

International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on March 8, 1999 (64 F.R. 11039). The hearing was held in Washington, DC, on August 5, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

By order of the Commission.

Issued: October 25, 1999.

**Donna R. Koehnke,**  
Secretary.

[FR Doc. 99-28363 Filed 10-28-99; 8:45 am]

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## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-413]

### Certain Rare-Earth Magnets and Magnetic Materials and Articles Containing Same; Notice of Commission Determination Not To Review an Initial Determination Finding a Violation of Section 337; and Request for Submissions on Remedy, the Public Interest, and Bonding

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review a final initial determination (ID) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation finding a violation of section 337 of the Tariff Act of 1930.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3098. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

**SUPPLEMENTARY INFORMATION:** On September 4, 1998, the Commission instituted an investigation based on a complaint filed by Magnequench International, Inc. (Magnequench) and Sumitomo Special Metals Co., Ltd. (SSMC). 63 *Fed. Reg.* 47319. The complaint alleged violations of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain rare-earth magnets or magnetic materials, or articles containing the same, that infringe claims 1, 4, 5, 8, 9,

or 11 of U.S. Letters Patent 4,851,058, (the '058 patent); claims 1-6, 10, 14-16, or 18-20 of U.S. Letters Patent 4,802,931 (the '931 patent); claims 13-18 of U.S. Letters Patent 4,496,395 (the '395 patent); claims 1-9, 12-20, 23-27, or 29-34 of U.S. Letters Patent 4,770,723 (the '723 patent); claims 1-6, 8-10, 13-19, 21-24, 27-35, or 37-39 of U.S. Letters Patent 4,792,368 (the '368 patent); or claims 1-3, 5, 15, 18, 19, 21, or 22 of U.S. Patent Letters 5,645,651 (the '651 patent).

On September 22, 1999, the Commission determined not review an ID granting complainants motion to withdraw from the investigation claims 1, 12, 23, 29, 30, and 32 of the '723 patent and claims 1, 13, 14, 22, 27, 32, 33, 34, and 39 of the '368 patent. Hence the claims in issue of the '723 patent and '368 patent are claims 2-9, 13-20, 24-27, 31, 33, and 34 of the '723 patent and claims 2-6, 8-10, 15-19, 21, 23, 24, 28-31, 35, 37, and 38 of the '368 patent.

The following respondents were named in the notice of investigation: Houghes International, Inc. (Houghes) of New York; International Magna Products, Inc. (IMI) of Indiana; Multi-Trend International Corp. a/k/a MTI-Modern Technology Inc. (Multi-Trend) of California; American Union Group, Inc. (AUG) of Maryland; High End Metals Corp. (High End) of Taiwan; Harvard Industrial America Inc. (Harvard) of California; H.T.I.E., Inc. (H.T.I.E.) of Pennsylvania; and CYNNY Magnets (CYNNY) of New Jersey.

On January 11, 1999, the Commission determined not to review an ID granting complainants' motion to amend the complaint and notice of investigation to add A.R.E., Inc. (A.R.E.) of Pennsylvania; NEOCO, L.C. (NEOCO) of Michigan; Beijing Jing Ma Permanent Magnets Materials Factory (Jing Ma) of China; and Xin Huan Technology Development Co., Ltd. (Xin Huan) of China as respondents.

On February 1, 1999, the Commission determined not to review an ID terminating the investigation as to respondent IMI on the basis of a consent order. On February 9, 1999, the Commission determined not to review IDs terminating the investigation as to respondents AUG, CYNNY, H.T.I.E., and Houghes on the basis of consent orders.

On May 25, 1999, the Commission determined not to review an ID granting complainants' motion for partial summary determination on the importation issue. On May 28, 1999, the Commission determined not to review an ID granting complainants' motion for summary determination on the domestic industry issue.

On August 6, 1999, the Commission determined not to review an ID finding respondents A.R.E., Jing Ma, and Xin Huan in default. On September 27, 1999, the Commission determined not to review an ID finding respondent Multi-Trend in default.

The prehearing conference and evidentiary hearing were conducted on June 9 to 18, 1999. Complainants, respondent NEOCO, and the Commission investigative attorneys (IAs) participated at the hearing. Following the filing of post-hearing submissions, closing arguments were heard on July 27, 1999.

On September 7, 1999, the ALJ issued his final ID finding a violation of section 337. His determination is based on his findings that the patents in issue are valid and enforceable, and that the accused imported magnets infringed all of the asserted claims, with the exception of claims 13-20, 25-27 and 33 of the '723 patent and claims 15-19, 21, 23, 24, 28, 30, 31, and 35 of the '368 patent.

At final disposition of this investigation, the Commission may issue (1) an order that could result in exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair action in the importation and sale of such articles. The Commission is therefore interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, entry for consumption from a foreign trade zone, or withdrawal from warehouse for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see In the Matter of: Certain Devices for Connecting Computers Via Telephone Lines, Inv. No. 337-TA-360, USITC Publication No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are the subject of this investigation, and (4) U.S. consumers. The Commission is

therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. Therefore, the Commission is interested in receiving written submissions concerning the amount of the bond that should be imposed.

#### Written Submissions

The parties to the investigation, interested Government agencies, and other interested persons or entities are encouraged to file written submissions on remedy, the public interest, and bonding.

The ALJ's final ID also contains the ALJ's recommended determination (RD) concerning remedy and bonding. The ALJ has recommended that the Commission issue a general exclusion order as well as cease and desist orders against domestic respondents A.R.E., Multi-Trend, and Harvard, and has further recommended that the Commission set the bond at 100 percent of the entered value of the infringing imports during the Presidential review period. The parties' written submissions on remedy, the public interest, and bonding should address the ALJ's RD. Complainants and the Commission investigative attorneys are requested to submit proposed remedial orders for the Commission's consideration.

All written submissions and proposed remedial orders must be filed with the Office of the Secretary no later than 5:15 p.m. on November 8, 1999. Reply submissions must be filed no later than 5:15 p.m. on November 15, 1999. No further submissions on remedy, the public interest, and bonding will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions and proposed remedial orders must file the original document and 14 true copies with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document or portion thereof in confidence must request confidential treatment unless the information contained in the document or portion thereof has already been granted such treatment during the investigation. All requests for confidential treatment should be directed to the Secretary of the Commission and must include a full

statement of the reasons that the Commission should grant such treatment. See 19 C.F.R. § 201.6. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

Nonconfidential versions of the ID, including the RD on remedy and public interest, and all other nonconfidential documents filed in the investigation are or will be available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Commission's Office of the Secretary, Dockets Branch, 500 E Street, SW., Room 112, Washington, D.C. 20436, telephone 202-205-1802.

By order of the Commission.

Issued: October 25, 1999.

**Donna R. Koehnke,**

Secretary.

[FR Doc. 99-28365 Filed 10-28-99; 8:45 am]

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#### DEPARTMENT OF JUSTICE

##### Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a Partial Consent Decree in *United States of America v. Calderon, et al.*, No. 96-2451 RLA (D. Puerto Rico), was lodged with the United States District Court for the District of Puerto Rico on October 4, 1999.

The proposed Partial Consent Decree would resolve the United States' allegations in this enforcement action against Defendants Enrique Calderon and Eva Garnier ("Defendants") for their alleged violations of Sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344 resulting from the unauthorized discharge of dredged or fill material into herbaceous wetlands in Mayaguez Puerto Rico without a permit.

The proposed Partial Consent Decree enjoins Defendants from discharging dredged or fill material into waters of the United States without a permit and requires Defendants to pay a \$10,000 civil penalty to the United States Treasury.

The Department of Justice will receive written comments relating to the proposed Partial Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Melaine A. Williams, Trial Attorney, Environmental Defense Section, P.O. 23986, Washington, DC 20026-3986, and should refer to *United States v.*

*Calderon, et al.*, DJ Reference No. 90-5-1-1-4413.

The proposed Partial Consent Decree may be examined at the Clerk's Office, United States District Court, District of Puerto Rico 00918-1756 (telephone number: 787-766-6160).

**Letitia J. Grishaw,**

Chief, Environmental Defense Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 99-28293 Filed 10-28-99; 8:45 am]

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#### DEPARTMENT OF JUSTICE

##### Notice of Lodging of Consent Decree Under the Title II of the Clean Air Act

Notice is hereby given that on September 30, 1999 to proposed Consent Decree ("Decree") in *United States v. Mazda Motor of America, Inc.*, Civil No. 1:99CV02618 (D.D.C.), was lodged with the United States District Court for the District of Columbia. The United States filed this action pursuant to Title II of the Clean Air Act, as amended, 42 U.S.C. 7521 *et seq.*, (the "Act"), and the regulations promulgated thereunder, relating to fuel evaporative emission standards applicable to new motor vehicles, and specifically the requirements that a manufacturer promptly report emission-related defects to EPA.

The Decree resolves civil claims against Mazda Motor of America, Inc. and Mazda (North America) Inc. (collectively "Mazda") that Mazda failed to timely notify EPA of an emission-related defect in the device, system, or assembly of a fuel liquid/vapor separator ("vapor separator") installed on 1989 to 1994 model year Mazda MPV minivans sold in the United States. Pursuant to the terms of the Decree, Mazda will: modify its defect investigation and reporting system; provide an extended warranty to vehicle owners; and notify all affected vehicle owners that they can have their MPVs repaired free of charge, and before the defective part might fail. The decree imposes a civil penalty in the amount of \$900,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to, *United States v. Mazda Motor of America, Inc.*, Civil No. 1:99CV02618 (D.C.C.), and D.J. Ref. # 90-5-2-1-06038.