DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Extruded Rubber Thread From Malaysia

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

SUMMARY: In response to a request by petitioner and four producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on extruded rubber thread from Malaysia. The review covers five manufacturers/exporters. The period of review (the POR) is October 1, 1993, through September 30, 1994.

We have preliminarily determined that sales have been made below foreign market value (FMV) by all of the companies subject to this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 13, 1997.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Robert Blankenbaker, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4740 or (202) 482–0989, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1992, the Department published in the Federal Register (57 FR 46150) the antidumping duty order on extruded rubber thread from Malaysia. In accordance with 19 CFR 353.22(a)(2), in October 1994 the petitioner and the following producers and exporters of extruded rubber thread requested an administrative review of the antidumping order covering the period October 1, 1993, through September 30, 1994: Heveafil Sdn. Bhd. (''Heveafil''), Rubberflex Sdn. Bhd. (''Rubberflex''), Filati Lastex Elastfibre (Malaysia) (''Filati''), Rubfil Sdn. Bhd. (''Rubfil'') and Rubber Thread (''Rubber Thread'). On November 14, 1994, the Department published its notice of initiation of an administrative review of the antidumping duty order on extruded rubber thread from Malaysia for Heveafil, Filati, Rubberflex, Rubfil and Rubber Thread (59 FR 56459). Rubber Thread reported that it made no shipments of the subject merchandise during the POR.

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and Customs purposes. Our written description of the scope of this review is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. We are conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Such or Similar Merchandise

In determining similar merchandise comparisons, pursuant to section 771(16) of the Act, we considered the following physical characteristics, which appear in order of importance: (1) quality (*i.e.*, first vs. second); (2) size; (3) finish; (4) color; (5) special qualities; (6) uniformity; (7) elongation; (8) tensile strength; and (9) modulus. With the exception of quality, these characteristics are in accordance with matching criteria set forth in the January 26, 1994, memorandum to the file on the record of this review. Regarding quality, we have added this characteristic in order to address respondents' concerns regarding differences in value related to significant differences in quality.

Regarding color, respondents assigned separate codes to each shade of color. We reassigned color codes to sales of subject merchandise, in accordance with the instructions contained in the questionnaire. This resulted in our treating all shades of a given color as equally similar to each other instead of treating a specific shade as most similar to another specific shade.

Fair Value Comparisons

To determine whether sales of extruded rubber thread from Malaysia to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

United States Price

We based USP on purchase price (PP), in accordance with section 772(b) of the Act, when the subject merchandise was sold to unrelated purchasers in the United States prior to importation and when the exporter's sales price (ESP) methodology of section 772(c) of the Act was not otherwise indicated. In addition, where sales to the first unrelated purchaser took place after importation into the United States, we based USP on ESP, in accordance with section 772(c) of the Act.

We based purchase price on packed, CIF prices to the first unrelated purchaser in the United States. We made deductions from USP, where appropriate, for rebates, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs duty, harbor maintenance and merchandise processing fees, and U.S. brokerage and handling expenses, in accordance with section 772(d)(2) of the Act.

For sales made from the inventory of the U.S. branch office, we based USP on ESP, in accordance with section 772(c) of the Act. We calculated ESP based on packed, delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates. We also made deductions for foreign inland freight, foreign brokerage, ocean freight, marine insurance, U.S. inland freight, U.S. brokerage, entry fees, harbor maintenance and processing fees, and inspection charges. In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit and indirect selling expenses.

Best Information Available

Section 776(b) of the Act requires the Department to use the best information available (BIA) if it is unable to verify the accuracy of the information submitted. In deciding what to use as BIA, the Department's regulations provide that the Department may take into account whether a party refuses to provide requested information. *See* 19

CFR 353.37(b). Thus, the Department may determine, on a case-by-case basis, what is the BIA.

In cases where we have determined to use total BIA, we apply a two tier methodology of BIA depending on whether the companies attempted to or refused to cooperate in these reviews. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900 (February 28, 1995). When a company refused to provide the information requested in the form required, or otherwise significantly impeded the Department's proceedings, we assigned that company first-tier BIA, which is the higher of: (1) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value (LTFV) investigation or a prior administrative review; or (2) the highest calculated rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.

When a company has substantially cooperated with our requests for information including, in some cases, verification, but failed to provide complete or accurate information, we assigned that company second-tier BIA, which is the higher of: (1) The highest rate (including the ''all others'' rate) ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review or, if the firm has never before been investigated or reviewed, the ''all others'' rate from the LTFV investigation; or (2) the highest calculated rate for any firm in this review for the class or kind of merchandise from the same country of origin. *See Allied-Signal Aerospace Co.* v. *United States,* 996 F.2d 1185 (Fed. Cir. 1993).

We applied second-tier BIA to Rubberflex. While Rubberflex cooperated throughout the administrative review by submitting questionnaire responses and with verification, we found that responses provided by Rubberflex could not be verified and thus resorted to BIA pursuant to section 776(b) of the Act. The inaccuracies which render the response unusable for purposes of margin calculations include: Rubberflex failed to reconcile its original questionnaire response with its current financial statements and current trial balance; Rubberflex did not report all PP sales that caused entries during the POR; due to inconsistencies in Rubberflex's date of sale methodology, Rubberflex failed to clarify which sales applied to this review period pursuant to the Department's methodology; Rubberflex provided revised questionnaire responses at verification for home market indirect selling expenses, direct labor expense and packing labor, variable overhead, and cost of goods sold; for these same expenses Rubberflex could not demonstrate how the original response was supported by documentation, nor could it document the difference between the original and revised submission for these items; Rubberflex failed to have all the appropriate documentation required to trace the pre-selected sales to its books and records, and; Rubberflex failed to report a trade-bill financing expense incurred on U.S. sales as an adjustment to U.S. price. Furthermore, it failed to provide original source documentation for its reported managerial labor expenses. The deficiencies are outlined in detail in the public version of the memorandum on Rubberflex's Failed Verification from Holly Kuga to Jeffrey P. Bialos, dated November 26, 1996.

In this case, the BIA rate is the highest calculated rate for any firm in this review for the class or kind of merchandise from the same country of origin. Thus, as a result of our review, we preliminarily determine the dumping margin for Rubberflex to be 29.76 percent.

Foreign Market Value

In order to determine whether the home market was viable during the POR (*i.e.,* whether there were sufficient sales of extruded rubber thread in the home market to serve as a viable basis for calculating FMV), we compared the volume of each of the respondent's home market sales to the volume of its third country sales, in accordance with section 773(a)(1)(B) of the Act and 19 CFR 353.48. Based on this comparison, we determined that Heveafil and Rubfil did not have a viable home market during the POR. Consequently, we based FMV on third country sales for these companies.

In accordance with 19 CFR 353.49(b), we selected the appropriate third country markets for Heveafil and Rubfil based on the following criteria: Similarity of merchandise sold in the third country to the merchandise exported to the United States, the volume of sales to the third country, and the similarity of market organization between the third country and U.S. markets. Specifically, we chose, as the appropriate third country markets, Italy for Heveafil and Hong Kong for Rubfil.

Cost of Production

Because the Department disregarded third country sales below the COP for both Heveafil and Rubberflex in the original investigation (*see Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia,* 57 FR 38465 (August 25, 1992)) in accordance with our standard practice, there were reasonable grounds to believe or suspect that both Heveafil and Rubberflex had made third country sales at prices below their COP in this review (*see Notice of Final Results of Antidumping Duty Administrative: Extruded Rubber Thread from Malaysia,* 61 FR 54767 (October 22, 1996)). Thus, the Department initiated a COP investigation with respect to Heveafil and Rubberflex. Additionally, upon petitioner's allegation of sales made below the COP by Filati and Rubfil, the Department determined that it had reasonable grounds to believe or suspect that sales by Filati and Rubfil of the foreign product under consideration for the determination of FMV in this review may have been made at prices below the COP as provided by section 773(b) of the Act. Therefore, pursuant to section 773(b) of the Act, we initiated a COP investigation of sales by Filati and Rubfil. *See* COP Initiation Memorandum, dated August 2, 1995.

In order to determine whether home market or third country prices were above the cost of production (COP), we calculated the COP for each model based on the sum of the respondent's cost of materials, labor, other fabrication costs, general expenses, and packing pursuant to 19 CFR 353.51(c).

In accordance with section 773(b) of the Act, and longstanding administrative practice (*see, e.g., Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Korea,* 56 FR 16306 (April 22, 1991) and *Final Results of Antidumping Duty Administrative Review: Mechanical Transfer Presses from Japan,* 59 FR 9958 (March 2, 1994)), if over ninety percent of respondent's sales of a given model were at prices above the cost of production, we did not disregard any below-cost sales because we determined that the below-cost sales were not made in substantial quantities. Where we found between ten and ninety percent of respondent's sales of a given product were at prices below the COP and the below cost sales were made over an extended period of time, we disregarded only the below-cost sales. Where we found that more than ninety percent of

respondent's sales were at prices below the COP and the sales were made over an extended period of time, we disregarded all sales for that product and calculated FMV based on constructed value (CV), in accordance with section 773(e) of the Act. Based on this test, we disregarded below-cost sales with respect to Heveafil, Filati and Rubfil.

In accordance with section 773(a)(2) of the Act, we used CV as the basis for foreign market value where there were no usable sales of comparable merchandise in the appropriate home, or third country, markets. We calculated CV for each model based on the sum of respondent's cost of manufacture (COM), plus general expenses, profit and U.S. packing. In accordance with section 773(e)(1)(B) of the Act, for general expenses, which include selling, general and administrative expenses (SG&A), we used the greater of the reported general expenses or the statutory minimum of ten percent of the COM. For profit, we used the greater of the weighted-average home or third country market profit during the POR or the statutory minimum of eight percent of the COM and SG&A.

Where FMV was based on third country sales, we based FMV on CIF prices to unrelated customers in comparable channels of trade as that of the U.S. customer. Specifically, in accordance with section 773(a)(1)(B) of the Act, FMV was based on direct sales from Malaysia for purchase price sales comparisons, and on sales from the inventory of each respondent's branch office for ESP sales comparisons.

For home or third country market price-to-purchase price comparisons, we made deductions, where appropriate, for rebates. We also deducted post-sale home or third country market movement charges from FMV under the circumstance of sale provision of section 773(a)(4)(B) of the Act and 19 CFR 353.56(a). This adjustment included Malaysian foreign inland freight, brokerage, ocean freight, marine insurance, brokerage, and inland freight to unrelated customers, where appropriate. Pursuant to 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for differences in credit expenses.

For home or third country market price-to-ESP comparisons, we made deductions for rebates and credit expenses where appropriate. We deducted the home/third country market indirect selling expenses, including inventory carrying costs, pre-sale freight (*i.e.*, foreign inland freight, brokerage, ocean freight, marine insurance, brokerage, and foreign freight to warehouse) and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

For all price-to-price comparisons, we deducted home or third country market packing costs and added U.S. packing costs, where appropriate, in accordance with section 773(a)(1) of the Act. In addition, where appropriate, we made adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(4)(c) of the Act and 19 CFR 353.57 and where possible, made comparisons at the same level in accordance with 19 CFR 353.58.

For CV-to-purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses in accordance with 773(a)(4)(B) and 19 CFR 353.56.

For CV-to-ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted the home market or third country market indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

For all CV-to-price comparisons, we added U.S. packing expenses as specified above, in accordance with section 773(a)(1) of the Act.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we conducted a verification of information provided by Rubberflex by using standard verification procedures including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period October 1, 1993, through September 30, 1994:

Manufacturer/exporter	Margin (percent)
Heveafil Sdn. Bhd	0.36
Rubberflex Sdn. Bhd	29.76
Rubfil Sdn. Bhd	29.76
Filati Lastex Elastfibre (Malaysia)	0.00
Rubber Thread	15.16

*Rubber Thread reported that it made no shipments of the subject merchandise during the period of review. Rubber Thread has not been investigated or reviewed previously.

Interested parties may request a disclosure within 5 days of publication of this notice and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication. Rebuttal briefs, limited to issues raised in the briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such briefs.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service. Furthermore, the following deposit requirements will be effective for all shipments of extruded rubber thread from Malaysia entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates established in the final results of this review, except if the rate was less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 353.6, in which case the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the ''all others'' rate, as set forth below.

On March 25, 1993, the U.S. Court of International Trade (CIT) in *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993) and *Federal-Mogul Corporation* v. *United States,* 822 F.Supp. 782 (CIT 1993) decided that once an ''all others'' rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement this decision, it is appropriate to reinstate the original ''all others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. Because this proceeding is governed by an antidumping duty order, the ''all others'' rate for the purposes of this review will be 15.16 percent, the ''all others'' rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 14, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–3634 Filed 2–12–97; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 970122010–7010–01]

RIN 0693–XX28

American Lumber Standard Committee, Incorporated; Recommends Additions to Membership

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology announces that it is considering a recommendation from the American Lumber Standard Committee, Incorporated (hereafter referred to as the ALSC) to increase the membership of the ALSC by two additional members. The ALSC has recommended that the National Lumber Grades Authority (NLGA), the rules-writing agency of Canada, and the wood-treaters segment of the lumber industry each be provided one voting membership. NIST will announce its decision in the Federal Register following public review of the recommendation.

DATES: Written comments on the ALSC recommendation must be submitted to Barbara M. Meigs, Standards Management Program, Office of Standards Services, on or before May 14, 1997, for the comments to be considered.

ADDRESSES: Standards Management Program, Room 164, Building 820, Office of Standards Services, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Barbara M. Meigs, Standards Management Program, Office of Standards Services, National Institute of Standards and Technology, Tel: 301–975–4025, Fax: 301–926–1559, e-mail: barbara.meigs@nist.gov.

SUPPLEMENTARY INFORMATION: Section 9.3.7 of Voluntary Product Standard PS 20–94 American Softwood Lumber Standard, developed under procedures published by the Department of Commerce (15 CFR part 10), has a provision by which the Secretary of Commerce, upon request, can consider making additional appointments to the ALSC to ensure that it has a comprehensive balance of interests. It provides that in such considerations, the Secretary shall consult with the ALSC for advice regarding balance of interests and the criteria by which it may be determined.

The ALSC, at its annual meeting on November 15, 1996, approved requesting two additional memberships: One membership for the NLGA of Canada and one for wood-treaters. This recommendation was sent to NIST for consideration on December 10, 1996.

In its recommendation, the ALSC indicated that an additional entry under 9.3.1 (rules-writing agencies) should be provided to include the NLGA membership. That section pertains to the qualifications of rules-writing agencies as they pertain to the composition of the membership of the ALSC and lists those agencies that may nominate principal and alternate members. In making its recommendation, the ALSC also noted that for many years Canadian representatives have been actively involved in the American lumber standardization system. Membership of the NLGA, therefore, would assist in continuing that beneficial relationship. The ALSC noted that in 1995, Canadian softwood lumber imports into the United States accounted for 36% of the United States lumber market.

With regard to the wood-treaters membership, the ALSC recommended that an additional entry under 9.3.3 (other interested and affected groups) of PS 20–94 should be provided. That section pertains to representation of firms or organizations within organizations and groups that specify, distribute, and purchase lumber. Since 1992, the Board of Review of the ALSC has been accrediting qualified agencies for supervisory and lot inspection of pressure-treated wood products at treating facilities. These agencies monitor treating facilities in accordance to their adherence to applicable standards of the American Wood Preservers' Association. In making its recommendation, the ALSC noted that over 5 billion board feet of treated wood is involved in its treated-wood program.

Authority: 15 U.S.C. 272.

Dated: February 5, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–3525 Filed 2–12–97; 8:45 am]

BILLING CODE 3510–13–M

Jointly Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of a jointly owned invention available for licensing.

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce and the University of Colorado, as represented by the Board of Regents of the University of Colorado. The U.S. Government's ownership interest in this invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg,