 U.S.C. § 1677(7)(C)(iii).

“within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>27</sup>

Significant volumes of low prices subject imports had a significant adverse impact on the domestic industry’s performance during the period of investigation. Despite a \*\*\* increase in U.S. consumption between 2004 and 2006, domestic producers’ U.S. merchant market shipments declined.<sup>28</sup> While apparent U.S. consumption in the merchant market declined by \*\*\* percent between interim periods, domestic producers’ U.S. shipments fell by \*\*\* percent during the same period.<sup>29</sup> Domestic industry production increased irregularly between 2004 and 2006, but declined \*\*\* between interim periods, due to the negative impact of subject imports.<sup>30</sup> Capacity utilization also decreased consistently throughout the period, falling from 72.9 percent in 2004 to 59.2 percent in 2006, and from 59.4 percent in interim 2006 to 48.2 percent in interim 2007.<sup>31</sup>

The domestic industry’s financial indicators for both the merchant market and the total market have deteriorated \*\*\* over the period of investigation, and \*\*\* between interim periods. Domestic producers’ operating income in the merchant market declined by \*\*\* percent between 2004 and 2006, and declined by \*\*\* percent between interim periods.<sup>32</sup> Domestic industry operating income as a ratio to sales declined \*\*\* from \*\*\* percent in 2004 to \*\*\* percent in 2005, before rebounding \*\*\* to \*\*\* percent in 2006, and fell from \*\*\* percent in interim 2006 to \*\*\* percent in interim 2007.<sup>33</sup> The net sales value in the merchant market decreased from 2004 to 2006, and was \*\*\* percent lower in interim 2007 than in interim 2006.<sup>34</sup> Return on investment also experienced \*\*\* declines between 2004 and 2006, and domestic producers’ capital expenditures dropped \*\*\* between interim periods.<sup>35</sup> Finally, U.S. producers’ net cash flow decreased \*\*\* from \$\*\*\* in 2004 to \$\*\*\* in 2006.<sup>37</sup>

Employment indicators showed \*\*\* declines between interim periods, the time at which subject import volumes increased \*\*\* over the period of investigation. The number of production related workers declined by 18.1 percent, from 392 in interim 2006 to 321 in interim 2007.<sup>38</sup> Similarly, hours worked declined by 16.5 percent between interim periods, from 398,000 in interim 2006 to 321,000 in

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<sup>27</sup> *Id.*

<sup>28</sup> CR, PR at Table IV-5. Domestic producers’ U.S. merchant market shipments declined irregularly during the period of investigation, from \*\*\* pounds in 2004, to \*\*\* pounds in 2005 and \*\*\* pounds in 2006, and from \*\*\* pounds in interim 2006 to \*\*\* pounds in interim 2007. CR, PR at Table C-2.

<sup>29</sup> CR, PR at Tables IV-5 and IV-7.

<sup>30</sup> CR, PR at Table C-2.

<sup>31</sup> CR, PR at Table III-2.

<sup>32</sup> CR, PR at Table VI-2.

<sup>33</sup> *Id.* In the total market, U.S. producers’ operating income as a ratio to sales fell from 10.6 percent in 2004 to 5.8 percent in 2006, and from 5.7 percent in interim 2006 to 4.6 percent in interim 2007.

<sup>34</sup> CR, PR at Table VI-2. In the total market, U.S. producers’ net sales values increased by 6.7 percent between 2004 and 2006, before declining sharply by 15.4 percent between interim periods.

<sup>35</sup> CR, PR at Table VI-8.

<sup>36</sup> CR, PR at Table VI-7. Domestic industry capital expenditures declined from \$\*\*\* in interim 2006 to \$\*\*\* in interim 2007.

<sup>37</sup> CR, PR at Table VI-2.

<sup>38</sup> CR, PR at Table III-6.

interim 2007.<sup>39</sup> Domestic industry productivity declined between 2004 and 2006, and again between interim periods.<sup>40</sup>

The domestic industry's declining operating results and employment data are attributable to its inability to increase its average sales values to match increases in production costs. As noted above, while domestic industry average unit value of sales remained flat between 2004 and 2006, the average unit cost of goods sold increased by \*\*\* percent.<sup>41</sup> Furthermore, domestic industry unit value of sales declined between interim periods, while unit cost of goods sold remained flat.<sup>42</sup> The record evidence therefore clearly shows a cost-price squeeze, the negative effects of which were exacerbated by relatively flat domestic consumption and significant increases in subject import volumes both absolutely and in terms of market share.

For purposes of the preliminary phase of these investigations, I find a reasonable indication that cumulated subject imports have had a significant negative impact on the condition of the domestic industry during the period of investigation. As discussed above, the absolute and relative volumes of subject imports are significant and their price effects were significant, leading subject imports to gain market share at the expense of the domestic industry. The domestic industry lost market share between 2004 and 2006 as well as between interim periods, and its U.S. shipments declined. The domestic industry's unit cost of goods sold increased \*\*\* while its unit value of U.S. shipments remained flat between 2004 and 2006 and declined between interim periods, indicating suppressed prices that could not be increased sufficiently to cover increases in production costs. Furthermore, U.S. producers' financial indicators declined over the period of investigation, and worsened as subject imports continued to capture market share during the interim periods. For these reasons, I find that subject imports had a significant negative impact on the performance of the domestic industry throughout the period examined.

### CONCLUSION

For the reasons stated above, I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of raw flexible magnets from China and Taiwan allegedly sold in the United States at less than fair value, and by reason of raw flexible magnets from China allegedly subsidized by the government of China.

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<sup>39</sup> Id.

<sup>40</sup> CR, PR at Table III-6. Productivity declined irregularly between 2004 and 2006, from \*\*\* pounds per hour in 2004, to \*\*\* pounds per hour in 2005, and \*\*\* pounds per hour in 2006. Productivity also declined between interim periods, from \*\*\* pounds per hour in interim 2006 to \*\*\* pounds per hour in interim 2007.

<sup>41</sup> CR, PR at Table VI-2.

<sup>42</sup> CR, PR at Table C-2.



## PART I: INTRODUCTION

### BACKGROUND

These investigations result from a petition filed on September 21, 2007, by Magnum Magnetics Corp. (“Magnum”), Marietta, OH, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of less-than-fair-value (“LTFV”) imports of raw flexible magnets<sup>1</sup> from China and Taiwan. The petition further alleged that an industry in the United States is materially injured and threatened with further material injury by reason of subsidized imports of raw flexible magnets from China. Information relating to the background of these investigations is provided below.<sup>2</sup>

Date	Action
September 21, 2007	Petition filed with Commerce and the Commission; Commission institutes investigations (72 FR 55248, September 28, 2007)
October 12, 2007	Commission’s conference (a list of witnesses that appeared at the conference is presented in appendix B)
October 18, 2007	Commerce’s notices of initiation (72 FR 59071 and 59076, October 18, 2007)
November 2, 2007	Commission’s vote
November 5, 2007	Commission’s determinations transmitted to Commerce
November 13, 2007	Commission’s views transmitted to Commerce

### STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission—

*shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

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<sup>1</sup> A complete description of the imported product subject to these investigations is presented in *The Subject Merchandise* section located in Part I of this report. The merchandise subject to these investigations is currently classified in the Harmonized Tariff Schedule of the United States (“HTS”) under subheadings 8505.19.10 and 8505.19.20 (8505.19.0040 before 2005). The normal trade relations tariff rate on raw flexible magnets, applicable to imports from China and Taiwan, is 4.9 percent *ad valorem*.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

*In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*

. . .

*In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*

. . .

*In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to . . . (I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

Information on the subject merchandise, alleged margins of dumping and subsidies, and domestic like product is presented in *Part I*. Information on conditions of competition and other relevant economic factors is presented in *Part II*. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise are presented in *Parts IV and V*, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury and the judicial requirements and information obtained for use in the Commission's consideration pursuant to *Bratsk* rulings.

## U.S. RAW FLEXIBLE MAGNETS MARKET SUMMARY

Apparent U.S. consumption for raw flexible magnets totaled approximately \$95.6 million (91.0 million pounds) in 2006. Three firms – Flexmag Industries, Inc. (“Flexmag”), Holm Industries, Inc. (“Holm”), and Magnum – accounted for almost all known U.S. production in 2006, with several small firms accounting for the remaining production. The imports of raw flexible magnets from China were generally distributed among 11 top importers – \*\*\* – during the most recent period for which data were collected (2006 and January-June 2007). One firm, \*\*\*, accounted for \*\*\* reported imports from Taiwan of raw flexible magnets during the period for which data were collected. Importers’ responses are believed to have accounted for more than 90 percent of U.S. imports of raw flexible magnets during the period for which data were collected, and there were no substantial imports from nonsubject countries of raw flexible magnets. Data were received from one large producer in China – Polyflex Magnets Ltd. (“Polyflex”) – which reported that it accounted for approximately \*\*\* percent of Chinese production in 2006 and approximately \*\*\* percent of Chinese exports to the United States in 2006. Polyflex accounted for \*\*\* percent of reported U.S. imports of raw flexible magnets from China in 2006. Data were received from one large producer in Taiwan – Jasdi Magnet Co. (“Jasdi”) – which reported that it accounted for \*\*\* percent of Taiwan’s production in 2006 and approximately \*\*\* percent of Taiwan’s exports to the United States in 2006. Jasdi accounted for \*\*\* percent of reported U.S. imports of raw flexible magnets from Taiwan in 2006.

U.S. producers’ U.S. shipments of raw flexible magnets totaled 85.2 million pounds in 2006, and accounted for 93.6 percent of apparent U.S. consumption by quantity. U.S. imports from China totaled \*\*\* pounds in 2006, and accounted for \*\*\* percent of apparent consumption by quantity; U.S. imports from Taiwan totaled \*\*\* pounds in 2006 and accounted for \*\*\* percent of apparent U.S. consumption by quantity; and U.S. imports from all other sources combined totaled \*\*\* pounds in 2006, and accounted for \*\*\* percent of apparent U.S. consumption by quantity.

### SUMMARY DATA

A summary of data collected in these investigations for the U.S. raw flexible magnet market is presented in appendix C, tables C-1 (data on the total U.S. market) and C-2 (data on the U.S. merchant market). Table C-1 includes data submitted by all six responding U.S. producers: Electrodyne Co., Inc. (“Electrodyne”), Flexmag, Holm, Magnet Technology, Inc. (“Magnet Technology”), Magnum, and P.H. Glatfelter Co. (“Glatfelter”). Table C-2 includes data for all six producers that sell raw flexible magnets on the merchant market and excludes \*\*\* internal consumption by Holm and \*\*\*.<sup>3</sup>

Producer data are based on questionnaire responses of six firms that accounted for more than 95 percent of U.S. production of raw flexible magnets during the period examined. U.S. import data are based on questionnaire responses of 48 importers that provided usable data and are believed to account for more than 90 percent of U.S. imports of raw flexible magnets during the period examined. Data on apparent U.S. consumption of raw flexible magnets were compiled using shipment data from questionnaire responses of the six responding U.S. producers and import data reported in the questionnaire responses of the 48 responding firms that imported the subject product during the period examined.

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<sup>3</sup> All six responding producers sell raw flexible magnets in the merchant market. Holm internally consumes \*\*\* raw flexible magnets it produces for its refrigerator gasket line of products.

## NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

On October 18, 2007, Commerce published a notice in the *Federal Register* of the initiation of the antidumping investigations on raw flexible magnets from China and Taiwan. The estimated weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce (based on petitioner's alleged margins, as adjusted) are presented in the following tabulation.<sup>4</sup>

Country	Estimated dumping margins ( <i>percent ad valorem</i> )
China	26.46–185.28
Taiwan	25.04–38.03

Also on October 18, 2007, Commerce published a notice in the *Federal Register* of the initiation of the countervailing duty investigation on raw flexible magnets from China.<sup>5</sup> The following government programs in China are involved:

### Government of China Income Tax Programs

1. Preferential Tax Policies for Foreign Investment Enterprises (FIEs) (Two Free, Three Half Program)
2. Preferential Tax Policies for Export-Oriented FIEs
3. Tax Subsidies to FIEs Based in Specially Designated Geographic Areas
4. Tax Credits on Domestic Equipment Purchases
5. Reinvestment Tax Benefits for FIEs
6. Reduced Income Tax Rate For New High-Technology FIEs
7. Reduced Income Tax Rate For Technology And Knowledge Intensive FIEs

### Provincial and Local Income Tax Programs

8. Anhui Province
9. Zhejiang Province
10. Shanghai Municipality
11. Beijing Municipality

### Indirect Tax Programs and Import Tariff Program

12. Value Added Tax (VAT) and Import Duty Exemptions on Imported Equipment
13. VAT Refunds on Exports

### Government of China Loan Program

14. Preferential loan programs and interest rates in Guangdong Province

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<sup>4</sup> *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.

<sup>5</sup> *Raw Flexible Magnets from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation*; 72 FR 59076, October 18, 2007.

## Grant Programs

15. Key Technologies Renovation Project Fund
16. Hengdian Group Grants
17. Government of China Payment of Legal Fees
18. Provincial and Local Direct Grants in Guangdong Province
19. Provincial and Local Direct Grants in Zhejiang Province

## Provision of Goods for Less than Adequate Remuneration

20. Provision of Land for Less than Adequate Remuneration for Zhejiang Province, specifically the Ningbo Export Processing Zone

## **THE SUBJECT MERCHANDISE**

### **Commerce's Scope**

Commerce has defined the scope of these investigations as follows:

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 (HTS). The HTS subheadings are provided only for convenience and customs purposes, however, and the written description of the scope of this proceeding is dispositive.<sup>6</sup>

### U.S. Tariff Treatment

The products subject to these investigations are currently classified in subheadings 8505.19.10 (flexible magnets) and 8505.19.20 (composite goods containing flexible magnets) at a general rate of duty of 4.9 percent *ad valorem*, as presented in table I-1. These subheadings were created specifically for flexible magnets at the request of the U.S. industry<sup>7</sup> and have been in place since December 18, 2004. Previously, imports of raw flexible magnets were provided for by statistical reporting number 8505.19.0040.

**Table I-1**  
**Raw flexible magnets: Tariff treatment, 2007**

HTS provision	Article description	General <sup>1</sup>	Special <sup>2</sup>	Column 2 <sup>3</sup>
		Rates (percent <i>ad valorem</i> )		
8505.19	Permanent magnets and articles intended to become permanent magnets after magnetization (other than of metal):			
8505.19.10	Flexible magnets . . . . .	4.9	Free (A, AU, BH, CA, CL, E, IL, J, JO, MA, MX, P, SG)	45.0
8505.19.20	Composite good containing flexible magnets . . . . .	4.9		45.0

<sup>1</sup> Normal trade relations, formerly known as the most-favored-nation duty rate.  
<sup>2</sup> See general note 3(c)(i) for list of symbols.  
<sup>3</sup> Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

Note.--Until December 18, 2004, the relevant HTS statistical reporting number was 8505.19.0040.

Source: Harmonized Tariff Schedule of the United States (2007).

<sup>6</sup> 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.

<sup>7</sup> Staff field trip report, \*\*\*, October 2, 2007.

## THE DOMESTIC LIKE PRODUCT

According to the petition, raw flexible magnets are distinguished by flexibility, light weight, ease of cutting, and (in the case of sheet and strip) flexibility. Raw flexible magnets are characterized by petitioners as being “largely interchangeable along a continuum of dimensions and coatings and laminations,” yet distinctive from other permanent magnets in terms of composition, physical characteristics, and uses.<sup>8</sup> No party has advocated finding a domestic like product that is broader than Commerce’s scope.<sup>9</sup>

### Descriptions and Applications

Flexible magnets are permanent magnets that can be twisted, bent, slit, punched, coiled, and otherwise molded into any shape without loss of magnetic properties. Raw flexible magnets consist of sheet (or sheeting), strip, and thermoplastic profile shapes, typically of uniform thickness and surface finish. Figure I-1 presents a depiction of various types of sheet, strip, and profile shape flexible magnets produced by the petitioner Magnum.

**Figure I-1**  
**Raw flexible magnets: Product forms**



Source: Magnum Magnetics’ website at <http://www.magnummagnetics.com>, retrieved October 1, 2007.

Magnetic sheet is characterized as “(s)heets of material that are highly flexible and have permanent magnetic properties.”<sup>10</sup> Sheet, which is generally (but not exclusively) produced by the calendaring process described below, is the widest form of raw flexible magnet, typically available in widths up to approximately 24 inches.<sup>11</sup> Flexible magnetic strips are dimensionally narrower than sheet. According to testimony at the staff conference, “(s)trips may be produced by cutting sheets into much narrower products, or they may be made by extruding the materials to its final dimension. Thicker strips

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<sup>8</sup> Petition, pp. 13-14.

<sup>9</sup> Similarities and differences between various forms of raw flexible magnets are discussed in the section of this chapter entitled *Domestic Like Product Issues*.

<sup>10</sup> Conference transcript, p. 25 (A. Love). Mr. Love defined “permanent magnetic properties” as “capable of being permanently magnetized by exposing the material to a strong magnetic field so that when the field is removed the material retains the magnetic force, enabling the material to hold itself to a metallic surface.” Ibid.

<sup>11</sup> See, e.g., Master Magnetics, “Solutions,” found at [www.magnetsource.com](http://www.magnetsource.com), retrieved on October 15, 2007.

typically are extruded.”<sup>12</sup> Finally, profile shapes are flexible magnets that are not square or rectangular in cross section.<sup>13</sup> Thermoplastic profile shapes are manufactured exclusively by the extrusion method.<sup>14</sup>

In general, flexible magnets are used in a number of applications such as refrigerator door gaskets; magnetic car and safety signs; direct mail promotional items; magnetic business cards; advertising signs; calendars; nameplates; and toys and games. The key physical characteristics and similarities among all flexible magnets include magnetism, thinness, flexibility, lightness of weight, and ease of cutting. Raw flexible magnet profile shapes are used in the production of commercial products such as refrigerator doors, shower doors, and merchandise exhibits. Raw flexible magnetic sheet and strip are typically used to produce refrigerator magnets, magnetic business cards such as used by real-estate agents in promotional applications, and label holders for metal shelving.<sup>15</sup>

### **Manufacturing Process**

Raw flexible magnets are manufactured by consolidating a mixture (in either granular or slurry form) of magnetic ferrite powders such as strontium or barium<sup>16</sup> with a flexible resin binder (polymer), then transferring the mixture to one of several varieties of forming processes (namely calendaring, coating, or extrusion). The product - in sheet form, narrower strip form, or as a profile shape - is finished and prepared for shipment, typically in rolls or coils (figure I-2).<sup>17</sup>

In the calendaring process, the magnetic particulate (a mixture of ferrite metals and resins) is fed through a calender,<sup>18</sup> where it is pressed between two large rotating steel rolls to create magnetic sheets or strip of uniform thickness and surface finish. In the extrusion process, the magnetic particulate is forced through a shaped die to create rectangular or square sheets, strips, or other profile shapes. In the coating process the magnetic material is coated onto a carrier material such as paper, using a slot die or similar coating method. These materials are then cut,<sup>19</sup> scored,<sup>20</sup> slit,<sup>21</sup> or die-cut<sup>22</sup> into many different sizes. Some types of flexible magnet sheeting are laminated<sup>23</sup> with paper or plastic (typically white, but can be any color), or are coated with an adhesive (in most cases a pre-printed or decorated laminate) or other

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<sup>12</sup> Conference transcript, p. 25 (A. Love).

<sup>13</sup> Conference transcript, pp. 25-26 (A. Love). Mr. Love described examples such as label holders on metal shelving or profiles designed to fit in a channel of a shower door frame. Ibid.

<sup>14</sup> Conference transcript, p. 27 (A. Love).

<sup>15</sup> Petition, Volume I, p. 13; petitioner’s postconference brief, p. 11; and Magnet Technology’s postconference brief, p. 2.

<sup>16</sup> U.S. production of flexible magnets consists entirely of strontium ferrites due to the low cost and the toxicity associated with barium ferrites. Conference transcript, p. 26 (A. Love), and staff field trip report, \*\*\*, October 2, 2007.

<sup>17</sup> Petition, Volume I, pp. 5-6.

<sup>18</sup> A calender is a machine consisting of metal rolls in a stack that are used for applying pressure to smooth paper and other materials.

<sup>19</sup> Cutting typically involves large sheets or rolls and is customarily done in a punch press.

<sup>20</sup> Scoring a magnet takes place when a cut is not made through the entire magnet, enabling it to remain in a larger piece or roll for packaging and ease of process for the customer. This process typically takes place via a punch press and is considered a value-added service.

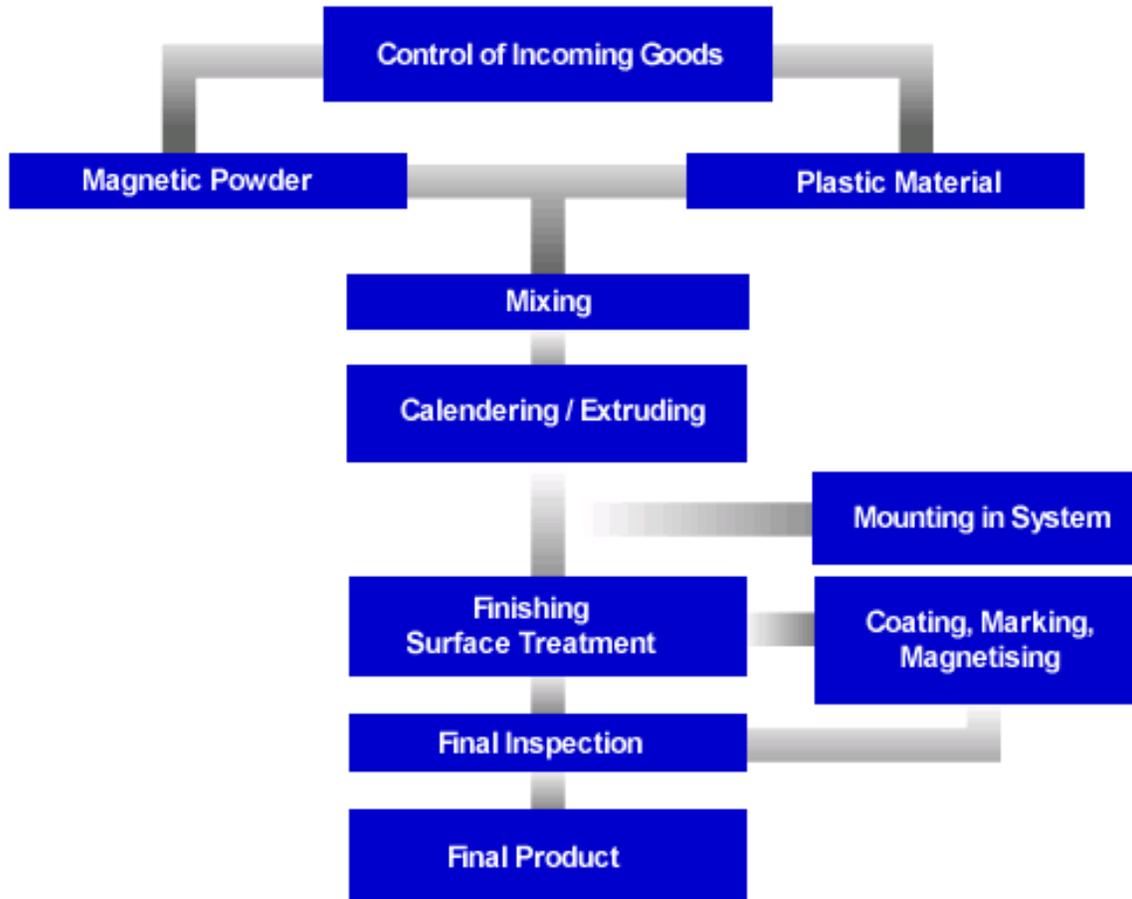
<sup>21</sup> Slitting refers to slicing the magnet along the length of the roll. Slitting is not always considered a value added service by the manufacturer.

<sup>22</sup> Die-cutting is typically performed on a punch press with a steel rule die. A die-cut is employed in individual magnet pieces cut into precise dimensions. Die-cutting can also create “score” lines within the die cut piece to permit easy removal of separate magnet pieces after further processing by the customer. The use of die-cutting is a value added service employed by the producer.

<sup>23</sup> Laminating is typically completed by the magnet producer or by a printer and refers to the process for adhering any flat film, paper, or adhesive to the magnet.

material.<sup>24</sup> A minority of flexible magnets is shipped in rolls or coils, but the manufacturer cuts most magnetic sheeting into various sized (widths and lengths) sheets to be shipped in stacks to the customer or distributor.<sup>25</sup>

**Figure I-2**  
**Raw flexible magnets: Manufacturing process**



Source: AMF Magnetics at <http://www.amfmagnetics.com>, retrieved October 15, 2007.

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<sup>24</sup> Flexible magnets may be “back coated” with a smooth substance in order to cause sheets of the material to pass more readily over each other when being fed into printing equipment and also to prevent blocking or “bricking” of stacks of raw flexible magnetic sheets in the printing process.

<sup>25</sup> Petition, Volume I, pp. 5-6.

According to Magnum, slitting might add approximately \*\*\* percent value to the product by a converter, however, Magnum typically charges customers \*\*\* for most of its slitting. Likewise, although Magnum typically charges \*\*\* for cutting operations, converters might add \*\*\* percent of the value in their cutting operations. For extrusions and small pieces of sheeting, cutting is done on a punch press and can add \*\*\* percent in value. Likewise, scoring can add \*\*\* percent of the value if the score is down the length of the web, as with slitting; or it can add \*\*\* percent of the value if it must be done across the width of the magnet with a punch press (as with cutting), depending on the distance between “scores.” Die cutting may add \*\*\* percent of the value, depending on the method used and the size of the piece: a punch press with a steel-rule die or by creating “score” lines within a die cut piece. According to Magnum, in some cases, one or more of the steps can be combined for a single product, resulting in cumulated added values from each step. Slitting, cutting, and scoring, for example, can be combined resulting in cumulated added values. Die-cutting, meanwhile, is typically not combined with any other type of converting.<sup>26</sup>

According to Magnum, in describing its value-added operations, most laminating is done by the flexible magnet manufacturer or printer, not by a converter. A converter’s laminating operations would generally be limited to 60-mil 3" wide extrusions, and most commonly would involve adding an adhesive backing to the magnet, resulting in added value of approximately \*\*\* percent. Laminating is only performed on a small range of products by converters but is performed by Magnum on its products.<sup>27</sup>

Raw flexible magnets can be magnetized by either the producer at various stages of the manufacturing process or by the customer, depending on the particular customer’s material handling needs.<sup>28</sup> There are no particular handling precautions that have to be taken with flexible magnets since they are relatively weak magnetically, are not brittle, and can be used up to temperatures of \*\*\* degrees centigrade or more.<sup>29</sup>

## Marketing

The Commission’s questionnaire asked firms to report the quantity of U.S. shipments sold to distributors and end users. Data compiled in response to Commission questionnaires concerning these channels of distribution, by country, are presented in table I-2. U.S. producers’ U.S. shipments and U.S. shipments of imports from subject sources were primarily sold to end users.

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<sup>26</sup> Petitioner’s postconference brief, exh. 1, pp. 4-5.

<sup>27</sup> Ibid.

<sup>28</sup> Petition, Volume I, pp. 5-6.

<sup>29</sup> Staff field trip report, \*\*\*, October 2, 2007.

**Table I-2**

**Raw flexible magnets: U.S. producers' and importers' shares of reported U.S. shipments, by sources and channels of distribution, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<b>Share of reported shipments (<i>In percent</i>)</b>					
<b>Domestic producers' U.S. shipments of raw flexible magnets to:</b>					
Distributors	11.7	13.5	15.5	14.8	15.7
End users	88.3	86.5	84.5	85.2	84.3
<b>U.S. importers' U.S. shipments of raw flexible magnets from China to:</b>					
Distributors	38.4	43.5	39.8	18.0	23.8
End users	61.6	56.5	60.2	82.0	76.2
<b>U.S. importers' U.S. shipments of raw flexible magnets from Taiwan to:</b>					
Distributors	***	***	***	***	***
End users	***	***	***	***	***
<b>U.S. importers' U.S. shipments of raw flexible magnets from all other countries to:</b>					
Distributors	***	***	***	***	***
End users	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.					

### **DOMESTIC LIKE PRODUCT ISSUES**

Presented below is information related to the Commission's "domestic like product" finding.<sup>30</sup> One responding party, Magnet Technology, appeared to dispute the petitioner's definition of the domestic like product, "all raw flexible magnets produced in the United States."<sup>31</sup> Magnet Technology testified that extruded magnets for use in refrigerator gaskets and shower doors are a "different industry," manufacturing raw flexible magnets using different facilities, different employees, serving different customer bases, and producing a product that is very distinct from the sheet and strip produced using the calendar method. It asserted that extruded strips are very narrow strips of material of an eighth to three-eighths of an inch in width, manufactured to very tight tolerances of magnetic properties as an engineered product, which are very different from the sheets and strips using the calendar methods, which are not manufactured to any standard specifications.<sup>32</sup> Counsel for petitioner and counsel for importers have urged the Commission to adopt the petitioner's definition of the domestic like product.<sup>33</sup>

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<sup>30</sup> The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price.

<sup>31</sup> Conference transcript, 168-170 (Mosteller and Donohue).

<sup>32</sup> Ibid.

<sup>33</sup> Ibid., p. 117 (Levinson); and petitioner's postconference brief, pp. 10-14.

## Physical Characteristics and Uses

Extrusions are generally narrower than calendared products; however, according to Magnum officials, flexible magnetic sheets may be manufactured on extruding machines if the die is wide enough, and calendared products are often slit into narrow widths.<sup>34</sup> According to the petitioner, the products share key characteristics of all raw flexible magnets: thinness, flexibility, lightness of weight, and ease of cutting. The petitioner argues that, for the majority of raw flexible magnets, products may be produced using both types of production methods. At the extremities, some products may call for one process or the other.<sup>35</sup>

The petitioner acknowledges that the requirements for flexible magnets for refrigerator gaskets may call for such tight tolerances in an engineered product that the extrusion method is the preferred method.<sup>36</sup> Refrigerator magnet sheeting is produced using the calendar method, as are flexible magnets for car signs, magnetic business cards, and direct-mail promotional items. Magnet Technology argues that magnets for shower doors are another example of an engineered product manufactured using the extrusion method only.<sup>37</sup> According to \*\*\*,<sup>38</sup> \*\*\*'s production is \*\*\* percent calendaring and \*\*\* percent extrusions, so of the firms addressing this issue, it \*\*\*.<sup>39</sup>

## Manufacturing Facilities and Production Employees

According to Magnet Technology, the manufacturing facilities are distinct for extruded and calendared products.<sup>40</sup> Magnet Technology accounts for \*\*\* percent of the domestic industry and produces exclusively using the extruded process. Holm, which accounts for \*\*\* percent of U.S. production, produces only extruded magnets for its refrigerator gasket line, with some magnets sold in the merchant market to its \*\*\*, so it does not have any overlapping experience with extrusions and calendared flexible magnets. \*\*\*.<sup>41</sup> Magnum, which accounted for \*\*\* percent of U.S. production, produces about \*\*\* percent extrusions and \*\*\* percent calendared magnets. It produces both products in the same plant, using the same production employees.<sup>42</sup>

## Interchangeability

Magnet Technology argued that there was no interchangeability between extrusions and calendared flexible magnets.<sup>43</sup> Magnum has stated that flexible magnet strips or sheets can be produced through an extrusion process or a calendaring process, and that such products are completely interchangeable. Magnum argued that, as one compares products at the extremes of the product continuum, the products are less or not interchangeable, but that there is clearly an area in the middle where extruded and calendaring products are interchangeable.<sup>44</sup>

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<sup>34</sup> Ibid., pp. 79-80 (A. Love).

<sup>35</sup> Petitioner's postconference brief, p. 11.

<sup>36</sup> Conference transcript, p. 76 (T. Love); pp. 168-169 (Mosteller); and petitioner's postconference brief, p. 11.

<sup>37</sup> Conference transcript, pp. 168-169 (Mosteller).

<sup>38</sup> Correspondence from \*\*\*, October 19, 2007.

<sup>39</sup> Correspondence from \*\*\*, October 12, 2007.

<sup>40</sup> Conference transcript, p. 170 (Donohue).

<sup>41</sup> Correspondence from \*\*\*, October 19, 2007.

<sup>42</sup> Petitioner's postconference brief, p. 12.

<sup>43</sup> Conference transcript, p. 169 (Mosteller).

<sup>44</sup> Petitioner's postconference brief, p. 11.

## Customer and Producer Perceptions

Magnum has stated that producers and purchasers generally perceive all flexible magnets to be a single product category, whether produced by extrusion or calendaring, in sheet or strip form. Its customers frequently do not know what type of process is used to make their raw flexible magnets, leaving it to Magnum to decide on the production process based on the specification of the order and relative costs. Magnum often interchanges the processes in filling customers' orders in light of which process is most economical for the particular order.<sup>45</sup> In contrast, producer Magnet Technology views both the uses and the customer bases of sheet and extruded flexible magnets as distinct.<sup>46</sup>

## Channels of Distribution

Magnet Technology argued that extrusions are sold to completely different customers than calendared products.<sup>47</sup> \*\*\*.<sup>48</sup> Magnum argued that all flexible magnets are sold in the same channels of distribution. Both sheet and extrusion magnets are sold directly to commercial printers and advertising specialty firms, through local and national distributors, and in some cases, directly to OEMS and retailers.<sup>49</sup>

## Price

Magnum has alleged that there is a narrow range of price variation for plain raw flexible magnets (\*\*\* per pound) and a narrow range of price variation for laminated materials (\*\*\* per pound). There is reportedly no price premium for either extruded or calendared products.<sup>50</sup> The average unit value of Holm's commercial shipments of extrusions was \*\*\* per pound. The average unit value of Magnet Technology's U.S. shipments of a supposedly similar product was \*\*\* per pound. Flexmag's average unit value of commercial shipments ranged from \*\*\*, which \*\*\*. Magnum's average unit values ranged from \*\*\*, reflecting \*\*\*.

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<sup>45</sup> Conference transcript, p. 79 (A. Love).

<sup>46</sup> Ibid., p. 168 (Mosteller).

<sup>47</sup> Ibid., p. 170 (Donohue).

<sup>48</sup> Correspondence from \*\*\*, October 19, 2007.

<sup>49</sup> Petitioner's postconference brief, p. 12.

<sup>50</sup> Ibid., p. 13.



## PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

### MARKET CHARACTERISTICS

Raw flexible magnets are used in a wide variety of applications. Uses cited by questionnaire respondents included note holders, advertisements, business cards, shower door enclosures, silk screens, promotional magnets, magnetic signs, trade show displays, custom parts, office supplies, refrigerator gaskets, and schedules. As discussed in Part I of this report, the majority of shipments by both U.S. producers and U.S. importers are to end users, rather than distributors. Indeed, petitioner Magnum estimated that only \*\*\* percent of sales were to distributors and \*\*\* percent were to retailers (craft and discount stores), while \*\*\* percent of sales were to printers (companies that print content on the magnets) and \*\*\* percent of sales were to original equipment manufacturers (companies incorporating the magnets into finished goods).<sup>1</sup>

In most cases, U.S. producers and importers of raw flexible magnets from the subject countries sell the product in one or more specific regions of the United States. All six responding producers sell raw flexible magnets nationally. U.S. importers are dispersed throughout the country, but with concentrations in California, Florida, and New Jersey/New York/Pennsylvania. Ten of 19 responding U.S. importers reported selling throughout the continental United States, while an additional four reporting importers sell raw flexible magnets to multiple geographic areas.<sup>2</sup> Among these, three sell on the West Coast, two in the Southeast, one in the Northwest, and one in the Southwest.<sup>3</sup>

U.S. inland shipping distances for U.S.-produced raw flexible magnets and imports from China and Taiwan were reported by U.S. producers and U.S. importers. All five responding producers reported the majority of their raw flexible magnets was sold within distances of 101 to 1,000 miles from their facilities. Among the responding 18 importers, 3 firms reported that 80 percent and two firms reported that 100 percent of their raw flexible magnets was sold within 100 miles of their storage facilities. Five firms sold about 50 percent and one firm sold 70 percent of their raw flexible magnets within distances of 101 to 1,000 miles. One importer sold 100 percent, another one sold 90 percent, and a third sold 40 percent of their raw flexible magnets in distances over 1,000 miles of their storage facility.

Delivery lead times from inventories varied widely for both U.S.-produced and imported raw flexible magnets. For U.S. producers, lead times ranged from one day to as much as 24 days. For importers, lead times ranged from one day to as much as three weeks. Delivery lead times for produced-to-order raw flexible magnets ranged from seven days to 10 weeks for U.S. producers and from one day to four months for importers. The majority of the U.S. producers' products were sold from inventory. Approximately one-half of responding importers reported having 100 percent of their products produced to order while one-half reported that 100 percent of their products was sold from inventory.

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<sup>1</sup> See "Raw Flexible Magnets: Market Distribution Chart" submitted by Magnum.

<sup>2</sup> Some importers of raw flexible magnets import the product and resell it as a raw flexible magnet, while others transform the product and then sell it. Responses to questions are only discussed for those nineteen importers who reported sales of raw flexible magnets in their importers' questionnaire.

<sup>3</sup> The \*\*\* importer of raw flexible magnets from Taiwan, \*\*\*, is located in California and reported selling in the following regions: \*\*\*.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. Supply

#### Domestic Production

The sensitivity of the domestic supply of raw flexible magnets to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced raw flexible magnets, inventory levels, and the ability to shift to the manufacture of other products. The record in the preliminary phase of these investigations suggests that U.S. producers have a high degree of flexibility in expanding output and U.S. shipments in response to an increase in price, chiefly due to low industry capacity utilization rates. U.S. producers' capacity utilization declined from 72.9 percent in 2004 to 59.2 percent in 2006, and was 48.2 percent during January-June 2007. Exports, as a percent of total shipments, ranged between 5.5 percent and 6.1 percent during 2004-06, and reached 7.4 percent during January-June 2007. The ratio of U.S. producers' end-of-period inventories to their total shipments ranged from \*\*\* to \*\*\* percent during 2004-06, and was \*\*\* percent during January-June 2007.

#### Supply of Subject Imports to the U.S. Market

The responsiveness of the supply of imports from subject countries to changes in price in the U.S. market is affected by such factors as capacity utilization rates, the availability of home markets and other export markets, and inventories. Based on available information, suppliers of subject imports are likely to respond in changes in demand with moderate to high changes in the quantity of shipments of raw flexible magnets to the U.S. market.

#### *Subject Imports from China*

During 2004-06, the capacity utilization rate for the single responding producer of raw flexible magnets in China, Polyflex, was between \*\*\* and \*\*\* percent; it is projected to be \*\*\* percent in 2007 and \*\*\* percent in 2008. Polyflex reported \*\*\* inventories. Polyflex's shipments to the Chinese home market were \*\*\* percent of its total shipments in 2004, \*\*\* percent in 2005, and \*\*\* percent in 2006. Exports to non-U.S. markets, as a percentage of its shipments, ranged from \*\*\* percent in 2004 to \*\*\* percent in 2006.<sup>4</sup>

#### *Subject Imports from Taiwan*

Capacity utilization rates for the single responding producer of raw flexible magnets in Taiwan, Jasdi, were between \*\*\* and \*\*\* percent during 2004-06; rates are projected to \*\*\* percent in 2007 and \*\*\* in 2008. Inventories, as a percentage of total shipments, were \*\*\* percent to \*\*\* percent during 2004-06. The percentage of total shipments going to the Taiwan home market<sup>5</sup> declined from \*\*\* percent in 2004 to \*\*\* percent in 2006. Exports to non-U.S. markets, as a percentage of total shipments, ranged from \*\*\* percent to \*\*\* percent during 2004-06.<sup>6</sup>

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<sup>4</sup> Table VII-1.

<sup>5</sup> Taiwan's home market sales include subsequent exports to the United States (*see* part VII).

<sup>6</sup> Table VII-2.

## U.S. Demand

### Demand Characteristics

Since raw flexible magnets are a raw material product with many end-use applications, including promotional magnets, magnetic signs, trade show displays, custom parts, office supplies, refrigerator gaskets, and schedules, the overall demand for raw flexible magnets is closely linked to the demand for those end-use products. The price elasticity of demand for raw flexible magnets is likely moderate since raw flexible magnet products have substitutes for some applications and they often account for a substantial share of the final cost of products in which they are used as inputs.

Demand for raw flexible magnets tends to fluctuate from period to period. Magnum reported that there is a factor of seasonality in their sales of raw flexible magnets: 40 percent of their sales occur in the first six months of the year (with a spike in March attributed to sales of baseball schedules) and 60 percent of their sales occur in the last half of the year (attributed to advertisement budget cycles and the issuance of new calendars).<sup>7</sup>

When asked how the U.S. demand for raw flexible magnets had changed since January 1, 2004, responses from U.S. producers were mixed: two producers reported that demand had increased, two reported that demand decreased, and two reported that demand did not change. \*\*\* attributed the rise in demand to “increased use on cars, in magazines, billboards, direct mail, and advertising specialities.”<sup>8</sup> \*\*\* attributed the increase in demand to the mass mailing inserts that started in 2005. \*\*\* and \*\*\* attributed the decrease in demand to Chinese production and to the manufacturers that use magnets as components that are moving overseas, respectively. Six importers reported that demand increased, five importers reported that demand decreased, and seven importers reported no change in demand during the review period. The importers reporting increased demand attributed the rise to the spike in demand in 2005 due to the Capital One project<sup>9</sup> that lasted for about eighteen months,<sup>10</sup> increased demand for various general

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<sup>7</sup> Conference transcript, p. 97 (T. Love).

<sup>8</sup> \*\*\* producers’ questionnaire.

<sup>9</sup> Importer \*\*\* reported in its importers’ questionnaire that during the Capital One national marketing campaign, both Magnum and Flexmag competed for this business “at the expense of longer lead times for all of their regular and preferred customers and lower overall margins for themselves. Lead times went out to 7 weeks from a normal lead time of 1 to 2 weeks or less. Many of their customers and ours decided at that time to explore the only other option to purchase ‘Raw Flexible Magnets’ from offshore. Also, on September 28, 2005 Magnum Magnetics, Inc. had a huge price increase further reducing demand for their products.”

Magnum reported that it supplied materials to the Capital One campaign only for “a brief period of a few months” and then stopped due to “other equipment issues” and lack of capacity. Conference transcript, pp. 91-92 (A. Love). In the same period, April 2005, Magnum reported that the purchase of MSI resulted in short-term production falls, a series of challenges and external pressures, a complicated combined production facility, and the need to order and install new equipment. All of these difficulties produced longer delivery dates, a poorer quality, and the need to put the distributors on allocation. By November 2005, the lead times dropped and the quality was again at the required levels. Conference transcript, pp. 38-39 (A. Love).

\*\*\*, president of \*\*\*, a U.S. purchaser of raw flexible magnets, noted that “this spike had a dramatic impact on Magnum...they sold so much material during 2005 that they felt the need to expand their production capacity and that when the demand went back to previous levels, they found themselves in a position where there was huge amounts of excess capacity...by purchasing MSI.” Correspondence from \*\*\*, October 15, 2007.

Importer Adams Magnetics noted that during the Capital One campaign, the company experienced increases in lead times from Magnum from 10 days to about 3-4 weeks. The company also reportedly experienced quality problems such as blocking and bricking. Its customers complained about these problems and Adams Magnetic reported incurring over \$100,000 in customer credits as well as the potential loss of accounts. After trying to fix the problems with Magnum for two years, Adams Magnetic decided to buy from Magnum’s main competitor,

(continued...)

magnets, increased demand for “support the troops” yellow ribbons, and increased use of vehicle advertisements, as well as internet or home-based businesses. Similar to the producers’ responses, the importers reported decreased demand due to U.S. companies moving and sourcing overseas, fewer orders, inability to sell magnets, and competition with digital prints that affected every area of the sign industry.

Apparent U.S. consumption of raw flexible magnets increased from 83.3 million pounds in 2004 to 91.0 million pounds in 2006. During January-June 2007, apparent U.S. consumption was 39.3 million pounds as compared to 45.3 million pounds during January-June 2006 (data based on table C-1).

### **Substitute Products**

U.S. producers and importers were asked to list any products that may be substituted for raw flexible magnets and the relevant applications and end uses, and to indicate whether changes in the prices of the substitutes affected the price for raw flexible magnets. Three producers mentioned substitute products for different end uses: sintered ferrite, plain paper, premium coated paper, injection molded ferrite, static cling labels, stickers (metallic and foil paper), and other print media. Only one of these three producers reported that the price of sintered ferrite can affect the price of raw flexible magnets, noting that the price of sintered ferrites can drive down the price of flexible magnets. Eight importers reported substitutes including other permanent magnets, ceramic, alnico, neodymium iron boron, samarium cobalt, bonded neodymium iron boron, lower magnetic strength flexible magnets at a really low cost, velcro, felt, static cling, plastics, vinyl car wraps, reusable adhesives, glues, paint, clips, suction cups, hooks, printable static cling film, digital prints with adhesives, and static PVC. \*\*\* stated that generally there are no available substitutes.

### **Cost Share**

Producers and importers were asked to estimate the cost of raw flexible magnets products as a share of the cost of the end-use products in which they are used as inputs. All six producers and 16 importers provided estimates for various products. The firms reported that raw flexible magnets often account for a substantial share of the final product cost, although the cost share varies widely. A summary of the share of total cost of the end-use products is presented in the following tabulation.

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<sup>9</sup> (...continued)  
Flexmag, and import from China as well. Conference transcript, pp. 130-131 (Lewis).  
\*\*\*.

<sup>10</sup> Conference transcript, pp. 91-92 (A. Love).

<b>End use</b>	<b>Share of total cost of end-use product (in percent)</b>
Advertisement specialty, coupons	***
Advertisements for refrigerators	***
Bedding mattress overlays	***
Craft magnets	***
Diecut promotional printed magnets	***
Magnetic gaskets	***
Magnetic holders mag strip	***
Pop display decor	***
Note holder	***
Printing signage premiums	***
Promotional decor	***
Sensors	***
Shower doors, cabinet latches	***
Signs, ads, business cards	***
Screenprinting	***
Supports	***
Motors	***
Office supplies	***

### **SUBSTITUTABILITY ISSUES**

The extent of substitutability between domestic products and subject and nonsubject imports, between subject imports from different sources, and between subject and nonsubject imports is examined in this section. The discussion is based upon the results of questionnaire responses from producers and importers.

#### **Comparisons of Domestic Products and Subject Imports**

In order to determine whether U.S.-produced raw flexible magnets can generally be used in the same applications as imports from China and Taiwan, producers and importers were asked whether the product can “always,” “frequently,” “sometimes,” or “never” be used interchangeably (table II-1).<sup>11</sup>

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<sup>11</sup> Producer \*\*\* reported that raw flexible magnets produced in the United State and any other countries are always interchangeable.

**Table II-1**  
**Raw flexible magnets: Interchangeability of product from different sources<sup>1</sup>**

Country comparisons	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	3	1	2	0	7	3	5	1
U.S. vs. Japan	3	0	2	0	3	0	1	0
U.S. vs. Taiwan	2	0	2	0	2	1	3	0
U.S. vs. Other nonsubject countries <sup>2</sup>	2	0	1	0	1	0	0	0
China vs. Taiwan	2	0	0	0	2	0	1	0
China vs. Nonsubject	1	0	1	0	0	0	0	0
Taiwan vs. Nonsubject	1	0	1	0	0	0	0	0

<sup>1</sup> Producers and importers were asked if raw flexible magnets produced in the United States and in other countries are used interchangeably.

<sup>2</sup> "Other" nonsubject countries includes Canada, Korea, and Mexico. Only two producers expressed views regarding imports from these countries, while no importers reported any views.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

Four of the U.S. producers that compared U.S. products with those from China reported that the products from these countries can always or frequently be used interchangeably, with two firms reporting that the product is only sometimes interchangeable. Similarly, the majority of the importers reported that the products from these countries can always or frequently be used interchangeably, and five firms reported that the product is only sometimes interchangeable, while one firm reported that the product is never interchangeable.

Two producers that compared U.S. products with those from Taiwan reported that products from these countries can always be used interchangeably and two producers reported that the product is only sometimes interchangeable. Three importers reported that the products from these countries can always or frequently be used interchangeably, and three firms reported that the products are only sometimes interchangeable.

One producer and one importer that compared the domestic products and subject imports with respect to interchangeability made additional comments on factors that limit or preclude interchangeability. The U.S. producer stated that there are differences in product characteristics and make-up. The importer reported that "width of sheeting materials wider than 24" is not available from U.S. producers."

Producers and importers were also asked to compare U.S.-produced products with imports from each of the subject countries in terms of product differences other than price such as quality, availability, product range, and technical support. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-2). Of the producers that compared the U.S. product with that from China, two reported that the differences are always significant and four reported that differences are sometimes significant. Three producers reported that differences other than price between the U.S. and Taiwan products are only sometimes significant. Among the importers that compared the U.S. product with that from China, seven reported that the differences other than price are always or frequently significant and eight reported that the differences other than price are sometimes or

never significant. Two importers reported that differences other than price between the U.S. and Taiwan products are always or frequently significant, and three reported that differences other than price are never significant.

**Table II-2**  
**Raw flexible magnets: Differences other than price between products from different sources<sup>1</sup>**

Country comparisons	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	2	0	4	0	5	2	3	5
U.S. vs. Japan	1	0	3	0	0	1	0	2
U.S. vs. Taiwan	0	0	3	0	1	1	0	3
U.S. vs. Other nonsubject countries <sup>2</sup>	1	0	2	0	0	0	0	2
China vs. Taiwan	0	0	0	2	0	1	1	1
China vs. Nonsubject	0	0	0	2	0	0	0	1
Taiwan vs. Nonsubject	0	0	0	1	0	0	0	1

<sup>1</sup> Producers and importers were asked if differences other than the price between raw flexible magnets produced in the United States and in other countries are a significant factor in their firms' sales of raw flexible magnets.

<sup>2</sup> "Other" nonsubject countries includes Canada, Korea, and Mexico. Only two producers expressed views regarding imports from these countries, while only one importer reported for each of these countries.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

Source: Compiled from data submitted in response to Commission questionnaires.

One producer and three importers that compared the domestic products and subject imports in terms of product differences other than price made additional comments. The U.S. producer stated that "in most cases, \*\*\*." One importer reported that the imported "quality of the product enhances production efficiencies and customer satisfaction." Another importer stated that "\*\*\* quality varies, where poor quality can result in damage to the vehicles' painted surface." The last importer reported "higher quality from China as opposed to domestic U.S. Faster and better product availability."

### Comparisons of Domestic Products and Nonsubject Imports

Producers and importers from all sources were also asked to compare U.S.-produced raw flexible magnets with nonsubject imports (differentiating between imports from Canada, Japan, Korea, Mexico, and all other countries) both in terms of interchangeability and differences other than price.<sup>12</sup> Three of the U.S. producers that compared U.S. products with those from Japan reported that the products from these countries can always be used interchangeably, with two firms reporting that the product is only sometimes interchangeable. Only two producers expressed views regarding imports from Canada, Korea, and Mexico reporting that the products from these countries can always be used interchangeably. No importers reported any views.

<sup>12</sup> Importer \*\*\* reported that there is no difference other than price between raw flexible magnets produced in the United State and any other countries.

### **Comparisons of Subject Imports and Nonsubject Imports**

U.S. producers and importers of raw flexible magnets from all sources were also asked to separately compare imports from China and Taiwan with nonsubject imports, both in terms of interchangeability and differences other than price. One producer that compared imports from China with nonsubject imports in terms of interchangeability reported that the products are always interchangeable and one producer reported that the products are only sometimes interchangeable. Similarly, one producer that compared imports from Taiwan with nonsubject imports in terms of interchangeability reported that the products are always interchangeable and one producer reported that the products are only sometimes interchangeable. No importers reported any general comparisons between imports from China and Taiwan and all other nonsubject countries.

### **Comparisons of Subject Products from the Subject Countries**

U.S. producers and importers of raw flexible magnets from all sources were also asked to compare imports from China and Taiwan both in terms of interchangeability and differences other than price. Two U.S. producers that compared products from the two countries in terms of interchangeability reported that they are always comparable. Two importers that compared products from the two countries in terms of interchangeability reported that they are always interchangeable. One importer reported that they are only sometimes interchangeable.

## PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

Except where noted, information presented in this section of the report is based on the questionnaire responses of the six responding firms. These firms are believed to account for more than 95 percent of the U.S. production of raw flexible magnets during the period for which data were collected (January 2004-June 2007).

### U.S. PRODUCERS

The Commission sent producers' questionnaires to all six firms identified as U.S. producers of raw flexible magnets in the petition, and to an additional three firms identified as producers by the Thomas Register.<sup>1</sup> The six firms listed in the petition provided questionnaire responses.<sup>2</sup> Table III-1 presents the list of responding U.S. producers with each company's production location, share of U.S. production in 2006, and position on the petition.

**Table III-1  
Raw flexible magnets: U.S. producers, U.S. production locations, shares of U.S. production in 2006, and positions on the petition**

Firm	Production location	Share of production (percent)	Position on the petition
Electrodyne Co., Inc.	Batavia, OH	***	***
Flexmag Industries <sup>1</sup>	Marietta, OH Norfolk, NE	***	***
Holm Industries, Inc. <sup>2</sup>	Scottsburg, IN	***	***
Magnet Technology, Inc. <sup>3</sup>	Lebanon, OH	***	***
Magnum Magnetics	Caldwell, OH Marietta, OH	***	Petitioner
P. H. Glatfelter Co. <sup>4</sup>	Chillicothe, OH West St. Paul, MN	***	Supports

<sup>1</sup> Owned by Arnold Magnetic Technologies Corp., Rochester, NY.

<sup>2</sup> Owned by Industrie ILPEA \*\*\*. Production is \*\*\* captive, and is used in the production of its refrigerator gasket line of products.

<sup>3</sup> Imports raw flexible magnets from China. \*\*\*.

<sup>4</sup> \*\*\*.

Source: Compiled from data submitted in response to Commission questionnaires.

<sup>1</sup> <http://www.thomasnet.com/nsearch.html?cov=NA&which=prod&what=flexible+magnets&navsec=search&heading=49500556>.

<sup>2</sup> The three non-responding firms are: Eneflux Armtek, Inc. (dba Magnet Kingdom), Newtown, PA; Polymag, Inc., Belport, NY (\*\*\*) and Tricomp, Inc., Pompton Plains, NJ (a producer of extruded strips and gaskets for refrigerators). These firms are estimated to produce raw flexible magnets accounting for less than 5 percent of U.S. production in 2006.

The U.S. flexible magnet industry was developed in the 1950s by BF Goodrich at its facility in Marietta, OH. That facility eventually became the firm that would be known as Magnetic Specialties, Inc. (“MSI”). Flexmag was founded as an offshoot of MSI, also in Marietta. In 1991, Magnum was founded in Marietta by Allen Love, \*\*\*, and his brother, Tom Love.<sup>3</sup>

In the spring of 2005, Magnum acquired the assets of MSI, reduced the workforce by \*\*\* employees, and moved some of the MSI equipment to its plant in Ohio. Magnum also acquired \*\*\*. Magnum receives \*\*\*.<sup>4</sup>

Magnum and Flexmag produce a range of sheet, strips, and profile shapes, using both the extrusion and calendar methods, and Holm produces extruded strips primarily for internal consumption of its refrigerator gasket product line. \*\*\*.<sup>5</sup> Electrodyne produces using the calendar process only. Magnet Technology uses only extrusions to produce its raw flexible magnets for refrigerator gaskets and shower doors.<sup>6</sup> Finally, Glatfelter sells magnetized paper produced by the calendaring process.

A large purchaser in the business, Adams Magnetics, testified at the conference that historically there were three main suppliers of raw flexible magnets in the United States. According to Adams, MSI’s relative strength was its customer service, Magnum’s relative strength was as a low-cost producer, and Flexmag’s was its product offerings. The witness for Adams identified Magnum’s “business practices” and Flexmag’s customer service as relative weaknesses for the respective companies.<sup>7</sup>

## U.S. CONVERTERS

As discussed in Part I of this report, petitioner Magnum engages in a range of finishing activities. However, value-added operations such as slitting, scoring, cutting, die-cutting, and laminating of raw flexible magnets are also performed by independent firms as well.<sup>8</sup> One such converter is Adams Magnetics, a self-described distributor/fabricator.<sup>9</sup> Adams Magnetics provides value-added services for an estimated 75 percent of its raw flexible magnet business.<sup>10</sup> A second converter is Rochester Magnet Co., which describes itself as “a leading manufacturer of magnetic assemblies, converter of magnetic materials and supplier of anything magnetic.”<sup>11</sup> These two companies are believed to be the primary

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<sup>3</sup> Conference transcript, p. 23 (A. Love); and staff field trip report, \*\*\*, October 2, 2007.

<sup>4</sup> \*\*\*; and correspondence from \*\*\*, October 16, 2007.

<sup>5</sup> Staff telephone interview with \*\*\*, October 15, 2007.

<sup>6</sup> Magnet Technology reportedly competes with Holm from time to time. Conference transcript, p. 149 (Mosteller).

<sup>7</sup> Conference transcript, p. 137 (Lewis).

<sup>8</sup> The description of conversion activities in this section of the report relates to firms that provide value-added services for raw flexible magnets; it does not relate to value-added activities in the production of downstream products. *See, e.g.*, conference transcript, pp. 190-191 (Lewis), discussing the nature of Magnetic Attractions’ downstream operations.

<sup>9</sup> Conference transcript, pp. 129, 188 (Lewis).

<sup>10</sup> *See* conference transcript, pp. 189-190 (Lewis), specifically describing the cutting, slitting, and scoring of raw flexible magnets.

<sup>11</sup> Rochester Magnet Company, “About Us,” found at <http://www.rochestermagnet.com/store.asp?pid=4867&catid=19620>, retrieved on October 24, 2007.

active non-toll converters of raw flexible magnets in the United States,<sup>12</sup> although more limited operations reportedly take place on a toll basis on behalf of \*\*\*.<sup>13</sup>

In terms of sales, the two primary non-toll converters reported 2006 sales of just under \$\*\*\* in 2006.<sup>14</sup> The converters' primary raw materials are \*\*\*, purchased (in 2006) exclusively from \*\*\* at a cost of \*\*\*. Other parts \*\*\* include adhesives, tools and dies, packaging, and cores. Total value added by the two converters together in 2006 was calculated to be \*\*\* percent, based on the ratio of conversion costs (direct labor plus other factory costs) to cost of goods sold (COGS), or \*\*\* percent, based on the ratio of conversion costs plus selling, general, and administrative (SG&A) expenses to COGS plus SG&A expenses.

Both converters reported capital investment in their conversion operations. Adams reported \*\*\*, while Rochester Magnetic \*\*\*. Combined, the two converters reported \*\*\* employees. In terms of the technical expertise involved in their conversion activities, Adams Magnetic characterized the operation of equipment as \*\*\* while Rochester Magnetic reported \*\*\*.<sup>15</sup>

### U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

In response to a question about changes to plant operations since January 1, 2004, firms provided the following information. Flexmag stated that it \*\*\*, \*\*\*,<sup>16</sup> Magnum noted its acquisition of MSI in April 2005 in its questionnaire response. It testified at the conference that it embarked on a large capacity expansion<sup>17</sup> during 2005-06, which resulted in some "bumpy episodes" of supply shortages, long lead times, and allocations (at 120 percent of the previous year's allotments) for its customers for a period during 2005. Magnum reported that \*\*\*. According to Magnum, it only supplied the Capital One large job spike for a short time and then opted out of the project because it added to its lead times (at a time when it was struggling with adapting to the acquisition of MSI) and because it was a non-repeating project.<sup>18</sup>

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-2. Capacity in the United States increased noticeably throughout the period for which data were gathered. Production increased between 2004 and 2005, remained steady between 2005 and 2006, and was lower in January-June 2007 than in January-June 2006. Accordingly, capacity utilization declined throughout the period for which data were collected. The trends experienced by the major firms during the period were not the same: \*\*\*. Moreover, \*\*\*.

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<sup>12</sup> Staff field trip and interview with \*\*\*, October 2, 2007 (in which company officials indicated that "\*\*\*\*").

<sup>13</sup> According to information provided by \*\*\*, three companies provide finishing operations for \*\*\* master rolls: \*\*\*. See \*\*\* Powerpoint presentation provided by \*\*\*.

<sup>14</sup> Adams Magnetics reported sales of \$\*\*\* and Rochester Magnet reported sales of \$\*\*\*. These data and all additional information regarding the specific operations of the two converters are from correspondence received from Adams Magnetics on October 18, 2007, and from Rochester Magnet on October 19, 2007, and from subsequent communications with staff.

<sup>15</sup> Adams Magnetics publicly opposes the petition. Rochester Magnet \*\*\*. Correspondence received from Adams Magnetics on October 18, 2007, and from Rochester Magnet on October 19, 2007.

<sup>16</sup> Correspondence from \*\*\*, October 18, 2007; and conference transcript, p. 91 (A. Love).

<sup>17</sup> Magnum also produces a \*\*\* amount of rubber steel on the same production equipment used to produce raw flexible magnets.

<sup>18</sup> Conference transcript, p. 91 (A. Love), and pp. 38-39 (T. Love).

**Table III-2**

**Raw flexible magnets: U.S. producers' capacity, production, and capacity utilization, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Capacity (1,000 pounds)	116,955	132,588	151,780	76,265	80,515
Production (1,000 pounds)	85,298	89,119	89,793	45,310	38,794
Capacity utilization (percent)	72.9	67.2	59.2	59.4	48.2

Source: Compiled from data submitted in response to Commission questionnaires.

### **U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORT SHIPMENTS**

U.S. producers' total shipments are presented in table III-3. The unit value of U.S. shipments were relatively stable, but slightly higher at the end of the period for which data were collected. Shipments for internal consumption were accounted for primarily by \*\*\*. Unit values for internal consumption were \*\*\*. Export shipments were accounted for primarily by \*\*\*.<sup>19</sup> Transfers to related firms were accounted for by \*\*\*.<sup>20</sup>

### **CAPTIVE CONSUMPTION**

Section 771(7)(C)(iv) of the Act states that—

*If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that—*

- (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,*
- (II) the domestic like product is the predominant material input in the production of that downstream article, and*
- (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,*

*then the Commission, in determining market share and the factors affecting financial performance . . . , shall focus primarily on the merchant market for the domestic like product.*<sup>21</sup>

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<sup>19</sup> \*\*\*. Correspondence from \*\*\*, October 23, 2007; and \*\*\*.

<sup>20</sup> Correspondence from \*\*\*, October 11, 2007.

<sup>21</sup> 19 U.S.C. § 1677(7)(C)(iv).

**Table III-3**  
**Raw flexible magnets: U.S. producers' shipments, by type, 2004-06, January-June 2006, and**  
**January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<b>Quantity (1,000 pounds)</b>					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	79,007	83,392	85,213	42,489	35,541
Export shipments	4,819	4,889	5,507	2,843	2,855
Total shipments	83,827	88,281	90,719	45,332	38,396
<b>Value (\$1,000)</b>					
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	85,465	88,428	90,329	46,390	38,762
Export shipments	6,334	6,307	7,486	3,740	3,635
Total shipments	91,799	94,735	97,815	50,130	42,397
<b>Unit value (per pound)</b>					
Commercial shipments	\$***	\$***	\$***	\$***	\$***
Internal consumption	***	***	***	***	***
Transfers to related firms	***	***	***	***	***
U.S. shipments	1.08	1.06	1.06	1.09	1.09
Export shipments	1.31	1.29	1.36	1.32	1.27
Average	1.10	1.07	1.08	1.11	1.10
Source: Compiled from data submitted in response to Commission questionnaires.					

## **Transfer and Sale of Significant Production of the Domestic Like Product**

Between 2004 and 2006, internal consumption accounted for an increasing share of the reported quantity of U.S. producers' U.S. shipments of raw flexible magnets, rising from \*\*\* percent in 2004 to \*\*\* percent in 2005 and to \*\*\* percent in 2006, before decreasing to \*\*\* percent in January-June 2007. Conversely, merchant shipments accounted for \*\*\* percent of the reported quantity of U.S. producers' U.S. shipments of raw flexible magnets in 2004, \*\*\* percent in 2005, \*\*\* percent in 2006, and \*\*\* percent in January-June 2007. Two of the six reporting U.S. producers – \*\*\* and Holm – reported both internal consumption and merchant shipments, while four of the U.S. producers reported no internal consumption.<sup>22</sup>

### **The First Statutory Criterion**

The first requirement for application of the captive consumption provision is that the domestic like product that is internally transferred for processing into that downstream article not enter the merchant market for the domestic like product. U.S. producers reported internal consumption of raw flexible magnets for the production of refrigerator/freezer gaskets (in the case of Holm) and for \*\*\* in the case of \*\*\*.<sup>23</sup> With respect to Holm and \*\*\*, the types of raw flexible magnets used in captive production are \*\*\* that they sell on the merchant market.<sup>24</sup> No U.S. producer, however, reported diverting raw flexible magnets intended for internal consumption to the merchant market.

### **The Second Statutory Criterion**

The second criterion of the captive consumption provision concerns whether the domestic like product is the predominant material input in the production of the downstream article that is captively produced. With respect to the downstream articles resulting from captive production, raw flexible magnets reportedly comprise \*\*\* percent of the finished cost of refrigerator/freezer gaskets<sup>25</sup> and an estimated \*\*\* percent of \*\*\*'s costs for producing \*\*\*.<sup>26</sup>

### **The Third Statutory Criterion**

The third criterion of the captive consumption provision is that the production of the domestic like product sold in the merchant market is not generally used in the production of the downstream article produced from the domestic like product that is internally transferred for processing (captively produced), that is, \*\*\* and interior refrigerator/freezer magnets. According to \*\*\*, direct sales to printers account for \*\*\* percent of all sales (with up to an additional \*\*\* percent sold to printers via distributors).<sup>27</sup> Sales of raw flexible magnets for use in refrigerators, however, are far more limited - only \*\*\* percent of

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<sup>22</sup> For purposes of the above calculation, transfers to a related company by \*\*\*, which consistently accounted for less than \*\*\* percent of the quantity of reported U.S. shipments, are treated as non-captively consumed.

<sup>23</sup> Petition, p. 3 (Holm); petitioners' postconference brief, exhibit 1, p. 14 (\*\*\*). \*\*\*'s operations differ from typical internal consumption. The company describes its operations in "\*\*\*\*" as follows: \*\*\*." Correspondence from \*\*\*, October 17, 2007.

<sup>24</sup> Staff telephone interview with \*\*\*, October 29, 2007, and correspondence from \*\*\*, October 17, 2007. Reportedly, there is no difference in the \*\*\*. Ibid.

<sup>25</sup> Holm's producer's questionnaire, IV-12.

<sup>26</sup> Correspondence from \*\*\*, October 17, 2007. This estimate is acknowledged to be overstated, as \*\*\*. Ibid.

<sup>27</sup> See "\*\*\*\*" submitted by \*\*\*.

merchant sales were reportedly for use in refrigerator/freezer gaskets.<sup>28</sup> In contrast to merchant market sales, raw flexible magnets captively produced by Holm for use in the production of refrigerator/freezer gaskets accounted for \*\*\* percent of internal consumption reported by U.S. producers in 2006, with the remaining \*\*\* percent used by \*\*\* for the production of \*\*\*.<sup>29</sup>

### U.S. PRODUCERS' IMPORTS AND PURCHASES

One of the U.S. producers, Magnet Technology, reported that it directly imported extruded magnetic strips from China during the period for which data were collected.<sup>30</sup> Reasons for importing the subject product from China include capacity considerations, mechanical characteristics of the compound, magnetic characteristics of the ferrite, and price.<sup>31</sup> Magnet Technology also reported \*\*\*. Table III-4 presents direct imports \*\*\* by Magnet Technology, along with its U.S. production.

**Table III-4**  
**Raw flexible magnets: Magnet Technology's \*\*\*, 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

### U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of raw flexible magnets for the period for which data were collected are presented in table III-5. A substantial portion of the inventories held by U.S. producers was accounted for by \*\*\*.

**Table III-5**  
**Raw flexible magnets: U.S. producers' end-of-period inventories, 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

### U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by five U.S. producers on the number of production and related workers ("PRWs") engaged in the production of raw flexible magnets, the total hours worked by such workers, and wages paid to such workers during the period for which data were collected in these investigations are presented in table III-6.<sup>32</sup> Overall, the industry experienced an increase in employment during 2004-06 and a decrease from January-June 2006 to January-June 2007. Individual firms' experience differed during the period. \*\*\*. \*\*\*. \*\*\*. During the period, \*\*\*.

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<sup>28</sup> \*\*\*. Even when combined with the merchant shipments of \*\*\*, these sales of \*\*\* were equivalent to only \*\*\* percent of non-internally consumed shipments by all U.S. producers in 2006. Correspondence from \*\*\*, October 29, 2007, and correspondence from \*\*\*, October 29, 2007.

<sup>29</sup> \*\*\* estimates that \*\*\* percent of the volume of its merchant market sales of raw flexible magnets in 2006 was used by its customers (the largest of which were \*\*\*) in the production of the same downstream products that it produces from captively produced raw flexible magnets (\*\*\*). Correspondence from \*\*\*, October 17, 2007. Holm did not provide comparable information in response to Staff's request.

<sup>30</sup> Conference transcript, p. 182 (Mosteller).

<sup>31</sup> Ibid., p. 192 (Mosteller).

<sup>32</sup> \*\*\*.

**Table III-6**

**Raw flexible magnets: Average number of production and related workers producing raw flexible magnets, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
PRWs ( <i>number</i> )	361	385	386	392	321
Hours worked ( <i>1,000</i> )	739	824	771	398	332
Wages paid ( <i>\$1,000</i> )	13,517	15,118	14,568	7,302	6,427
Hourly wages	\$18.30	\$18.35	\$18.91	\$18.37	\$19.35
Productivity ( <i>pounds per hour</i> )	***	***	***	***	***
Unit labor costs ( <i>per pound</i> )	\$***	\$***	\$***	\$***	\$***

Note.—Data do not include information from \*\*\*. Ratios are calculated using data from firms that provided both employment and production data.

Source: Compiled from data submitted in response to Commission questionnaires.

## **PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES**

### **U.S. IMPORTERS**

The Commission sent importer questionnaires to approximately 230 firms believed to be importers of raw flexible magnets from all countries, as well as to nine firms believed to be U.S. producers.<sup>1</sup> Questionnaire responses were received from 52 firms (with usable data from 48 firms) that are believed to account for over 90 percent of total U.S. imports of raw flexible magnets.<sup>2</sup> Counsel for the petitioner has alleged that the data from importers' questionnaire responses is under-reported, based on the foreign producers' questionnaire responses.<sup>3</sup> The coverage estimate of over 90 percent was based in part upon a list of top importers provided by the petitioner on October 4, 2007. Of the 22 firms provided, 17 firms responded with data; 3 non-responding firms had no imports under the HTS subheadings in question during the period; one firm imported \$\*\*\* from China in \*\*\* only; and the remaining non-responding firm had only \*\*\* volumes of imports during the period.<sup>4</sup> In addition, many of the non-responding firms on the mailing list for importers' questionnaires are not identified by \*\*\* as having imported any items under the HTS subheadings in question.<sup>5</sup> Questionnaire respondents are listed in table IV-1, with their locations, origin of imports, and share of reported imports from China and Taiwan during 2006.

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<sup>1</sup> The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs") (formerly the U.S. Customs Service), may have imported raw flexible magnets since 2004. Questionnaires were sent to top importers and a random sample of importers who imported products under HTS subheadings 8505.19.10 or 8505.19.20 (as well as the predecessor statistical reporting number 8505.19.0040). Questionnaires were not sent to over 500 small-value importers of products under these HTS subheadings, as their individual import values represented substantially less than one percent of the value of total imports during 2006.

<sup>2</sup> Negative questionnaire responses were received from 50 firms that certified that they did not import raw flexible magnets, nor did they import any products under the HTS numbers under consideration. Thirty-two importers' questionnaires were returned or not deliverable due to firms moving with no forwarding addresses or the firms being otherwise unreachable. Questionnaire responses were received from 20 firms that imported products under 8505.19.10 or 8505.19.20, but did not import raw flexible magnets during the period examined. No responses were received from 76 firms (or 33 percent of those issued). It is believed that the vast majority of those firms did not import any products under the HTS subheadings in question or imported nonsubject products under the HTS subheadings under consideration.

<sup>3</sup> Petitioner's postconference brief, pp. 30-31, and exh. 8. Staff believes, however, based on interviews and correspondence with many of the largest importers of products entered under the aforementioned HTS subheadings, that the responding foreign producers' estimates, like the official import statistics themselves, overstate the volume of raw flexible magnets and understate the volume of printed magnetic products.

<sup>4</sup> \*\*\*.

<sup>5</sup> Exceptions are \*\*\*. Staff telephone interview with \*\*\*, October 23, 2007, and correspondence from \*\*\*, October 25, 2007.

**Table IV-1**

**Raw flexible magnets: Reporting U.S. importers, parent companies, sources of imports, locations, and shares of reported U.S. imports, 2006**

Firm	Parent	Source(s)	Location	Share of reported 2006 total U.S. imports from China (percent)	Share of reported 2006 total U.S. imports from Taiwan (percent)	Share of reported 2006 total U.S. imports from subject sources (percent)
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
Adams Magnetic <sup>1</sup>	None	• ***	Elmhurst, IL	***	***	***
***2	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
Custom Plastic Specialties	None	• ***	Erie, PA	***	***	***
***	***	• ***	*** *** ***	***	***	***
***3	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
Graphic Business Solutions	None	• ***	El Cajon, CA	***	***	***

Table continued on next page.

**Table IV-1--Continued**

**Raw flexible magnets: Reporting U.S. importers, parent companies, sources of imports, locations, and shares of reported U.S. imports, 2006**

Firm	Parent	Source(s)	Location	Share of reported 2006 total U.S. imports from China (percent)	Share of reported 2006 total U.S. imports from Taiwan (percent)	Share of reported 2006 total U.S. imports from subject sources (percent)
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
***	***	• ***	***	***	***	***
Magnet Depot	Jasdi Trading Corp.	• *** • ***	Chino, CA	*** ***	*** ***	*** ***
***	***	• ***	***	***	***	***
Magnet Sales & Mfg Co.	Integrated Technologies Group	•*** •***	Culver City, CA	*** ***	*** ***	*** ***
Magnet Technology <sup>4</sup>	None	• ***	Lebanon, OH	***	***	***
***	***	• ***	***	***	***	***
*** <sup>5</sup>	***	• ***	***	***	***	***
Master Magnetics	None	• *** • ***	Castle Rock, CO	*** ***	*** ***	*** ***

Table continued on next page.



The imports of Chinese raw flexible magnets were generally distributed among 11 top importers – \*\*\* – during the most recent period for which data were collected (2006 and January-June 2007).<sup>6</sup>

One firm, \*\*\*, accounted for \*\*\* reported imports from Taiwan of raw flexible magnets during the period for which data were collected.

## U.S. IMPORTS

The petition alleged that imports of raw flexible magnets could be estimated using official Commerce statistics under HTS subheadings 8505.19.10 and 8505.19.20, the former covering flexible magnets, and the latter covering composite products containing flexible magnets.<sup>7</sup> Importers' questionnaires were issued to the leading importers of products in these categories,<sup>8</sup> and responses were received from 20 leading importers of products not subject to these investigations, who, when combined with importers of the subject raw flexible magnets, accounted for between 49 percent and 71 percent of imported products in these HTS subheadings during the period for which data were collected.<sup>9</sup> The large majority of imports in the HTS subheadings under consideration were found by staff to be of printed flexible magnets, which are excluded from the scope of the investigations. Accordingly, the volume of imports measured for these investigations is based on responses to importers' questionnaires, which are believed to exceed 90 percent of the value of imports (relatively higher for imports from Taiwan and sources other than China) and is presented in table IV-2.<sup>10</sup> The small quantity of imports from all other sources are mainly from \*\*\*.<sup>11</sup>

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<sup>6</sup> Some of these firms' imports increase substantially in 2007 and are thus not reflected in table IV-1. A twelfth firm, \*\*\*.

<sup>7</sup> Prior to 2005, flexible magnets were classified under HTS statistical reporting number 8505.19.0040. Imports reported by official Commerce statistics from China and Taiwan during the period were the following: 2004 (\$9.6 million); 2005 (\$19.6 million); 2006 (\$23.1 million); January-June 2006 (\$10.8 million); and January-June 2007 (\$11.1 million). Quantity is reported in "units," which is not meaningful for raw flexible magnets as a unit could mean one sheet or a whole pallet.

<sup>8</sup> These firms covered about 80 percent of imports by value from China, Taiwan, and all other sources, plus questionnaires were sent to every importer identified by the petitioner in its petition.

<sup>9</sup> The value of imports of products from China and Taiwan (with over 90 percent coming from China) reported by these 20 importers during the period were the following: 2004 (\$5 million); 2005 (\$7 million); 2006 (\$9 million); January-June 2006 (\$5 million); and January-June 2007 (\$3 million).

<sup>10</sup> Coverage is estimated to be higher for Taiwan because \*\*\*.

<sup>11</sup> The statute provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition—in this case July 2006 through June 2007. The shares of the total quantity of U.S. imports for each of the subject countries for the period of July 2006 through June 2007 are the following: China, \*\*\* percent (\*\*\*) pounds); Taiwan,\*\*\*; all other sources, \*\*\*.

**Table IV-2**  
**Raw flexible magnets: U.S. imports, by source, 2004-06, January-June 2006, and January-June 2007**

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
<b>Quantity (1,000 pounds)</b>					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal	***	***	***	***	***
All others	***	***	***	***	***
Total	4,295	3,957	5,810	2,798	3,754
<b>Value (\$1,000)<sup>1</sup></b>					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal	***	***	***	***	***
All others	***	***	***	***	***
Total	3,614	3,582	5,107	2,516	3,317
<b>Unit value (per pound)</b>					
China	\$***	\$***	\$***	\$***	\$***
Taiwan	***	***	***	***	***
Average	***	***	***	***	***
All others	***	***	***	***	***
Average	0.84	0.91	0.88	0.88	0.85

Table continued on next page.

**Table IV-2--Continued**

**Raw flexible magnets: U.S. imports, by source, 2004-06, January-June 2006, and January-June 2007**

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
<b>Share of quantity (percent)</b>					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal	***	***	***	***	***
All others	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal	***	***	***	***	***
All others	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> Landed, duty-paid. Source: Compiled from data submitted in response to Commission questionnaires.					

### CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market.

#### Fungibility

Magnum contends that all raw flexible magnets from the two subject countries and domestically produced raw flexible magnets are “generally fungible.”<sup>12</sup> At the conference, witness testimony suggested that the quality of imports from China surpass that of petitioner Magnum’s products, and that the domestic raw flexible magnets from Magnum had problems with blocking (when sheets or rolls stick

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<sup>12</sup> Conference transcript, p. 48 (Button).

together).<sup>13</sup> Magnum testified that a short-term problem with blocking experienced with one customer was quickly fixed with back coating.<sup>14</sup>

The majority of U.S. producers' shipments of raw flexible magnets was comprised of magnetic sheeting, followed by strips, and then shapes, as presented in table IV-3. The distribution was more pronounced with regard to imports of raw flexible magnets from China and Taiwan. \*\*\* imports of raw flexible magnets from other sources were magnetic sheeting.

**Table IV-3**  
**Raw flexible magnets: U.S. producers' and U.S. importers' U.S. shipments, by product, 2006**

Item	U.S. producers	U.S. importers			
		China	Taiwan	All other	Total
<b>Share of value (percent)</b>					
U.S. shipments of:					
Sheeting	55.2	76.1	***	***	***
Strips	29.4	9.5	***	***	***
Profile shapes	15.4	14.5	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires.					

Additional information on interchangeability and fungibility may be found in Part II of this report.

### **Geographical Markets**

Magnum has stated that it markets its products nationwide, and that imports are competing with it on a national basis, through warehouses established throughout the country by foreign suppliers.<sup>15</sup> In addition, importers of raw flexible magnets from China are geographically distributed throughout the country. The major importer of raw flexible magnets from Taiwan, \*\*\*, is located in \*\*\* and reports that it markets to the \*\*\*, and its major customers listed in its questionnaire are almost all in these areas. Additional information on geographic markets may be found in Part II of this report.

### **Common or Similar Channels of Distribution**

Imports from the subject countries and domestic production of raw flexible magnets are primarily sold directly to end users, as shown in table I-1 of this report. Further information on channels of distribution may be found in Parts I and II of this report.

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<sup>13</sup> Ibid., p. 131 (Lewis).

<sup>14</sup> Ibid., pp. 70-71 (Alan Love).

<sup>15</sup> Ibid., p. 53 (Button); *See also* Ibid., pp. 113-114 (T. Love and A. Love), noting that Magnum maintains warehouses in Minneapolis and in Las Vegas, and has a full-time sales agent in California.

### **Simultaneous Presence in the Market**

Imports generally have been simultaneously present in the U.S. market throughout the period examined. Imports of raw flexible magnets from China and Taiwan entered the United States in every year of the period examined and were present simultaneously in January-June 2006 and January-June 2007.

### **APPARENT U.S. CONSUMPTION**

Data on apparent U.S. consumption of raw flexible magnets are presented in table IV-4. In calculating apparent U.S. consumption, U.S. import data were used instead of U.S. shipments of imports because the value of shipments of imports contained large amounts of printed magnets which were outside of the scope of these investigations and would distort the comparisons with U.S. producers' U.S. shipments of raw flexible magnets. Consistent with the increase in demand arising from the Capital One campaign in 2005, apparent U.S. consumption increased steadily between 2004 and 2006. Apparent U.S. consumption in January-June 2007, however, was 31.2 percent lower than in January-June 2006.

**Table IV-4**

**Raw flexible magnets: U.S. shipments of domestic product, U.S. imports by source, and apparent U.S. consumption, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<b>Quantity (1,000 pounds)</b>					
U.S. producers' U.S. shipments	79,007	83,392	85,213	42,489	35,541
U.S. imports from—					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other countries	***	***	***	***	***
Total	4,295	3,957	5,810	2,798	3,754
Apparent U.S. consumption	83,303	87,349	91,022	45,287	39,294
<b>Value (\$1,000)</b>					
U.S. producers' U.S. shipments	85,465	88,428	90,329	46,390	38,762
U.S. imports from—					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other countries	***	***	***	***	***
Total	3,614	3,582	5,107	2,516	3,317
Apparent U.S. consumption	89,079	92,010	95,436	48,906	42,079
Source: Compiled from data submitted in response to Commission questionnaires.					

Data on apparent U.S. consumption of raw flexible magnets in the merchant market are presented in table IV-5.

**Table IV-5**

**Raw flexible magnets: U.S. merchant market shipments of domestic product, U.S. imports by source, and apparent U.S. consumption in the merchant market, 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

## U.S. MARKET SHARES

Data on market shares in the total U.S. market for raw flexible magnets are presented in table IV-6.

**Table IV-6**  
**Raw flexible magnets: Apparent U.S. consumption and market shares, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<b>Quantity (1,000 pounds)</b>					
Apparent U.S. consumption	83,303	87,349	91,022	45,287	39,294
<b>Value (\$1,000)</b>					
Apparent U.S. consumption	89,079	92,010	95,436	48,906	42,079
<b>Share of quantity (percent)</b>					
U.S. producers' U.S. shipments	94.8	95.5	93.6	93.8	90.4
U.S. imports from—					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other countries	***	***	***	***	***
Total	5.2	4.5	6.4	6.2	9.6
<b>Share of value (percent)</b>					
U.S. producers' U.S. shipments	95.9	96.1	94.6	94.9	92.1
U.S. imports from—					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other countries	***	***	***	***	***
Total	4.1	3.9	5.4	5.1	7.9
Source: Compiled from data submitted in response to Commission questionnaires.					

Data on market shares in the U.S. merchant market for raw flexible magnets are presented in table IV-7.

**Table IV-7**  
**Raw flexible magnets: Apparent U.S. consumption and market shares in the merchant market, 2004-2006, January-June 2006, and January-June 2007**

\* \* \* \* \*

### RATIOS OF IMPORTS TO U.S. PRODUCTION

Data on the ratio of imports to total U.S. production of raw flexible magnets are presented in table IV-8.

**Table IV-8**  
**Raw flexible magnets: U.S. production, U.S. imports, and ratios of imports to production, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<b>Quantity (1,000 pounds)</b>					
U.S. production	85,298	89,119	89,793	45,310	38,794
U.S. imports from—					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other countries	***	***	***	***	***
Total	4,295	3,957	5,810	2,798	3,754
<b>Ratio of imports to U.S. production (percent)</b>					
U.S. imports from—					
China	***	***	***	***	***
Taiwan	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other countries	***	***	***	***	***
Total	5.0	4.4	6.5	6.2	9.7
Source: Compiled from data submitted in response to Commission questionnaires.					

## **PART V: PRICING AND RELATED INFORMATION**

### **FACTORS AFFECTING PRICES**

#### **Raw Material Costs**

The major cost elements to manufacture raw flexible magnets are raw materials, energy, and labor.<sup>1</sup> Raw materials account for the largest share of the cost of producing raw flexible magnets. Manufactured ferrite powders combined with polymer binders are typically the raw materials for raw flexible magnets. Other raw materials include iron-chromium-cobalt, alnico, chromium steel, cobalt steel, vicalloy 1, remalloy, and cunife 1. More costly magnetic materials can be used to produce higher energy magnets.<sup>2</sup> During 2004-07, raw material costs ranged from 55 to 61 percent of the cost of goods sold.

#### **Transportation Costs to the U.S. Market**

Transportation costs for raw flexible magnets shipped from subject countries to the United States were 7.5 percent for China and 7.6 percent for Taiwan. These estimates are derived from official import data and represent the transportation and other charges on imports.<sup>3</sup>

#### **U.S. Inland Transportation Costs**

Transportation costs on U.S. inland shipments of raw flexible magnets generally account for a small share of the delivered price of these products. Three U.S. producers' reported costs ranged from 3.2 to 5.0 percent of the delivered price. One U.S. producer, \*\*\*, reported an estimated 23 percent, and another producer, \*\*\* has its shipments prepaid. For importers that provided estimates, these costs typically ranged between 5.0 and 15.0 percent.

#### **Exchange Rates**

Nominal and real exchange rate data for China and Taiwan are presented on a quarterly basis in figure V-1.<sup>4</sup>

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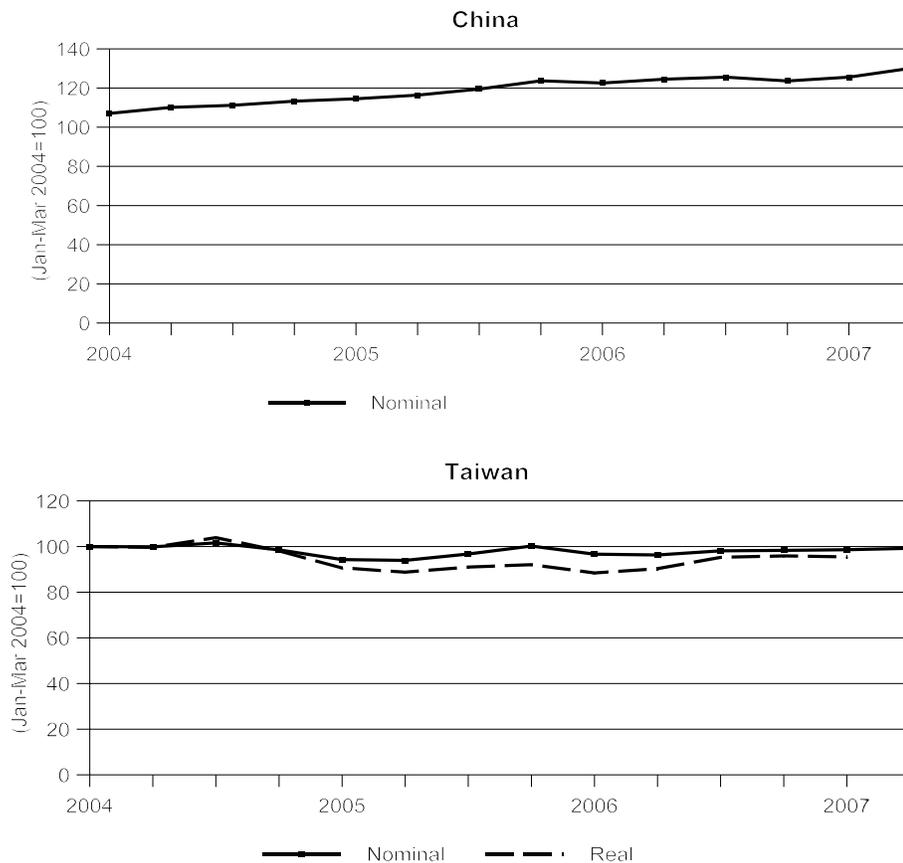
<sup>1</sup> Petition, p. 41.

<sup>2</sup> Petition, pp. 5-6.

<sup>3</sup> The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2006 and then dividing by the customs value (based on import entries under HTS subheadings 8505.19.10 and 8505.19.20). While over-inclusive, these data are believed to provide a reasonable basis for estimating transportation costs.

<sup>4</sup> Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and each of the subject countries. The Chinese government effectively pegged the yuan to the U.S. dollar at 8.28 yuan per dollar during the early part of this period. On July 21, 2005, the Chinese government announced that it would no longer peg the yuan to the U.S. dollar but would tie the yuan to a basket of currencies. Within this new basket, the yuan was revalued upward against the U.S. dollar by 2.1 percent, or from 8.28 yuan per dollar under the old peg to 8.11 yuan per dollar under the new exchange rate policy. The Chinese government has not disclosed which currencies are in the new basket, but indicated that the weight of the U.S. dollar represented less than 50 percent of the new basket of currencies.

**Figure V-1**  
**Exchange rates: Indexes of nominal and real values of the currencies of China and Taiwan relative to the U.S. dollar, by quarters, January 2004-June 2007**



Source:

International Monetary Fund, *International Financial Statistics*.

## PRICING PRACTICES

Firms reported that prices of raw flexible magnets are determined in a variety of ways. Two U.S. producers cited transaction-by-transaction negotiations; one uses a pricing program based on size and complexity; and another producer uses an internal price book for standard items. One other producer, \*\*\*, has a dual pricing practice: “List price for stocking items with volume discounts and transaction-by-transaction for making items.” Finally, \*\*\* reported simply that it determines its price according to the market price. The importers were also mixed in their answers: eight firms cited price lists, six firms cited transaction-by-transaction negotiations, and four other firms use customer-based, internal prices-based, and market-based formulae as their method for arriving at prices.

Discount policies vary widely among U.S. producers and importers of raw flexible magnets. Quantity and annual volume discounts were reported by two producers and individual order discounts were reported by another producer. \*\*\* mentioned that the beginning price is determined by quantity or market, and some accounts might have rebate programs or a special cash discount. One producer reported having no formal standard policy. Seven importers reported quantity discounts, one importer reported

discounts based on each order, and another importer reported a 3-5 percent discount for new distributors to encourage them to try its product. Six other importers reported no discounts.

Petitioner Magnum reported a substantial spike in 2005 in raw material costs, including energy costs. At the end of 2005, while Magnum was negotiating price and supply arrangements for 2006, it attempted to raise its prices, reportedly the first general price increase in the company's history.<sup>5</sup> Importer and producer Magnet Technology, in contrast, reported that it is too small of a firm to be a price leader, while Magnum and Flexmag, it contends, are able to set competitive prices based on larger volumes, larger market share, more efficient processes, and the ability to buy raw materials in great quantities.<sup>6</sup>

The majority of U.S. producers (5 of 6) and the majority of importers (14 of 19) quote prices on an f.o.b. basis.<sup>7</sup> The other U.S. producer reportedly quotes prices on a delivered basis and cites orders greater than \*\*\* pounds. The five responding importers of raw flexible magnets commonly quote prices on a delivered basis.

Raw flexible magnets are commonly sold on a spot basis. Four producers reported that they sell all their raw flexible magnets on a spot basis. One other producer sells \*\*\* percent of the product on a short-term contract basis and \*\*\* percent on a spot sale basis, but not on a long-term contract basis. In addition, one producer sells \*\*\* percent of its raw flexible magnets on a long-term basis, \*\*\* percent on a short-term basis, and \*\*\* percent on a spot basis. Of the responding importers, 11 firms sell subject product only on a spot sale basis. Two importers sell \*\*\* percent, another firm sells \*\*\* percent, and a last one sells \*\*\* percent of their raw flexible magnets on a spot sale basis as well.

One firm reported only short-term contracts and another firm sells \*\*\* percent of its raw flexible magnets on a short-term contract. In addition, two firms reported that they sell \*\*\* percent and another firm sells \*\*\* percent of their raw flexible magnets on a short-term contract basis. Producers and importers reported similar short-term contract characteristics. The two producers that reported short-term contracts, \*\*\*, and the contracts last between 3 and 12 months. One producer reported a \*\*\* provision, while the other one did not. Two importers reported that their short-term contract periods range from 3 to 6 months, one importer's contracts range between 3 and 12 months, another importer's contracts' are 60 days long, and a fourth importer reported a one-year contract. Only one importer's short-term contracts permit renegotiation. Three out of five importers reported that contracts have meet-or-release provisions.

One U.S. producer, \*\*\*, reported long-term contracts of over one year, and renegotiation of contracts depends on a case-by-case basis. Only one importer, \*\*\*, has long-term contracts of \*\*\* years which can be renegotiated based on \*\*\* and which have a \*\*\*.

## PRICE DATA

U.S. producers and importers of raw flexible magnets were asked to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of selected products that were shipped to unrelated customers in the U.S. market from January 2004-June 2007. Importers were also asked to provide their purchase prices for both standard and high energy products. The products for which pricing data were requested were as follows:

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<sup>5</sup> Conference transcript, pp. 39-40 (T. Love).

<sup>6</sup> Conference transcript, p. 122 (Mosteller).

<sup>7</sup> Producers making f.o.b. quotes reported, among others, f.o.b. warehouse, \*\*\*. Importers making f.o.b. quotes usually quote f.o.b. warehouse or their facility.

**Product 1.— Plain sheets in 12 mil thickness**

**a) standard energy**

**b) higher energy**

**Product 2.— Plain sheets in 15 mil thickness**

**a) standard energy**

**b) higher energy**

**Product 3.— Sheets in 30 mils thickness, in rolls of 50' x 2' (nominal), with vinyl lamination**

**a) standard energy**

**b) higher energy**

Four U.S. producers<sup>8</sup> and 15 importers<sup>9</sup> provided usable sales price data, and 9 importers provided usable Chinese purchase price data.<sup>10</sup> Twelve firms reported sales price data for imports from China, and five firms reported sales price data for imports from Taiwan.<sup>11</sup> No pricing data were reported for nonsubject countries Canada, Korea, and Mexico; data for imports from Japan were reported for only two quarters. Only U.S. producers provided data for higher energy products; no comparable data were reported by importers for these products. Accordingly, price data for these products are not shown. Usable sales pricing data accounted for 24.5 percent of the quantity of U.S. producers' commercial shipments during January 2004-June 2007, 21.4 percent of U.S. imports from China, and 12.8 percent of U.S. imports from Taiwan.

Purchase price data for China accounted for 35.8 percent of imports from China.<sup>12</sup> Quarterly, weighted-average sales prices, and purchase prices for the above products are shown in tables V-1 to V-3 and figure V-2. A summary of price trends is shown in table V-4 and a summary of underselling/overselling is shown in table V-5.

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<sup>8</sup> \*\*\*.

<sup>9</sup> \*\*\*.

<sup>10</sup> Certain pricing data were excluded from the analysis. \*\*\* was the only firm reporting high energy product 3B and there was no basis of comparison. Importers \*\*\*, \*\*\*, and part of \*\*\*'s pricing were excluded because of lack of confirmation as to whether the data submitted met the product specifications. \*\*\* accounted for \*\*\* percent of imports from Taiwan in 2006. \*\*\*'s data were excluded - in retail packs of plain magnets and its prices were about 3-4 times higher than the rest of the data submitted. Importers \*\*\* and \*\*\* reported one quarter of data and two quarters of data respectively, but also reported in the narrative portion of the importers' questionnaire no sales of raw flexible magnets.

<sup>11</sup> Five firms reported pricing data for sales of raw flexible magnets imported from Taiwan. One firm, \*\*\*, accounted for the vast majority of the reported data during the period for which it reported data (January-March 2004 through July-September 2005). \*\*\* was unable to report price data for the period October-December 2005 through April-June 2007 due to "severe health problems" with the company official (correspondence from \*\*\*, received October 23, 2007). Prices reported by \*\*\* were \*\*\* lower, and quantities were \*\*\* higher, than those reported by the other importers of product from Taiwan. Therefore, higher prices in the latter period for sales of product imported from Taiwan are likely due to the lack of data from \*\*\* and the small reported quantities by other importers and may not be reflective of actual price increases.

<sup>12</sup> The staff sent out a supplemental questionnaire in order to capture the imports of raw flexible magnets that are not sold as raw in the U.S. market, but as value added products (e.g., printed magnets). The responding importers submitted purchase prices from China. No firms reported purchase prices from Taiwan.

**Table V-1**

**Raw flexible magnets: Weighted-average f.o.b. selling prices and quantities for product 1A,<sup>1</sup> and margins of underselling/(overselling), January 2004-June 2007**

Period	United States		China (sales price)			Taiwan		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	<i>Per pound</i>	<i>Pounds</i>	<i>Per pound</i>	<i>Pounds</i>	<i>Percent</i>	<i>Per pound</i>	<i>Pounds</i>	<i>Percent</i>
<b>2004:</b> January-March	\$***	***	\$***	***	***	-	-	-
April-June	-	-	-	-	-	-	-	-
July-September	-	-	-	-	-	\$***	***	***
October-December	-	-	-	-	-	***	***	***
<b>2005:</b> January-March	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	-	-	-
July-September	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	-	-	-
<b>2006:</b> January-March	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	-	-	-
July-September	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***
<b>2007:</b> January-March	***	***	***	***	***	***	***	***
April-June	***	***	1.00	79,835	***	***	***	***

<sup>1</sup> Product 1A – Plain sheets in 12 mil thickness - standard energy from 0.3 MGOe through 1.0 MGOe (mega Gauss Oersteds); the data allow for a tolerance on thickness measurements of +.5 through -1 mil.

Note.--Margins are calculated from unrounded data and may not be directly calculated from the price data presented in this table. Chinese purchase prices were available in 2 quarters: \*\*\*. Price data for imports from Taiwan after July-September 2005 are limited due to the inability of \*\*\* to provide data for that period.

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-2

Raw flexible magnets: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 2A,<sup>1</sup> and margins of underselling/(overselling), January 2004-June 2007

Period	United States		China (sales price)			China (purchase price)	
	Price	Quantity	Price	Quantity	Margin	Price	Quantity
	<i>Per pound</i>	<i>Pounds</i>	<i>Per pound</i>	<i>Pounds</i>	<i>Percent</i>	<i>Per pound</i>	<i>Pounds</i>
<b>2004:</b>							
January-March	\$***	***	\$***	***	***	\$***	***
April-June	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***
October-December	***	***	***	***	***	0.62	234,719
<b>2005:</b>							
January-March	***	***	***	***	***	***	***
April-June	***	***	1.03	44,711	***	0.74	171,365
July-September	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***
<b>2006:</b>							
January-March	***	***	***	***	***	***	***
April-June	***	***	0.77	75,257	***	0.72	373,998
July-September	***	***	***	***	***	0.66	338,417
October-December	***	***	***	***	***	***	***
<b>2007:</b>							
January-March	***	***	0.73	67,305	***	0.57	216,321
April-June	***	***	0.79	73,331	***	0.73	322,391

Table continued on the following page.

**Table V-2--Continued**

**Raw flexible magnets: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 2A,<sup>1</sup> and margins of underselling/(overselling), January 2004-June 2007**

Period	United States		Taiwan		
	Price	Quantity	Price	Quantity	Margin
	<i>Per pound</i>	<i>Pounds</i>	<i>Per pound</i>	<i>Pounds</i>	<i>Percent</i>
<b>2004:</b> January-March	\$***	***	\$***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
<b>2005:</b> January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
<b>2006:</b> January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
<b>2007:</b> January-March	***	***	***	***	***
April-June	***	***	***	***	***

<sup>1</sup> Product 2A – Plain sheets in 15 mil thickness - standard energy from 0.3 MGOe through 1.0 MGOe (mega Gauss Oersteds); the data allow for a tolerance on thickness measurements of +.5 through -1 mil.

Note.--Margins are calculated from unrounded data and may not be directly calculated from the price data presented in this table. Price data for imports from Taiwan after July-September 2005 are limited due to the inability of \*\*\* to provide data for that period.

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-3

Raw flexible magnets: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 3A,<sup>1</sup> and margins of underselling/(overselling), January 2004-June 2007

Period	United States		China (sales price)			China (purchase price)	
	Price	Quantity	Price	Quantity	Margin	Price	Quantity
	<i>Per pound</i>	<i>Pounds</i>	<i>Per pound</i>	<i>Pounds</i>	<i>Percent</i>	<i>Per pound</i>	<i>Pounds</i>
<b>2004:</b>							
January-March	\$***	***	\$***	***	***	\$***	***
April-June	***	***	***	***	***	***	***
July-September	***	***	***	***	***	0.75	9,608
October-December	***	***	***	***	***	***	***
<b>2005:</b>							
January-March	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***
<b>2006:</b>							
January-March	***	***	***	***	***	***	***
April-June	***	***	1.12	45,852	***	0.73	13,510
July-September	***	***	0.91	81,750	***	***	***
October-December	***	***	0.97	80,456	***	***	***
<b>2007:</b>							
January-March	***	***	***	***	***	0.69	49,900
April-June	***	***	***	***	***	0.69	137,520

Table continued on the following page.

**Table V-3--Continued**

**Raw flexible magnets: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 3A,<sup>1</sup> and margins of underselling/(overselling), January 2004-June 2007**

Period	United States		Taiwan		
	Price	Quantity	Price	Quantity	Margin
	<i>Per pound</i>	<i>Pounds</i>	<i>Per pound</i>	<i>Pounds</i>	<i>Percent</i>
<b>2004:</b>					
January-March	\$***	***	\$***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
<b>2005:</b>					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
<b>2006:</b>					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
<b>2007:</b>					
January-March	***	***	***	***	***
April-June	***	***	***	***	***

<sup>1</sup> Product 3A –Sheets in 30 mils thickness, in rolls of 50' x 2' (nominal), with vinyl lamination - standard energy from 0.3 MGOe through 1.0 MGOe (mega Gauss Oersteds); the data allow for a tolerance on thickness measurements of +.5 through -.1 mil.

Note.--Margins are calculated from unrounded data and may not be directly calculated from the price data presented in this table. Sales prices for imports from Japan were available in 2 quarters: \*\*\*. Price data for imports from Taiwan after July-September 2005 are limited due to the inability of \*\*\* to provide data for that period.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure V-2**

**Raw flexible magnets: Weighted-average f.o.b. selling prices (except as noted) for products 1A-3A, January 2004-June 2007**

\* \* \* \* \*

**Table V-4**  
**Raw flexible magnets: Summary of weighted-average sales prices, by country and by product**

	Number of quarters	High price (per pound)	Low price (per pound)	Change in price <sup>1</sup> (percent)
<b>Product 1A</b>				
United States	14	***	***	***
China (sales price)	11	***	***	***
China (purchase price)	2	***	***	***
Taiwan	9	***	***	***
<b>Product 2A</b>				
United States	14	***	***	***
China (sales price)	14	***	***	***
China (purchase price)	14	***	***	***
Taiwan	13	***	***	***
<b>Product 3A</b>				
United States	14	***	***	***
China (sales price)	14	***	***	***
China (purchase price)	14	***	***	***
Taiwan	14	***	***	***
<sup>1</sup> Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data.  Note.--Price data for imports from Taiwan after July-September 2005 are small due to the inability of *** to provide data for that period.  Source: Compiled from data submitted in response to Commission questionnaires.				

**Table V-5**  
**Raw flexible magnets: Summary of underselling/overselling, by country**

Country	Number of quarters of underselling	Number of quarters of overselling	Average margin of underselling/(overselling)
China	22	17	***
Taiwan	13	23	***
Total	35	40	7.0
Note.--In 30 quarters of comparisons, the <u>purchase price</u> of raw flexible magnets from China was lower than the <u>selling price</u> reported by U.S. producers in 27 instances; price data for imports from Taiwan after July-September 2005 are limited due to the inability of *** to provide data for that period.  Source: Compiled from data submitted in response to Commission questionnaires.			

## LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of raw flexible magnets to report any instances of lost sales or revenues they experienced due to competition from imports from China and Taiwan from January 2004 to June 2007. U.S. producers provided lost sales allegations involving 36 lost sale allegations and lost revenue allegations involving 19 firms. The \*\*\* lost sales allegations regarding China totaled \$7,565,907; the one lost sale regarding Taiwan totaled \$\*\*\*; and 2 lost sales listed both China and Taiwan and totaled \$\*\*\*. The \*\*\* lost revenue allegations regarding China totaled \$1,511,547 and the 4 regarding Taiwan totaled \$\*\*\*. Staff contacted the 52 purchasers cited in the allegations; of which 22 responded and discussed lost sales allegations totaling \$5,514,486 and lost revenues totaling \*\*\*.<sup>13</sup> Six agreed with the allegations, 11 disagreed with the allegations, 6 neither agreed nor disagreed.<sup>14</sup> Tables V-6 and V-7 summarized the results of purchasers that responded to staff requests for confirmation.

**Table V-6**

**Raw flexible magnets: U.S. producers' lost sales allegations**

\*       \*       \*       \*       \*       \*       \*

**Table V-7**

**Raw flexible magnets: U.S. producers' lost revenue allegations**

\*       \*       \*       \*       \*       \*       \*

\*       \*       \*       \*       \*       \*       \*

\*       \*       \*       \*       \*       \*       \*

\*       \*       \*       \*       \*       \*       \*

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<sup>13</sup> Purchaser \*\*\* responded to one lost sale allegation and one lost revenue allegation.

<sup>14</sup> Listed as “neither agreed nor disagreed” is one purchaser that agreed to a lost sales allegation but disagreed with a lost revenue allegation, and another purchaser that agreed with respect to some products listed in the allegation but did not know with respect to other products.



## PART VI: FINANCIAL EXPERIENCE OF U.S. FIRMS

### BACKGROUND

Six firms<sup>1</sup> provided usable financial data on their operations producing raw flexible magnets. These reported data are believed to represent the vast majority of production of raw flexible magnets in the United States during the period for which data were collected.

### OPERATIONS ON RAW FLEXIBLE MAGNETS

Income-and-loss data for U.S. firms' total raw flexible magnets operations are presented in table VI-1, and are briefly summarized here. The quantity and value of total sales increased between 2004 and 2006 but were lower in January-June 2007 than in the same period in 2006. The average unit value of sales declined slightly between 2004 and 2006 and was unchanged between January-June 2006 and the same period in 2007. The absolute value and the average unit value of cost of goods sold ("COGS") increased sharply between 2004 and 2005, driven by increased "other factory costs" and raw material costs (discussed later). Total COGS increased only slightly between 2005 and 2006 as a further increase in other factory costs was offset by lower raw material and labor costs. COGS were lower overall in January-June 2007 but higher on a per-unit basis, compared to the same period in 2006. Operating income fell between 2004 and 2005 before partially recovering in 2006; it fell again between January-June 2006 and the same period in 2007. The average unit value of operating income and the ratio of operating income to sales followed the changes in the value of operating income. Except for 2004 and the two interim periods, net income before taxes was negative, and was largely caused by interest charges, \*\*\*, and restructuring charges. Increased charges for depreciation, attributable to the industry's capital improvements, \*\*\* between 2004 and 2006 and have remained at relatively high levels. Except in 2005, cash flow has been positive in each period investigated.

Raw material costs and other factory costs increased between 2004 and 2005; while raw material costs declined somewhat between 2005 and 2006, other factory costs increased again between the two years. The increase in raw material costs was related to increased sales volume, which was attributed to a spike in demand related to Capital One's advertising campaign in 2005-06 and petroleum-related cost increases.<sup>2</sup> Magnum also stated that \*\*\*.<sup>3</sup> Magnum also explained a short-term \*\*\*.

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<sup>1</sup> The firms are: Electrodyne, Flexmag, Glatfelter, Holm, Magnet Technology, and Magnum. With the exception of \*\*\*, U.S. firms reported having a fiscal year that ends in December. Differences between data reported in the trade and financial sections of the Commission's U.S. producers' questionnaire are mainly attributable to the reporting by \*\*\*. Staff estimated January-June 2006 data of \*\*\* based on full fiscal year data provided by each firm. Staff also estimated the data for merchant market transactions and captive production in tables VI-2 and VI-3, respectively. Glatfelter, discussed later, \*\*\*.

<sup>2</sup> Conference transcript, pp. 91-92 (A. Love) and pp. 39-40 (T. Love), respectively. *See also* Magnum's postconference brief, exh. 1, p. 10.

<sup>3</sup> Magnum's postconference brief, exh. 1, p. 10.

**Table VI-1****Raw flexible magnets: Results of total operations of U.S. firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
<b>Quantity (1,000 pounds)</b>					
Total net sales <sup>1</sup>	83,790	88,233	90,696	45,321	38,387
<b>Value (\$1,000)</b>					
Total net sales <sup>1</sup>	91,696	94,640	97,836	50,141	42,430
COGS:					
Raw materials	40,559	44,046	42,715	21,426	18,547
Direct labor	9,120	9,086	8,342	4,230	3,701
Other factory costs	17,101	23,580	26,937	14,000	11,809
Total COGS	66,780	76,713	77,993	39,657	34,057
Gross profit	24,917	17,927	19,842	10,484	8,373
SG&A expenses	15,173	15,822	14,211	7,603	6,404
Operating income	9,743	2,105	5,631	2,881	1,969
Interest expense	***	***	***	***	***
Other expense	***	***	***	***	***
Other income	***	***	***	***	***
Net income or (loss)	7,584	(4,931)	(1,599)	217	495
Depreciation	2,657	4,003	5,111	2,598	2,263
Cash flow	10,241	(927)	3,512	2,815	2,758

Table continued on following page.

**Table VI-1--Continued**

**Raw flexible magnets: Results of total operations of U.S. firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
<b>Ratio to total net sales (percent)</b>					
COGS:					
Raw materials	44.2	46.5	43.7	42.7	43.7
Direct labor	9.9	9.6	8.5	8.4	8.7
Other factory costs	18.6	24.9	27.5	27.9	27.8
Total COGS	72.8	81.1	79.7	79.1	80.3
Gross profit	27.2	18.9	20.3	20.9	19.7
SG&A expenses	16.5	16.7	14.5	15.2	15.1
Operating income	10.6	2.2	5.8	5.7	4.6
Net income or (loss)	8.3	(5.2)	(1.6)	0.4	1.2
<b>Average unit value (per pound)</b>					
Total net sales <sup>1</sup>	\$1.09	\$1.07	\$1.08	\$1.11	\$1.11
COGS:					
Raw materials	0.48	0.50	0.47	0.47	0.48
Direct labor	0.11	0.10	0.09	0.09	0.10
Other factory costs	0.20	0.27	0.30	0.31	0.31
Total COGS	0.80	0.87	0.86	0.88	0.89
Gross profit	0.30	0.20	0.22	0.23	0.22
SG&A expenses	0.18	0.18	0.16	0.17	0.17
Operating income	0.12	0.02	0.06	0.06	0.05
Net income or (loss)	0.09	(0.06)	(0.02)	( <sup>2</sup> )	0.01
<b>Number of firms reporting</b>					
Operating losses	3	3	4	***	3
Data	6	6	6	6	6
<sup>1</sup> Includes internal consumption of *** and related party transfers of ***. <sup>2</sup> Less than \$0.005.					
Source: Compiled from data submitted in response to Commission questionnaires.					

\*\*\* factor behind increased other factory costs appears to have been the purchase of Magnet Specialty, Inc. (MSI) by Magnum in April 2005 and the subsequent consolidation of MSI's operations into those of Magnum. As described by the industry witnesses, MSI was the high cost domestic

producer,<sup>4</sup> and Magnum invested in additional equipment to increase the efficiency of the firm’s magnetic compounding and blending operations.<sup>5</sup> Overall, Magnum attributed the \*\*\* between 2004 and 2005 to: \*\*\*. Similarly Magnum attributed the \*\*\*.<sup>6</sup> Energy costs, classified as a part of other factory costs, have increased for firms making raw flexible magnets during the period investigated.<sup>7</sup>

Interest charges and “other expenses” rose \*\*\* between 2004 and 2005 and remained on approximately the same (high) level between 2005 and 2006. In order to finance its production modernization (improving processing flows and equipment) and the acquisition of MSI, Magnum took on debt, shown by the \*\*\* from 2005 onwards.<sup>8</sup> \*\*\* reported that it expanded capacity in \*\*\*. Related to the capacity expansion, \*\*\* reported \*\*\* in the category of “other expense;” \*\*\* cost reporting in this category are \*\*\*.<sup>9</sup>

Glatfelter reported data on its operations on a proprietary product, MagneCote®. In correspondence with Commission staff, Glatfelter stated that \*\*\*.<sup>10</sup> Glatfelter \*\*\*.<sup>11</sup> Glatfelter sells the product from its facility in Chillicothe, OH, \*\*\*. Glatfelter reported \*\*\*.<sup>12</sup> Salient information on operating performance is presented in the following tabulation in order for the Commission to evaluate the performance of the reporting U.S. firms \*\*\*. Compared with table VI-1, the number of firms \*\*\*.

\* \* \* \* \*

Table VI-2 presents data for the reporting U.S. firms’ merchant market sales and costs, and table VI-3 presents data in a similar format for their captive consumption. Differences between the average unit values in tables VI-1 and VI-2 and between tables VI-2 and VI-3 are attributable to data reported by \*\*\*. That firm accounted for the majority of captive consumption reported by all U.S. firms and the average unit values of its sales and costs are \*\*\* than those of other reporting U.S. firms.

**Table VI-2**  
**Raw flexible magnets: Results of merchant-market operations of U.S. firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

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<sup>4</sup> Conference transcript, p. 38 (T. Love) and p. 98 (Murphy). For additional information on the rationale to the acquisition, *see* conference transcript, pp. 67-68 (A. Love). Some of these aspects of MSI’s cost structure are shown by the \*\*\*. Magnum’s postconference brief, exh. 1, pp. 10-11.

<sup>5</sup> Conference transcript, p. 24 (A. Love). However, there were difficulties encountered during the consolidation phase that lasted from April 2005 to December 2005, including the departure of several key senior personnel, redesign of the plant’s layout, and the installation of new equipment. Conference transcript, p. 39 (T. Love). One of MSI’s customers described a decline in quality and extended lead times following Magnum’s acquisition of MSI. Conference transcript, pp. 130-131 (Lewis).

<sup>6</sup> Correspondence from \*\*\*, October 10, 2007. In its postconference brief, Magnum stated that \*\*\*. Magnum’s postconference brief, exh. 1, pp. 10-11.

<sup>7</sup> Magnum’s postconference brief, exh. 1, p. 12. In the case of Magnum, this represents an increase of \*\*\* percentage points, from \*\*\*. Correspondence from Gordon Lang, counsel to Flexmag, October 18, 2007. These ratios are \*\*\* Flexmag—from \*\*\*. Both comparisons are for full-year data, 2004 to 2006.

<sup>8</sup> Conference transcript, p. 46 (Button).

<sup>9</sup> Telephone interview with \*\*\*, October 18, 2007.

<sup>10</sup> Correspondence from \*\*\*, October 19, 2007. Because Glatfelter \*\*\*. *Ibid.*

<sup>11</sup> Correspondence from \*\*\*, October 19, 2007. *See also* \*\*\*.

<sup>12</sup> Glatfelter explained its \*\*\*. Correspondence from \*\*\*, October 19, 2007.

The following tabulation presents the operating performance of reporting U.S. firms, \*\*\*, on their merchant market operations.

\* \* \* \* \*

**Table VI-3**  
**Raw flexible magnets: Results of captive production operations by U.S. firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

Table VI-4 presents data on total net sales, COGS, selling, general, and administrative (“SG&A”) expenses, and operating income on a firm-by-firm basis.

**Table VI-4**  
**Raw flexible magnets: Results of operations of U.S. firms, by firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

During the staff conference, personnel from Magnum stated it experienced spikes in raw material costs in November-December 2005.<sup>13</sup> As noted in table VI-1, raw material costs increased by nearly \$3.5 million in 2005 over 2004. Table VI-5 presents data on the unit values of the reporting U.S. firms’ raw material costs, and their ratios of raw material cost to total net sales and to COGS.

**Table VI-5**  
**Raw flexible magnets: Raw material costs of U.S. firms, by firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

A variance analysis for the six reporting U.S. firms is presented in summary form in table VI-6 for total operations and separately for open market sales and internal consumption. The information for these variance analyses is derived from tables VI-1, VI-2, and VI-3. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. Between 2004 and 2006, the unfavorable operating income variance of \$4.1 million for total operations was attributable to an unfavorable variance on price (lower unit prices) and an unfavorable variance on net cost/expense (higher unit costs). The decrease in operating income between January-June 2006 and the same period in 2007 of \$0.9 million was attributable to unfavorable price, net cost/expense, and volume variances. With respect to operations in the merchant market, the decline in income of \$\*\*\* between 2004 and 2006 was attributable to an unfavorable net cost/expense variance that \*\*\* a favorable price variance. Between January-June 2006 and January-June 2007 while the net cost/expense variance was favorable, the unfavorable price variance was much larger resulting in a fall in operating income. Captive production operations depicted a different situation: operating income rose between 2004 and 2006 by \$\*\*\* based on a favorable price variance that was much greater than the unfavorable net cost/expense variance and a favorable volume variance. However, operating income declined between January-June 2006 and January-June 2007, the result of a large negative volume variance and a favorable net cost/expense variance and an unfavorable price variance cancelled one another.

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<sup>13</sup> Conference transcript, p. 39 (T. Love).

**Table VI-6**  
**Raw flexible magnets: Variance analysis on results of operations of domestic firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

Item	Fiscal years			January-June
	2004-06	2004-05	2005-06	2006-07
<b>Value (\$1,000)</b>				
<b>Total operations:</b>				
Operating income variance	(4,112)	(7,638)	3,527	(912)
Summarized as:				
Price variance	(1,418)	(1,918)	553	(40)
Net cost/expense variance	(3,497)	(6,237)	2,915	(431)
Net volume variance	803	517	59	(441)
<b>Merchant-market operations:</b>				
Operating income variance	***	***	***	***
Summarized as:				
Price variance	***	***	***	***
Net cost/expense variance	***	***	***	***
Net volume variance	***	***	***	***
<b>Captive production operations:</b>				
Operating income variance	***	***	***	***
Summarized as:				
Price variance	***	***	***	***
Net cost/expense variance	***	***	***	***
Net volume variance	***	***	***	***
Note.--Unfavorable variances are shown in parenthesis; all others are favorable. The data are comparable to changes in operating income as presented in tables VI-1, VI-2, and VI-3.				
Source: Compiled from data submitted in response to Commission questionnaires.				

**CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES,  
AND INVESTMENT IN PRODUCTIVE FACILITIES**

The responding firms' data on capital expenditures and research and development ("R&D") expenses related to the production of raw flexible magnets are shown in table VI-7.

**Table VI-7**

**Raw flexible magnets: Capital expenditures and R&D expenses of U.S. firms, fiscal years 2004-06, January-June 2006, and January-June 2007**

\* \* \* \* \*

Capital expenditures by individual firms reflect equipment purchase or asset purchases as noted earlier. The total of capital expenditures is a multiple of depreciation in each period investigated (except for January-June 2007), usually considered a sign that firms are replacing equipment faster than it is becoming obsolete. On the other hand, R&D expenses are small, and it appears that R&D is directed to production techniques and to proprietary products.

**ASSETS AND RETURN ON INVESTMENT**

The Commission’s questionnaire requested data on assets used in the production, warehousing, and sale of raw flexible magnets to compute return on investment (“ROI”) for 2004 to 2006. The data for total net sales and operating income are from table VI-1. Operating income was divided by total assets, resulting in ROI, shown in table VI-8.

**Table VI-8**

**Raw flexible magnets: Value of assets used in the production, warehousing, and sale, and return on investment, fiscal years 2004-06**

\* \* \* \* \*

The increase in book value of property, plant, and equipment between 2004 and 2005 came about by the purchase of MSI’s assets by Magnum (shown as capital expenditures in table VI-7) and the capital expenditures of \*\*\* (likewise shown in table VI-7). The increase in fixed assets more than offset the decrease in “other non-current” assets in 2005 compared with 2004 that was caused by an \*\*\*.<sup>14</sup>

**CAPITAL AND INVESTMENT**

The Commission requested U.S. firms to describe any actual or potential negative effects of imports of raw flexible magnets from China and Taiwan on the firms’ growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown below.

**Actual Negative Effects**

Electrodyne

\*\*\*.

Flexmag

\*\*\*.

---

<sup>14</sup> Correspondence from \*\*\*, October 18, 2007. The fall in this category \*\*\*.

Glatfelter

\*\*\*.

Holm

\*\*\*.

Magnet Technology

\*\*\*.

Magnum

\*\*\*.

### **Anticipated Negative Effects**

Electrodyne

\*\*\*.

Flexmag

\*\*\*.

Glatfelter

\*\*\*.

Holm

\*\*\*.

Magnet Technology

\*\*\*.

Magnum

\*\*\*.

## PART VII: THREAT CONSIDERATIONS AND *BRATSK* INFORMATION

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(I)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report are the statutory requirements and information obtained for use in the Commission's consideration pursuant to *Bratsk* rulings.

### THE INDUSTRY IN CHINA

#### Overview

The petition alleged that there are approximately 58 producers/exporters of raw flexible magnets in China. Foreign producer questionnaires were issued to producers with contact information in the petition, plus 12 identified by Commission staff. Polyflex was the only foreign producer that provided a questionnaire response. In addition to Polyflex, importer questionnaire responses identified the following 15 foreign producers/exporters as their suppliers during the period for which data were gathered: AIC Magnets Ltd.; AMC Industries Co., Ltd.; Atlas Magnetics Manufacturing Ltd.; BGRIMM; CDOB Beijing Import Export Co., Ltd.; Chance Best; Cixi City Magnetic Materials Co., Ltd.; Guangzhou Newlife Magnet Electricity Co., Ltd. (New Life); International Writing Instrument; Magtek; Marketa Magnet Ltd.; Sunfirst Manufacturing; UMAG; Xiangying Magnetic Materials; and Zhejiang Kaihua Foreign Economic Trade Co., Ltd. After Polyflex (the company mentioned most often as the primary supplier, and which reported in its questionnaire that it accounted for \*\*\* percent of exports of the subject production to the United States), the firm New Life was most frequently mentioned as a supplier. However, some of the other firms identified as suppliers are exporters but not producers of raw flexible magnets.

#### Raw Flexible Magnet Operations

Table VII-1 presents data for reported production and shipments of raw flexible magnets in China by Polyflex. Polyflex claimed to account for about \*\*\* percent of production in China in 2006. Capacity grew during 2004-06, and also grew between January-June 2006 and January-June 2007, \*\*\*. Capacity utilization generally increased except between January-June 2006 and January-June 2007, however, there was \*\*\* unused capacity in each period. Polyflex expects to \*\*\*. Exports to the United States increased in every period, though \*\*\* than exports to other markets during 2004-06. In 2007 (first half and projected full year), U.S. exports \*\*\* home market sales. It is unclear what portion of Polyflex's home market sales were to firms that later exported the raw flexible magnets to the United States. Its other export markets are to \*\*\*. Polyflex's exports to the United States were \*\*\* percent magnetic sheeting.

**Table VII-1**

**Raw flexible magnets: Polyflex's reported production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projections for 2007 and 2008**

\* \* \* \* \*

If Polyflex's production for 2006 were extrapolated as \*\*\* percent of the total production in China, then Chinese production would be approximately \*\*\* pounds. Capacity would be approximately

\*\*\* pounds. However, from the responses to importers' questionnaires, it seems unlikely that Polyflex's estimate of \*\*\* percent of exports to the United States is accurate. As a share of 2006 reported imports from questionnaire data, exports to the United States reported by Polyflex were approximately \*\*\* percent. If the \*\*\* percent was extrapolated into a total figure for Chinese production based on Polyflex's reported production for 2006, it would yield a Chinese production of \*\*\* pounds, and a total capacity of \*\*\* pounds in that year for the Chinese industry.

## THE INDUSTRY IN TAIWAN

### Overview

The petition alleged that there are approximately six producers/exporters of raw flexible magnets in Taiwan. Foreign producer questionnaires were issued to producers with contact information in the petition, plus four identified by Commission staff. A negative questionnaire response was received from one firm, \*\*\*, certifying that it did not produce raw flexible magnets during the time period under consideration. Jasdi was the only foreign producer that provided a questionnaire response. In addition to Jasdi, importer questionnaires responses identified one other foreign producer/exporter as their supplier during the period for which data were gathered: Magruba Flexible Magnets Co., Ltd.

Jasdi claimed to account for \*\*\* percent of the production of raw flexible magnets in Taiwan, but only \*\*\* percent of the exports to the United States. Compared to reported imports of the subject product from Taiwan in 2006, Jasdi's exports to the United States accounted for \*\*\* percent of imports, suggesting that Jasdi's estimates of its share of exports to the United States is \*\*\*. Jasdi's home market shipments (presumably to another exporter of raw flexible magnets to the United States) accounted for the remainder of reported imports from Taiwan during 2006.

### Raw Flexible Magnet Operations

Table VII-2 presents data for Jasdi's reported production and shipments of raw flexible magnets in Taiwan. Most of its non-U.S. exports are directed to third country markets in \*\*\*. Although capacity utilization was \*\*\* during 2004-06, Jasdi expects to have \*\*\* in 2007, and \*\*\*. Its exports to the United States, however, are expected to \*\*\*. Jasdi's exports to the United States were \*\*\* percent magnetic sheeting.

**Table VII-2**

**Raw flexible magnets: Jasdi's reported production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projections for 2007 and 2008**

\* \* \* \* \*

## THE INDUSTRIES IN CHINA AND TAIWAN COMBINED

Table VII-3 presents reported data on the raw flexible magnet industries in China and Taiwan combined.

**Table VII-3**

**Raw flexible magnets: China and Taiwan's combined reported production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projections for 2007 and 2008**

\* \* \* \* \*

## U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from China and Taiwan are shown in table VII-4. Inventory levels were \*\*\* for imports from Taiwan, which are attributable to \*\*\*.

**Table VII-4**

**Raw flexible magnets: U.S. importers' end-of-period inventories of subject imports, by source, 2004-06, January-June 2006, and January-June 2007**

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Imports from China:					
Inventories (1,000 pounds)	97	112	286	164	376
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from Taiwan:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from all subject countries:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from nonsubject countries:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from all sources:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Note.—January-June ratios are calculated using annualized import data. Also, all ratios were calculated only for firms that provided both import and inventory data.					
Source: Compiled from data submitted in response to Commission questionnaires.					

## U.S. IMPORTERS' IMPORTS SUBSEQUENT TO JUNE 30, 2007

The Commission requested importers to indicate whether they imported or arranged for the importation of raw flexible magnets from China or Taiwan after June 30, 2007. Many responding importers reported that they had arranged for the importation of raw flexible magnets from a subject country subsequent to June 30, 2007. Table VII-5 presents expected imports subsequent to June 30, 2007, by quarter.

**Table VII-5**  
**Raw flexible magnets: Subject U.S. imports scheduled for delivery after June 30, 2007**

\* \* \* \* \*

## ANTIDUMPING DUTY INVESTIGATIONS IN THIRD-COUNTRY MARKETS

There were no antidumping duty investigations on raw flexible magnets reported in third-country markets.

## NONSUBJECT SOURCE INFORMATION

During the preliminary phase of these investigations, the Commission sought pricing data from U.S. importers of flexible magnets from China and Taiwan and also from all other countries. Those data are presented in Part V of this report. With respect to nonsubject industry data, the Commission sought publicly available information regarding international producers of flexible magnets during the period for which data were collected, including producers in Canada, Japan, Korea, and Mexico. The information obtained is presented in the following sections.

### “Bratsk” Considerations

As a result of the Court of Appeals for the Federal Circuit (“CAFC”) decision in *Bratsk Aluminum Smelter v. United States* (“Bratsk”), the Commission is directed to:

*undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement / benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”<sup>1 2</sup>*

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<sup>1</sup> *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

<sup>2</sup> In the silicon metal remand, Chairman Pearson noted “consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (Sept. 2006) at 51, that while he agrees with the Commission that the Federal Circuit’s opinion suggests a replacement/benefit test, he also finds that the Federal Circuit’s opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.” *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

## Nonsubject Magnets

### Overview

According to official import statistics from Commerce, U.S. imports of subject and nonsubject product provided for under HTS subheadings 8505.19.10 and 8505.19.20 from 21 countries other than China and Taiwan entered the United States in 2006. By value, imports from four countries - Canada, Japan, Korea, and Mexico – accounted for the large majority (71 percent) of such imports in 2006.<sup>3</sup> However, as discussed in greater detail in Parts I and IV of this report, official import statistics cover a broader range of products than those defined in Commerce’s scope (including, most notably, printed magnets). In fact, with the exception of modest volumes of raw flexible magnets from Japan and Vietnam, U.S. importers reported importing the subject merchandise exclusively from China and Taiwan. This appears consistent with the experience of petitioner Magnum<sup>4</sup> as well as U.S. importer and converter Adams Magnetic Products.<sup>5</sup> U.S. producer and importer Magnet Technology suggested that any raw flexible magnet production in nonsubject countries was more focused on extruded products than on sheet products.<sup>6</sup>

Detailed production data for raw flexible magnets produced in the nonsubject countries of Japan, Korea, Canada, and Mexico are not readily available. Trade data for these countries, however, suggest that Japan and Korea are major net exporters of permanent magnets, while Canada and Mexico are net importers of permanent magnets. Net trade data for these countries (as well as, for comparison purposes, China and Taiwan) are shown in table VII-6. Staff notes, however, that the product category for which trade data are available—permanent magnets, other than metal magnets—includes a broad range of magnetic products, and thus should be considered substantially overstated relative to raw flexible magnets.

### Canada

According to the petitioner there is no production of flexible magnets in Canada. Raw flexible magnets are all imported, re-exported, or distributed into Canada primarily by producers in China and Taiwan.<sup>7</sup> Staff reviewed public sources for additional possible producers of raw flexible magnets in Canada, but was only able to identify two possible producers.<sup>8</sup>

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<sup>3</sup> Calculated from official imports of Commerce, HTS subheadings 8505.19.10 and 8505.19.20. For purposes of this calculation, U.S. imports from Hong Kong are not treated as imports from nonsubject sources.

<sup>4</sup> When asked “(D)o you see direct import competition from countries other than China and Taiwan in your day-to-day business,” witnesses from Magnum responded in the negative. Conference transcript, pp. 107, 108 (A. Love, Murphy, T. Love).

<sup>5</sup> When asked “Are you aware of other producers in other countries besides that ones that we’re focused on today,” a witness for Adams Magnetic Products responded in the negative. Conference transcript, p. 194 (Lewis).

<sup>6</sup> Conference transcript, p. 158 (Mosteller). The witness testified further that “Vietnam is a production point for flexible magnetic sheeting and extruded product. India is next in line.” Ibid.

<sup>7</sup> Commission staff interview with \*\*\* in Marietta, OH, October 2, 2007.

<sup>8</sup> Staff reviewed *Thomas Global* ([www.thomasglobal.com](http://www.thomasglobal.com)) as well as the *Canadian Trade Index* ([www.ctidirectory.com](http://www.ctidirectory.com)).

**Table VII-7**  
**Permanent magnets, other than metal magnets: Net trade positions of major subject and nonsubject magnet-producing countries, 2004-06**

Country	Calendar year		
	2004	2005	2006
<i>Value (1,000 dollars)</i>			
<b>Imports:</b>			
China	178,796	192,238	186,355
Canada	22,310	21,377	20,709
Japan	59,905	56,912	57,342
Korea	35,977	38,902	43,817
Mexico	52,150	49,238	50,646
Taiwan	23,480	19,371	16,164
<b>Exports:</b>			
China	198,060	217,389	237,144
Canada	4,935	3,805	5,171
Japan	152,419	126,561	125,854
Korea	67,048	64,222	64,143
Mexico	11,889	10,281	12,383
Taiwan	24,886	21,766	23,191
<b>Trade balance:</b>			
China	19,264	25,151	50,789
Canada	(17,375)	(17,571)	(15,538)
Japan	92,515	69,649	68,512
Korea	31,071	25,320	20,326
Mexico	(40,261)	(38,956)	(38,263)
Taiwan	1,405	2,395	7,027
Source: World Trade Atlas, importer and exporter records (HTS subheading 8505.19, permanent magnets and articles intended to become permanent magnets after magnetization, other than metal).			

## Japan

Japan is a major producer and exporter of permanent - including flexible - magnets. The manufacturing process used by up to seven producers of raw flexible magnets in Japan involves extruded and calendared production of these products. The bulk of Japanese production of raw flexible magnets is believed to make use of higher-end magnetic elements such as neodymium powders (not strontium or barium ferrites found in petitioner's magnets). As such, these magnets are produced largely for technical specifications which are used primarily used in downstream markets such as medical technology, automotive, and computer applications, in addition to major household appliances (e.g., household refrigerators).<sup>9</sup> MagX Co., Ltd., Tokyo, Japan, is a producer of raw flexible magnets, \*\*\*.

## Korea

Korea is a producer and mid-level exporter of permanent magnets, but not flexible magnets. Korean production of permanent magnets (hard neodymium-iron-boron ferrite magnets) is largely intended for automotive applications (e.g., ABS brakes, and electronic operated windows). Korean production of higher value permanent magnets typically takes places making use of technical standards (ISO) applications.<sup>10</sup> Korean production of lower-technology raw flexible magnets is now taking place in China (Ningo AMC).<sup>11</sup>

## Mexico

According to the petitioner there is no production of flexible magnets in Mexico. Raw flexible magnets are all imported, re-exported, or distributed into Mexico primarily by producers in China and Taiwan.<sup>12</sup> Staff reviewed public sources for additional possible producers of raw flexible magnets in Mexico, but was only able to identify three possible producers.<sup>13</sup>

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<sup>9</sup> Hoover's Profile, "Magnequench, Inc., *Answers.com*, retrieved on October 19, 2007, <http://www.answers.com/topic/magnequenchinc/>. See also *Thomas Global* ([www.thomasglobal.com](http://www.thomasglobal.com)).

<sup>10</sup> Staff telephone interview with \*\*\*, JDM International, October 1, 2007. See also Magnetweb's "Permanent Magnet Directory" ([www.magnetweb.com](http://www.magnetweb.com)).

<sup>11</sup> Correspondence with \*\*\*, October 29, 2007.

<sup>12</sup> Commission staff interview with \*\*\* in Marietta, OH, October 2, 2007.

<sup>13</sup> Staff reviewed *Thomas Global* ([www.thomasglobal.com](http://www.thomasglobal.com)).



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



posthearing briefs is Wednesday, December 5, 2007; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before December 5, 2007. On December 19, 2007, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 21, 2007, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 25, 2007.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7-19182 Filed 9-27-07; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701-TA-452 and 731-TA-1129-1130 (Preliminary)]**

### Raw Flexible Magnets From China and Taiwan

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of countervailing duty investigation and antidumping duty investigations and scheduling of preliminary phase investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty and antidumping duty investigations Nos. 701-TA-452 and 731-TA-1129-1130 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) and section 733(a) (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and Taiwan of raw flexible magnets, provided for in subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of China,<sup>1</sup> and that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)) or 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in countervailing duty and antidumping investigations in 45 days, or in these cases by November 5, 2007. The Commission's views are due at Commerce within five business days thereafter, or by November 13, 2007.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through

<sup>1</sup>Raw flexible magnets were provided for in HTS subheading 8505.19.0040 (prior to December 19, 2004).

E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**DATES:** *Effective Date:* September 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Olympia Hand (202-205-3182), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

*Background.* These investigations are being instituted in response to a petition filed on September 21, 2007, by Magnum Magnetics Corp., Marietta, OH.

*Participation in the investigations and public service list.* Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.* Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the

Secretary for those parties authorized to receive BPI under the APO.

**Conference.** The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 12, 2007, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Olympia Hand (202-205-3182) not later than October 9, 2007, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written submissions.** As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 17, 2007, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: September 25, 2007.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7-19183 Filed 9-27-07; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-604]

### In the Matter of Certain Sucralose, Sweeteners Containing Sucralose, and Related Intermediate Compounds Thereof; Notice of Commission Determination To Review and Vacate an Initial Determination Denying a Motion To Terminate the Investigation With Regard to Three Patents

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review and vacate an initial determination ("ID") (Order No. 11) of the presiding administrative law judge ("ALJ") in the above-captioned investigation denying a motion to terminate the investigation as to United States Patent Nos. 4,980,463, 5,470,969, and 5,034,551.

**FOR FURTHER INFORMATION CONTACT:**

James Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 10, 2007, based upon a complaint filed on behalf of Tate & Lyle Technology Ltd. of London, United Kingdom, and Tate & Lyle Sucralose, Inc. of Decatur, Illinois (collectively, "Tate & Lyle"). The complaint alleged a

violation of section 337(a)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of sucralose, sweeteners containing sucralose, and related intermediate compounds thereof by reason of infringement of various claims of United States Patent Nos. 4,980,463 ("the '463 patent"), 5,470,969 ("the '969 patent"), 5,034,551 ("the '551 patent"), 5,498,709, and 7,049,435. The notice of investigation named twenty-five respondents.

On June 12, 2007, respondents Changzhou Niutang Chemical Plant Co., Ltd.; U.S. Niutang Chemical, Inc.; Garuda International Inc.; Guangdong Food Industry Institute; and L&P Food Ingredient Co., Ltd. (collectively, "Changzhou") filed a motion to terminate the investigation with respect to the '463 patent, the '969 patent, and the '551 patent. Several other respondents joined Changzhou's motion to terminate. Tate & Lyle opposed the motion. The Commission investigative attorney ("IA") supported the motion with respect to the '551 patent, but not with respect to the '463 patent or the '969 patent.

On August 8, 2007, the ALJ issued an ID (Order No. 11), denying Changzhou's motion to terminate the investigation with regard to the '463 patent, the '969 patent, and the '551 patent. The ALJ issued his order in the form of an ID under 19 CFR 210.42, pursuant to the notice of investigation. The complainants, certain respondents, and the Commission investigative attorney filed petitions for review of Order No. 11.

Having examined the record of this investigation, including the ALJ's ID and the submissions of the parties, the Commission has determined to review and vacate the ALJ's ID. The issues raised by Changzhou's motion, including whether the importation of the finished product alone (sucralose) constitutes a violation of section 337 based on the '463, '969, and '551 patents, and the ID, including whether trace amounts of an intermediate product or catalyst in the imported product can constitute a violation of section 337, may be addressed in the final initial determination (or earlier, if appropriate).

In addressing these issues, the parties and the ALJ should consider the following:

1. The amount of any subject product which has been or is currently being imported.

2. Whether there is a difference in effective scope between 35 U.S.C. 271(g)

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: October 12, 2007.

**Tyrone Kelley,**

*Forest Supervisor.*

[FR Doc. E7-20547 Filed 10-17-07; 8:45 am]

BILLING CODE 3410-11-P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### Dry Fork Station and Hughes Transmission Line

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of Extension of Public Comment Period, Draft Environmental Impact Statement, Dry Fork Station and Hughes Transmission Line, Wyoming.

**SUMMARY:** Notice is hereby given that the Rural Utilities Service (RUS) is extending the public comment period for the Draft Environmental Impact Statement (EIS) for the Dry Fork Station and Hughes Transmission Line. The Draft EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231, *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500 through 1508) and RUS regulations (7 CFR part 1794).

The Draft EIS is to evaluate the potential environmental impacts of and alternatives to the Basin Electric Power Cooperative, Inc. (Basin Electric) application for a loan guarantee to construct a generation facility referred to as the Dry Fork Station, consisting of a single maximum net 385 Megawatt

(MW) unit, at a site near Gillette, Wyoming, along with other proposed pollution controls collectively known as Best Available Control Technology (BACT). In addition, Basin Electric also proposes to construct and operate 136 miles of 230 kilovolt (kV) transmission line in Campbell and Sheridan counties, referred to as the Hughes Transmission Project. Basin Electric is not, however, requesting a loan guarantee from RUS for this action. However, the Hughes Transmission Project is evaluated as a connected action for this EIS because the Dry Fork Station would interconnect with it if the Station is built.

The Draft EIS was filed with the U.S. Environmental Protection Agency on August 24, 2007. Requests for extension of public comment periods may be honored per 40 CFR 1506.10. The initial 45-day public comment period was to end on October 15, 2007. With the 30-day extension, the new deadline for public comments is now November 19, 2007.

**DATES:** Written comments on this Draft EIS will be accepted on or before November 19, 2007.

**ADDRESS FOR FURTHER INFORMATION:** To send comments or for further information, contact: Richard Fristik, USDA, Rural Development Utilities Programs, 1400 Independence Avenue, SW., Stop 1571, Room 2240, Washington, DC 20250-1571, telephone (202) 720-5093, fax (202) 690-0649, or e-mail: [Richard.Fristik@wdc.usda.gov](mailto:Richard.Fristik@wdc.usda.gov).

A copy of the Draft EIS can be obtained or viewed online at <http://www.usda.gov/rus/water/ees/deis-dfs.htm>. The files are in a Portable Document Format (.pdf); in order to review or print the document, users need to obtain a free copy of Acrobat® Reader® (© 2003 Adobe Systems Incorporated). The Acrobat® Reader® can be obtained from <http://www.adobe.com/prodindex/acrobat/readstep.html>.

Copies of the Draft EIS will also be available for public review during normal business hours at the following locations:

Campbell County Public Library, 2101 South 4J Road, Gillette, WY 82718-5205. Phone: (307) 687-0009, FAX: (307) 686-4009

Wright Branch Library—Campbell County Public Library System, 305 Wright Boulevard, Wright, WY 82732  
Sheridan County Fulmer Public Library, 35 W. Alger Street, Sheridan, WY 82801

Clearmont Branch Library—Sheridan County Public Library, 1240 Front Street, Clearmont, WY 82835, Phone: (307) 758-4331

Crook County Library, 414 Main Street, Sundance, WY 82729

Moorcroft Public Library—Crook County Library System, 105 East Converse, Moorcroft, WY 82721

Johnson County Library, 171 North Adams, Buffalo, WY 82834

Dated: October 12, 2007.

**Mark S. Plank,**

*Director, Engineering and Environmental Staff, USDA Rural Development, Utilities Programs.*

[FR Doc. E7-20514 Filed 10-17-07; 8:45 am]

BILLING CODE 3410-15-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-922, A-583-842]

#### Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan

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

**EFFECTIVE DATE:** October 18, 2007.

**FOR FURTHER INFORMATION CONTACT:** Kristin Case (Taiwan) or Melissa Blackledge (People's Republic of China), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3174 or (202) 482-3518, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Initiation of Investigation

##### The Petitions

On September 21, 2007, the Department of Commerce (Department) received petitions concerning imports of raw flexible magnets from the People's Republic of China (PRC) and Taiwan filed in proper form by Magnum Magnetics Corporation (the petitioner). See *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and Taiwan* (September 21, 2007) (Petitions). The petitioner is a domestic producer of raw flexible magnets. On September 26, 2007, the Department issued a request for additional information and clarification of certain areas of the general issues and Taiwan-specific portions of the petitions. On September 27, 2007, the petitioner filed a supplement to the petitions. See *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the*

*People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (September 27, 2007) (Supplement). On September 27, 2007, and October 4, 2007, the Department issued requests for additional information and clarification of certain areas of the PRC-specific portion of the petition. On October 2, 2007, the petitioner filed responses to the Department's request for additional information and clarification of the general issues and Taiwan-specific portions of the petition. See *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 2, 2007) (General Issues Response 1), *Petition for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 2, 2007) (Taiwan Response). On October 4, 2007, October 9, 2007, and October 10, 2007, the petitioner filed responses to the Department's requests for additional information and clarification of the PRC-specific portions of the petition. See *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 4, 2007) (PRC Response 1), *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 9, 2007) (PRC Response 2), and *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 10, 2007) (PRC Response 3). On October 4, 2007, and October 10, 2007, the Department requested additional information and clarification of certain general issues. On October 10, 2007, and October 11, 2007, the petitioner filed responses to the Department's request for additional information and clarification of the general issues. See *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 10, 2007) (General Issues Response 2); see also *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (General Issues Response 3). On October 9, 2007, Magnet Technology, a U.S.

producer of raw flexible magnets and an importer of raw flexible magnets from the PRC, submitted a letter challenging the assertion made by the petitioner that it represents more than 50 percent of the domestic production of raw flexible magnets. The petitioner submitted its rebuttal to this challenge to the industry-support calculation on October 9, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of raw flexible magnets from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the initiation of the antidumping-duty investigations that the petitioner is requesting. See the "Determination of Industry Support for the Petition" section below.

#### Period of Investigation

Because the petitions were filed on September 21, 2007, the period of investigation (POI) for the Taiwan investigation is July 1, 2006, through June 30, 2007. The POI for the PRC investigation is January 1, 2007, through June 30, 2007. See 19 CFR 351.204(b).

#### Scope of the Investigations

The products covered by these investigations 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 these investigations 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 these investigations 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 the subject merchandise that are not specifically excluded are included in the scope of the investigations. The products subject to these investigations 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 these proceedings is dispositive.

### Comments on Scope of Investigations

We are setting aside a period of time for interested parties to raise issues regarding product coverage. See, e.g., *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers who support the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A) or (ii) determine industry support using a statistically valid sampling method if there is a large number of producers in the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the

domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information because the Department determines industry support at the time of initiation. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law. See *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (CAFC 1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the analysis of the domestic like product begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that raw flexible magnets constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like-product analysis in these cases, see the *Antidumping Duty Investigation Initiation Checklist: Raw Flexible Magnets from the People's Republic of China (PRC) (PRC Initiation Checklist)* at Attachment II and the *Antidumping Duty Investigation Initiation Checklist: Raw Flexible Magnets from Taiwan (Taiwan Initiation Checklist)* at Attachment II, on file in the Central Records Unit, Room B-099 of the main Department of Commerce building.

Our review of the data provided in the petitions, supplemental responses, and other information readily available to the Department indicates that the petitioner has established industry support. With regard to both the PRC and Taiwan, based on information provided in the petitions, we determine that the domestic producers have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers who support the petitions account for at least 25 percent of the total production of the domestic like product. The petitions did not establish support from domestic producers accounting for more

than 50 percent of the total production of the domestic like product, however, and the Department was required to take further action in order to evaluate industry support. See section 732(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 732(c)(4)(D)(i) of the Act, to determine industry support. See *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II. The Department received opposition to the petitions from a U.S. producer of the domestic like product which is also an importer of raw flexible magnets from the PRC. See October 9, 2007, submission by Magnet Technology; see also *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II. Based on information provided in these petitions and other submissions, the domestic producers have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions. Accordingly, the Department determines that the petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II.

The Department finds that the petitioner filed the petitions on behalf of the domestic industry in accordance with section 732(c)(4)(A) of the Act. The petitioner is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support in favor of the initiation of the antidumping duty investigations. See *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II.

### Allegations and Evidence of Material Injury and Causation

With regard to the PRC, the petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value. While the imports from Taiwan do not meet the statutory requirement for cumulation on a volume basis, in its analysis for threat, the petitioner alleges that imports from Taiwan will imminently account for more than three percent of all imports of the subject merchandise by volume and, therefore, they are not negligible.

See section 771(24)(A)(iv) of the Act; see also *PRC Initiation Checklist* at Attachment III and *Taiwan Initiation Checklist* at Attachment III. The petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity, a lower capacity-utilization rate, fewer shipments, underselling, price depression or suppression, lost revenue, decline in financial performance, reduced employment, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See *PRC Initiation Checklist* at Attachment III and *Taiwan Initiation Checklist* at Attachment III.

#### **Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate investigations of imports of raw flexible magnets from Taiwan and the PRC. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the *Taiwan Initiation Checklist* and *PRC Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act, we will re-examine this information and may revise the margin calculations if appropriate.

#### *Alleged U.S. Price and Normal Value: Taiwan*

The petitioner calculated normal value using six price quotes, obtained from a market researcher in Taiwan, from Jasdi Magnet Co., Ltd., the Taiwanese producer of the subject merchandise. See Memorandum entitled "Raw Flexible Magnets: Telephone Call to Market Research Firm," dated October 11, 2007. Because of the sale and payment terms described in the price quote, the petitioner made no adjustments for freight or imputed credit expense. See *Taiwan Initiation Checklist*.

The petitioner calculated constructed export price (CEP) using two price offers from the U.S. affiliated reseller of Jasdi Magnet Co., Ltd., a Taiwanese producer of raw flexible magnets. The petitioner deducted amounts for foreign inland-freight costs, international freight costs, U.S. inland freight costs, U.S. operating expenses (as indirect selling expenses), inventory carrying costs, and CEP profit.

See Petition, Volume I at Exhibit 30, and Taiwan Response at Attachment D. Because of the payment terms described in the price quote, the petitioner made no adjustments for imputed credit expense. See Petition, Volume I at 47 and Exhibit 32C.

#### *Alleged U.S. Price and Normal Value: The People's Republic of China*

##### **Export Price**

The petitioner relied on three sets of price quotes, jointly accounting for over 40 individual quotes, for raw flexible magnets manufactured in the PRC and offered for sale in the United States. The prices quoted were for a wide range of different types and sizes of raw flexible magnets falling within the scope of this petition. The terms of delivery for each set of price quotes was different, including delivered duty paid, cost and freight at a U.S. port, and free on board (FOB) at a PRC port. To calculate EP, the petitioner, where appropriate, deducted from the starting price international movement expenses and U.S. duties. For prices quoted as FOB, the petitioner made no deductions. To be conservative, the petitioner did not deduct foreign inland freight charges from any of its U.S. price quotes. See *PRC Initiation Checklist*.

##### **Normal Value**

Because the Department considers the PRC to be a non-market-economy country (NME), the petitioner constructed normal value based on the factors-of-production methodology pursuant to section 773(c) of the Act. Recently, the Department examined the PRC's market status and determined that NME status should continue for the PRC. See Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding the People's Republic of China Status as a Non-Market Economy, dated August 30, 2006. (This document is available online at <http://ia.ita.doc.gov/download/prc-nme-status/prc-lined-papermemo-08302006.pdf>.) In addition, in two recent investigations, the Department also determined that the PRC is an NME country. See *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007), and *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007). In accordance with section 771(18)(C)(i) of the Act, the NME status

remains in effect until revoked by the Department. The presumption of the NME status of the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value of the product is based appropriately on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. During the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The petitioner asserts that India is the most appropriate surrogate country for the PRC because India is a significant producer of comparable merchandise and at a level of economic development comparable to the PRC. See Petition at 39. Based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, we will solicit comments regarding surrogate country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i), interested parties will be provided an opportunity to submit publicly available information to value the factors of production within 40 calendar days after the date of publication of the preliminary determination.

The petitioner provided dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The petitioner calculated normal value based on its own consumption rates for producing raw flexible magnets. See Petition at 41 and Exhibit 19. See also PRC Response 2 at Attachments 3 and 4. The petitioner argues that it is not aware of publicly available information regarding factor inputs and factor consumption rates of PRC producers of raw flexible magnets. The petitioner provided affidavits to support its normal value calculation. See September 26, 2007 supplemental at Attachment A and PRC Response 1 at 8.

For the normal value calculations, pursuant to section 773(c)(4) of the Act, the petitioner used its own factor consumption rates and surrogate values from a variety of sources, including Indian import statistics obtained from the World Trade Atlas, the International Energy Agency, the Department's NME Wage Rate for the PRC, and publicly available financial statements of two Indian raw flexible magnet producers to value the factors of production (FOP).

See Petition at 41–43, and PRC Response 2 at Attachments 2, 3, and 4.

For inputs valued in Indian rupees and not contemporaneous with the POI, the petitioner used information from the wholesale price indices (WPI) for India as published in the *International Financial Statistics* of the International Monetary Fund (IMF) for input prices during the period preceding the POI. See Petition at Exhibit 25. The petitioner converted the inputs valued in Indian rupees to U.S. dollars based on the average rupee/U.S. dollar exchange rate for the POI, as reported on the Department's website at <http://ia.ita.doc.gov/exchange/index.html>. See Petition Exhibit 23 and Exhibit 20. For strontium ferrite, a raw material used in the production of raw flexible magnets, the petitioner provided a per-unit surrogate value calculated using the actual consumed quantity and value used by Magnaplast Technologies India Pvt. Ltd. (Magnaplast) (an Indian producer of subject merchandise) in its production of raw flexible magnets, because no separate Indian tariff classification exists for strontium ferrite. See Petition at 42 and Exhibit 21. For other inputs, e.g., vistenex mw140, chlorinated polyethylene, ethylene vinyl acetate, and also packing materials, the petitioner provided surrogate values based on Indian import statistics from the World Trade Atlas. See Petition at 42 and Exhibit 20, PRC Response 2 at Attachment 2. With regard to energy (electricity), the petitioner valued electricity with an Indian electricity rate reported by the International Energy Agency. See Petition Exhibit 25. Labor was valued using the expected wage rate for the PRC as provided by the Department on its website. See Petition at 42 and Exhibit 24.

For the normal value calculations, the petitioner derived the figures for overhead (FOH), selling, general and administrative (SG&A) expenses, and profit from the financial ratios of Magnaplast and Ajay Poly Pvt. Ltd. (Ajay Poly), two Indian producers of merchandise that is comparable to the domestic like product. The financial statements that the petitioner provided covered the period of January 1, 2005 through December 31, 2006. Additionally, the petitioner calculated a simple average of the two companies' financial ratios for purposes of the Petition, and used these average ratios in its calculation of normal value. See Petition Exhibit 26, and PRC Response 2 at Attachment 7. We did not make any adjustments to normal value as calculated by the petitioner.

### Fair-Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of raw flexible magnets from Taiwan and the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of constructed export price to normal value as discussed above and calculated in accordance with section 773(a)(4) of the Act, the estimated dumping margin for raw flexible magnets from Taiwan range from 25.04 percent to 38.03 percent. Based upon comparisons of EP to the NV, calculated in accordance with section 773(c) of the Act, the estimated calculated dumping margins for raw flexible magnets from the PRC range from 26.46 percent to 185.28 percent.

### Initiation of Antidumping Investigations

Based upon the examination of the Petition on raw flexible magnets from Taiwan and the PRC, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of raw flexible magnets from Taiwan and the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

### Separate Rates

The Department modified the process by which exporters and producers may obtain separate-rate status in NME investigations. See *Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries* (April 5, 2005) (*Separate Rates and Combination Rates Bulletin*), available on the Department's website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. The process requires the submission of a separate-rate status application. Based on our experience in processing the separate-rate applications in the following antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See, e.g., *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires from the People's Republic of China*, 72 FR 43591, 43594–95 (August 6, 2007) (*Tires from the PRC*). The specific requirements for

submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application is due no later than December 14, 2007.

### Respondent Selection

In prior investigations, it has generally been the Department's practice to request quantity and value information from all known exporters identified in the Petition. See, e.g., *Tires from the PRC*, 72 FR at 43595. For these investigations, because the HTSUS numbers 8505.19.10 and 8505.19.20, as discussed above in the "Scope of the Investigation" section, provide comprehensive coverage of imports of the subject merchandise, the Department expects to determine respondents in these investigations based on U.S. Customs and Border Protection (CBP) data of U.S. imports under HTSUS numbers 8505.19.10 and 8505.19.20 during the POIs.

### Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The *Separate Rates and Combination Rates Bulletin*, at 6 explains that, while continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the POI. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the POI. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the POI.

### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the Petitions has been provided to representatives of the

governments of Taiwan and the PRC. We will attempt to provide a copy of the public version of the Petition to all exporters named in the Petition, as provided for in 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC.

The ITC will preliminarily determine no later than November 5, 2007, whether there is a reasonable indication that imports of raw flexible magnets from Taiwan and the PRC are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 11, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7-20575 Filed 10-17-07; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Application for Duty-Free Entry of Scientific Instrument

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Room 2104, 14th and Constitution Avenue NW., Washington, DC 20230. Applications may be examined between 8:30 a.m., and 5 p.m., in Room 2104, at the above address.

*Docket Number:* 07-040. Applicant: Penn State University, 311 Deike Building, University Park, PA 16802. *Instrument:* Distributed Temperature Sensor, model Sentinel DTS-SR(0-5KM). Manufacturer: Sensornet Ltd.,

United Kingdom. *Intended Use:* The instrument is intended to be used for a study that involves the determination of stream-aquifer interaction as related to precipitation events, and the detection of areas that build and release moisture along the hillslope. The work will involve collection of field-based physical measurements of groundwater discharge, including spatially and temporally exhaustive temperature gradients and Darcian flux calculations, to improve quantification of streambed leakage and assess the rate and scale of stream-aquifer exchange to determine controls on threshold behavior. Good temperature resolution and capability to collect data every minute to 0.1° C. accuracy are essential to the research. *Application accepted by Commissioner of Customs:* September 5, 2007.

Dated: October 15, 2007.

**Faye Robinson,**

*Director, Statutory Import Programs Staff, Import Administration.*

[FR Doc. E7-20576 Filed 10-17-07; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-923]

#### Raw Flexible Magnets from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation

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

**EFFECTIVE DATE:** October 18, 2007.

**FOR FURTHER INFORMATION CONTACT:** Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-0395.

#### SUPPLEMENTARY INFORMATION:

##### Initiation Of Investigation

On September 21, 2007, the Department of Commerce (the Department) received a petition concerning imports of raw flexible magnets from the People's Republic of China (PRC) filed in proper form by Magnum Corporation (petitioner). On September 26 and 27, 2007, the Department issued requests for additional information and clarification of certain areas of the petition involving general issues as well as issues concerning the countervailing duty (CVD) allegations. On September 27,

2007, the petitioner filed a supplement to the petition. *See Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (September 27, 2007) (Supplement). Based on the Department's requests, on October 1 and 2, 2007, the petitioner filed responses to the Department's requests for additional information and clarification of the general issues as well as issues related to the CVD petition. *See Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 2, 2007) (General Issues Response 1); *see also Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 2, 2007). On October 4, 9, and 10, 2007, the petitioner filed responses to the Department's requests for additional information and clarification of the PRC-specific portions of the petition. *See Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 4, 2007) (PRC Response 1), *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 9, 2007) (PRC Response 2), and *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 10, 2007) (PRC Response 3). On October 4 and 10, 2007, the Department requested additional information and clarification of certain areas of the general issues. On October 10 and 11, 2007, the petitioner filed responses to these requests. *See Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 10, 2007) (General Issues Response 2); *see also Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 11, 2007) (General Issues Response 3). On October 9, 2007, Magnet Technology, a U.S. producer of raw flexible magnets, and an importer of

governments of Taiwan and the PRC. We will attempt to provide a copy of the public version of the Petition to all exporters named in the Petition, as provided for in 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC.

The ITC will preliminarily determine no later than November 5, 2007, whether there is a reasonable indication that imports of raw flexible magnets from Taiwan and the PRC are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

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**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

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*Director, Statutory Import Programs Staff, Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-923]

#### Raw Flexible Magnets from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation

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**EFFECTIVE DATE:** October 18, 2007.

**FOR FURTHER INFORMATION CONTACT:** Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-0395.

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raw flexible magnets from the PRC, submitted a letter challenging the assertion made by the petitioner that it represents more than 50 percent of the domestic production of raw flexible magnets. The petitioner rebutted this challenge to its industry support calculation on October 9, 2007.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that manufacturers, producers, or exporters of raw flexible magnets in the People's Republic of China (the PRC) received countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C) and (D) of the Act and the petitioner has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate (*see, infra*, "Determination of Industry Support for the Petition").

#### Period Of Investigation

The anticipated period of investigation (POI) is calendar year 2006. See 19 CFR 351.204(b)(2).

#### 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: 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.

#### Comments On Scope Of Investigation

During our review of the petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages

all interested parties to submit such comments within 20 calendar days of the publication of this notice. 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. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

#### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the People's Republic of China (the GOC) for consultations with respect to the CVD petition. The Department held these consultations in Beijing, China, with representatives of the GOC on September 28, 2007. *See* the memorandum to the file, entitled, "Consultations with Officials from the Government of People's Republic of China" (September 28, 2007), a public document on file in the CRU.

#### Determination Of Industry Support For The Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is

responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation,” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that raw flexible magnets constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like-product analysis in these cases, see the *Countervailing Duty Investigation Initiation Checklist: Raw Flexible Magnets from the People’s Republic of China (PRC) (CVD Initiation Checklist)* at Attachment II, on file in the CRU.

Our review of the data provided in the Petition, Supplemental Responses, and other information readily available to the Department indicates that the petitioner has established industry support. Based on information provided in the Petition, we determine that the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers who support the Petition account for at least 25 percent of the total production of the domestic like product. The Petition did not establish support from domestic producers accounting for more than 50

percent of the total production of the domestic like product, however, and the Department was required to take further action in order to evaluate industry support. *See* section 702(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 702(c)(4)(D)(i) of the Act, to determine industry support. *See CVD Initiation Checklist* at Attachment II. The Department received opposition to the petition from a U.S. producer of the domestic like product, who is also an importer of raw flexible magnets from the PRC. *See* October 9, 2007, submission by Magnet Technology; *see also CVD Initiation Checklist* at Attachment II. Based on information provided in the Petition and other submissions, the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See CVD Initiation Checklist* at Attachment II.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate. *See CVD Initiation Checklist* at Attachment II.

#### **Injury Test**

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

#### **Allegations And Evidence Of Material Injury And Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise. The petitioner contends that the industry’s injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity, a lower capacity-utilization

rate, fewer shipments, underselling, price depression or suppression, lost revenue, decline in financial performance, reduced employment, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See CVD Initiation Checklist* at Attachment III.

#### **Subsidy Allegations**

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. The Department has examined the CVD petition on raw flexible magnets from the PRC and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of raw flexible magnets in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see CVD Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise:

#### **GOC Income Tax Programs**

1. Preferential Tax Policies for Foreign Investment Enterprises (FIEs) (Two Free, Three Half Program)
2. Preferential Tax Policies for Export-Oriented FIEs
3. Tax Subsidies to FIEs Based in Specially Designated Geographic Areas
4. Tax Credits on Domestic Equipment Purchases
5. Reinvestment Tax Benefits for FIEs
6. Reduced Income Tax Rate For New High-Technology FIEs
7. Reduced Income Tax Rate For Technology And Knowledge Intensive FIEs

#### **Provincial and Local Income Tax Programs**

8. Anhui Province
9. Zhejiang Province
10. Shanghai Municipality

11. Beijing Municipality  
Indirect Tax Programs and Import Tariff Program

12. Value Added Tax (VAT) and Import Duty Exemptions on Imported Equipment  
13. VAT Refunds on Exports

GOC Loan Program

14. Preferential loan programs and interest rates in Guangdong Province

Grant Programs

15. Key Technologies Renovation Project Fund  
16. Hengdian Group Grants  
17. GOC Payment of Legal Fees  
18. Provincial and Local Direct Grants in Guangdong Province  
19. Provincial and Local Direct Grants in Zhejiang Province

Provision of Goods for Less than Adequate Remuneration

20. Provision of Land for Less than Adequate Remuneration for Zhejiang Province, specifically the Ningbo Export Processing Zone  
For further information explaining why the Department is investigating these programs, see *CVD Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. Preferential Loan Programs at the National Level

The petitioner alleges that raw flexible magnet producers potentially benefit from preferential loans and interest rates by the GOC. The petitioner states that policy directives described in five-year national-level policy plans and other government documents show that the PRC potentially provides or directs discounts on interest rates and loan guarantees through GOC-owned banks. There is insufficient evidence on the record to support that the GOC has a policy that favors the raw flexible magnet industry or that the magnet industry was a targeted or strategic industry for financing. In addition, the petitioner has not provided any information on whether raw flexible magnet producers received any direct loans. Therefore, we do not plan to investigate at the national level.

2. Provincial and Local Income Tax Programs in Guangdong Province

The petitioner alleges that Guangdong Province has adopted its own “encouraged industry” list and

“industry to be improved” list. The petitioner alleges that the income tax for “productive” FIEs in Guangdong’s special-economic zones is 15 percent, compared to the general rate of 30 percent. The petitioner also cites to Shenzhen City, which is located in Guangdong Province, as having preferential tax programs for FIEs located there. The petitioner failed to demonstrate that Guangdong Province provided preferential income tax programs. Therefore, we do not plan to investigate this program.

3. Provincial and Local Income Tax Programs in Fujian Province

The petitioner alleges that Fujian Province has adopted its own “encouraged industry” list that includes “high-performance magnetic materials.” The petitioner alleges that numerous policy documents state that local governments provide financial assistance to encouraged industries. The petitioner alleges that FIEs have enjoyed a preferential income tax rate of 15 percent for many years. The petitioner failed to demonstrate that Fujian Province provided preferential income tax programs. Therefore, we do not plan to investigate this program.

4. Provincial and Local Income Tax Programs in Jiangsu Province

The petitioner alleges that Jiangsu Province has adopted its own “encouraged industry” list that includes the magnetic materials sector. The petitioner alleges that FIEs have enjoyed a preferential income tax rate of 15 percent for many years. The petitioner failed to demonstrate that Jiangsu Province provided preferential income tax programs. Therefore, we do not plan to investigate this program.

5. Currency Valuation

The petitioner alleges that the GOC tightly manages the exchange rate for the renminbi (RMB) instead of allowing it to be determined by market forces. According to the petitioner, the manipulation of the exchange rate has resulted in the undervaluation of the RMB in comparison to the U.S. dollar, thereby providing a financial benefit to PRC exporters. The petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate the currency valuation program.

6. Preferential Lifting of Certain Regulatory Obligations and Associated Reduction in Regulatory Compliance Costs

The petitioner alleges that manufacturers of certain types of products can be exempted from a quality inspection carried out by the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), and that magnetic material has been listed as one such product. The petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate this program.

7. Refusals to License Out-of-Province Companies

The petitioner alleges that many Chinese provincial administrations block the entrance of out-of-province firms into their market. Thus, the local protection leads to over supply, artificially reduced costs and the ability to cross-subsidize into export markets. The petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate this program.

8. Provision of Goods for Less than Adequate Remuneration at the National Level

The petitioner alleges that the GOC sets the prices charged by electricity producers and that this allegedly below-market price is passed through to “special industrial sectors,” within the meaning of 19 CFR 351.523, thereby reducing the producers’ cost of inputs. The petitioner alleges the magnet industry is among the “special industrial sectors” designated by the GOC.

The petitioner has not provided sufficient information demonstrating that producers of raw flexible magnets receive inputs at a reduced cost from the GOC or within the Lin’an Economic Development Zone. In addition, we have not addressed the petitioner’s upstream allegation, as it is not relevant to this type of subsidy allegation.

**Application Of The Countervailing Duty Law To The PRC**

The Department has treated the PRC as a non-market economy (NME) country in all past antidumping duty investigations and administrative reviews. 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 e.g., Tapered Roller Bearings and Parts Thereof, Finished and 10 Unfinished, (TRBs) From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500–1 (February 14, 2003), unchanged in *TRBs from the People's Republic of China: Final Results of 2001–2002 Administrative Review*, 68 FR 70488, 70488–89 (December 18, 2003).

In the amended preliminary determination in the investigation of coated free sheet paper from the PRC, the Department preliminarily determined that the current nature of the PRC economy does not create obstacles to applying the necessary criteria in the CVD law. *See Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17486 (April 9, 2007), and Memorandum for David M. Spooner, Assistant Secretary for Import Administration, "Countervailing Duty Investigation of Coated Free Sheet Paper from The People's Republic of China--Whether the Analytic Elements of the Georgetown Steel Opinion are Applicable to China's Present-day Economy" (March 29, 2007), on file in the CRU. Therefore, because the petitioner has provided sufficient allegations and support of its allegations to meet the statutory criteria for initiating a CVD investigation of raw flexible magnets from the PRC, initiation of a CVD investigation is warranted in this case.

#### Distribution Of Copies Of The Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the GOC. To the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determination By The ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of subsidized raw flexible magnets from the PRC are materially

injuring, or threatening material injury to, a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 11, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7–20573 Filed 10–17–07; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN: 0648–XD18**

#### Pacific Fishery Management Council; Public Meeting; Correction

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** There has been a change in location of the previously noticed Pacific Fishery Management Council's (Council) Salmon Technical Team (STT), Scientific and Statistical Committee (SSC) Salmon Subcommittee, and Model Evaluation Workgroup (MEW) joint work session, which is open to the public.

**DATES:** The work session will be held Wednesday, October 24, 2007, from 10 a.m. to 5 p.m. and Thursday, October 25, 2007, from 9 a.m. to 4 p.m.

**ADDRESSES:** The work session will be held at the Sheraton Portland Airport Hotel, Cascade Ballroom, 8235 NE Airport Way, Portland, OR 97220; telephone: (800) 808–9497

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2280.

**SUPPLEMENTARY INFORMATION:** This notice specifies a change of address for the work session from the Council office to the Sheraton Portland Airport Hotel Cascade Ballroom, 8235 NE Airport Way, Portland, OR 97220; telephone: (800) 808–9497.

The original notice published in the **Federal Register** on October 9, 2007 (72 FR 57310).

The purpose of the work session is to brief the STT and SSC Salmon Subcommittee on proposed changes to methods and standards used to manage ocean salmon fisheries, review a genetic stock identification research and exempted fishing permit proposal, and to review proposed modifications to the Chinook and Coho Fishery Regulation Assessment Models (FRAM).

Although non-emergency issues not contained in the meeting agenda may come before the STT, SSC Salmon Subcommittee, and MEW for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: October 15, 2007.

**Tracey L. Thompson,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E7–20561 Filed 10–17–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD01**

#### Strategic Plan for Fisheries Research (2007)

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

**ACTION:** Notice of availability.

**SUMMARY:** NMFS announces the availability of the Strategic Plan for Fisheries Research (2007). The Magnuson-Stevens Act requires the Secretary of Commerce to develop, triennially, a strategic plan for fisheries research for the subsequent years.

**ADDRESSES:** Requests for copies of the NMFS Strategic Plan for Fisheries Research (2007) should be directed to



**APPENDIX B**  
**CALENDAR OF THE PUBLIC CONFERENCE**



## CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

**Subject:** Raw Flexible Magnets from China and Taiwan  
**Inv. Nos.:** 701-TA-452 and 731-TA-1129-1130 (Preliminary)  
**Date and Time:** October 12, 2007 - 9:30 a.m.

The conference in connection with these investigations was held in the Main Hearing Room (room 101), 500 E Street, SW, Washington, DC.

### **OPENING REMARKS:**

Petitioners (Ritchie T. Thomas, Squire, Sanders & Dempsey)  
Respondents (John Donohue, Kittredge, Donley, Elson, Fullem & Embick)  
Respondents (Lizbeth R. Levinson, Garvey Schubert Barer)

### **In Support of the Imposition of Antidumping Duties:**

Squire, Sanders & Dempsey  
Washington, DC  
on behalf of

Magnum Magnetism Corp.

Allen Love, President  
Magnum Magnetism Corp.

Tom Love, Vice President  
Magnum Magnetism Corp.

Gary Murphy, Consultant  
Magnum Magnetism Corp. (former President of Magnetic Specialty)

Kenneth R. Button  
Economic Consulting Services

**In Support of the Imposition of  
Antidumping Duties (continued):**

Ritchie T. Thomas, Esq. )  
George N. Grammas, Esq. ) – OF COUNSEL  
Iain R. McPhie, Esq. )

**In Opposition to the Imposition of  
Antidumping Duties:**

Garvey Schubert Barer  
Washington, DC  
on behalf of

Adams Magnetic Products, Co.; Graphic Business Solutions, Inc.; Magnet Sales and  
Manufacturing, Inc.; and Master Magnetics, Inc.

Scott Lewis, President  
Adams Magnetic Products Co.

Lizbeth R. Levinson, Esq. )  
Ronald M. Wisla, Esq. ) – OF COUNSEL

Kittredge, Donley, Elson, Fullem & Embick  
Philadelphia, PA  
on behalf of

Magnet Technology, Inc.

Larry Mosteller, President and CEO  
Magnet Technology, Inc.

John Donohue, Esq. )  
Theresa Huynh Lanzdorf, Esq. ) – OF COUNSEL

**REBUTTAL/CLOSING REMARKS:**

Petitioners (Ritchie T. Thomas, Squire Sanders & Dempsey)  
Respondents (John Donohue, Kittredge, Donley, Elson, Fullem & Embick)  
Respondents (Lizbeth R. Levinson, Garvey Schubert Barer)

**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**  
**Raw flexible magnets: Summary data concerning the total U.S. market, 2004-06, January-June 2006, and January-June 2007**

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2004	2005	2006	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
<b>U.S. consumption quantity:</b>									
Amount	83,303	87,349	91,022	45,287	39,294	9.3	4.9	4.2	-13.2
Producers' share (1)	94.8	95.5	93.6	93.8	90.4	-1.2	0.6	-1.9	-3.4
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Taiwan	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total imports	5.2	4.5	6.4	6.2	9.6	1.2	-0.6	1.9	3.4
<b>U.S. consumption value:</b>									
Amount	89,079	92,010	95,436	48,906	42,079	7.1	3.3	3.7	-14.0
Producers' share (1)	95.9	96.1	94.6	94.9	92.1	-1.3	0.2	-1.5	-2.7
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Taiwan	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total imports	4.1	3.9	5.4	5.1	7.9	1.3	-0.2	1.5	2.7
<b>U.S. imports from:</b>									
<b>China:</b>									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	97	112	286	164	376	194.5	15.6	154.9	128.7
<b>Taiwan:</b>									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
<b>Subtotal:</b>									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
<b>All other sources:</b>									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
<b>All sources:</b>									
Quantity	4,295	3,957	5,810	2,798	3,754	35.3	-7.9	46.8	34.1
Value	3,614	3,582	5,107	2,516	3,317	41.3	-0.9	42.6	31.8
Unit value	\$0.84	\$0.91	\$0.88	\$0.90	\$0.88	4.5	7.6	-2.9	-1.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***
<b>U.S. producers':</b>									
Average capacity quantity	116,955	132,588	151,780	76,265	80,515	29.8	13.4	14.5	5.6
Production quantity	85,298	89,119	89,793	45,310	38,794	5.3	4.5	0.8	-14.4
Capacity utilization (1)	72.9	67.2	59.2	59.4	48.2	-13.8	-5.7	-8.1	-11.2
<b>U.S. shipments:</b>									
Quantity	79,007	83,392	85,213	42,489	35,541	7.9	5.5	2.2	-16.4
Value	85,465	88,428	90,329	46,390	38,762	5.7	3.5	2.1	-16.4
Unit value	\$1.08	\$1.06	\$1.06	\$1.09	\$1.09	-2.0	-2.0	-0.0	-0.1
<b>Export shipments:</b>									
Quantity	4,819	4,889	5,507	2,843	2,855	14.3	1.4	12.6	0.4
Value	6,334	6,307	7,486	3,740	3,635	18.2	-0.4	18.7	-2.8
Unit value	\$1.31	\$1.29	\$1.36	\$1.32	\$1.27	3.4	-1.8	5.4	-3.2
Ending inventory quantity	***	***	***	***	***	***	***	***	***
<b>Inventories/total shipments (1):</b>									
Production workers	361	385	386	392	321	6.9	6.6	0.3	-18.1
Hours worked (1,000s)	739	824	771	398	332	4.3	11.5	-6.5	-16.5
Wages paid (\$1,000s)	13,517	15,118	14,568	7,302	6,427	7.8	11.8	-3.6	-12.0
Hourly wages	\$18.30	\$18.35	\$18.91	\$18.37	\$19.35	3.3	0.3	3.0	5.4
Productivity (pounds per hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
<b>Net sales:</b>									
Quantity	83,790	88,233	90,696	45,320	38,387	8.2	5.3	2.8	-15.3
Value	91,696	94,640	97,836	50,141	42,430	6.7	3.2	3.4	-15.4
Unit value	\$1.09	\$1.07	\$1.08	\$1.11	\$1.11	-1.4	-2.0	0.6	-0.1
Cost of goods sold (COGS)	66,780	76,713	77,994	39,657	34,058	16.8	14.9	1.7	-14.1
Gross profit or (loss)	24,916	17,927	19,842	10,484	8,372	-20.4	-28.1	10.7	-20.1
SG&A expenses	15,173	15,822	14,211	7,603	6,404	-6.3	4.3	-10.2	-15.8
Operating income or (loss)	9,743	2,105	5,631	2,881	1,968	-42.2	-78.4	167.5	-31.7
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	\$0.80	\$0.87	\$0.86	\$0.88	\$0.89	7.9	9.1	-1.1	1.4
Unit SG&A expenses	\$0.18	\$0.18	\$0.16	\$0.17	\$0.17	-13.5	-1.0	-12.6	-0.6
Unit operating income or (loss)	\$0.12	\$0.02	\$0.06	\$0.06	\$0.05	-46.6	-79.5	160.2	-19.4
COGS/sales (1)	72.8	81.1	79.7	79.1	80.3	6.9	8.2	-1.3	1.2
Operating income or (loss)/ sales (1)	10.6	2.2	5.8	5.7	4.6	-4.9	-8.4	3.5	-1.1

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires.

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Raw flexible magnets: Summary data concerning the U.S. merchant market, 2004-06, January-June 2006, and January-June 2007

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