

Preliminary Determination by the ITC

The ITC will determine by June 12, 1995, whether there is a reasonable indication that imports of circular welded non-alloy steel pipe from Romania and South Africa are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination on either investigation will result in the respective investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Susan G. Esserman,

Assistant Secretary for Import Administration.

Dated: May 16, 1995.

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[C-557-806]

Extruded Rubber Thread From Malaysia; Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on extruded rubber thread from Malaysia. We preliminarily determine the net bounty or grant to be 1.00 percent *ad valorem* for all manufacturers and exporters of Malaysian extruded rubber thread for the period January 1, 1993 through December 31, 1993. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as indicated above. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Judy Kornfeld or Richard Herring, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:**Background**

On August 25, 1992, the Department published in the **Federal Register** (57 FR 38472) the countervailing duty order on extruded rubber thread from Malaysia. On August 3, 1994, the Department published a notice of "Opportunity to Request an Administrative Review" (59 FR 39543) of this countervailing duty order. We received a timely request for review from respondents Heveafil Sdn. Bhd. (Heveafil), Filmax Sdn. Bhd. (Filmax), Rubberflex Sdn. Bhd. (Rubberflex), Filati Lastex Elastofibre Sdn. Bhd. (Filati), and Rubfil Sdn. Bhd. (Rubfil).

We initiated the review, covering the period January 1, 1993 through December 31, 1993, on September 16, 1994 (59 FR 47609). The review covers 5 manufacturers/exporters of the subject merchandise and 12 programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). 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. However, references to the Department's Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (Jan. 3, 1995).

Scope of Review

Imports covered by this review are shipments of extruded rubber thread from Malaysia. 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. Such merchandise was classifiable under item number 4007.00.00 of the Harmonized Tariff Schedule (HTS). The HTS item

number is provided for convenience and Customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Deposit Purposes

We calculated the net bounty or grant on a country-wide basis by first calculating the bounty or grant rate for each company subject to the administrative review. We then weight-averaged the rate received by each company, including those with *de minimis* and zero rates, using as the weight its share of total Malaysian exports to the United States of subject merchandise. We then summed the individual companies' weighted-average rates to determine the bounty or grant rate from all programs benefitting exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was above *de minimis*, as defined by 19 CFR 355.7 (1994), we proceeded to the next step and examined the net bounty or grant rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR 355.22(d)(3). In calculating the individual company rates described above, only one rate was calculated for Heveafil and Filmax because Heveafil and Filmax are related parties.

None of the companies had net bounty or grant rates which were significantly different pursuant to 19 CFR 355.22(d)(3). Therefore, all companies are assigned the country-wide rate.

Analysis of Programs*I. Programs Conferring Subsidies***A. Export Credit Refinancing (ECR) Program**

The ECR program was established in order to promote: (1) Exports of manufactured goods and agricultural food products that have significant value-added and high local content, (2) greater domestic linkages in export industries, and (3) easy access to credit facilities. In order to accomplish this, the Bank Negara Malaysia, the central bank of Malaysia, provides order-based and pre- and post-shipment financing of exports through commercial banks for periods of up to 120 and 180 days, respectively, and certificate of performance (CP)-based pre-shipment financing. Order-based financing is provided for specific sales to specific markets. CP-based financing is a line of credit based on the previous 12 months'

export performance, and cannot be tied to specific sales in specific markets.

The Department determined that this program was countervailable in Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Extruded Rubber Thread From Malaysia (57 FR 38472; August 25, 1992) (Malaysian Rubber Thread Final Determination) and Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review (60 FR 17515; April 6, 1995) (Final Results of First Review) because receipt of loans under this program was contingent upon export performance and the loans were provided at preferential interest rates. Heveafil, Filmax and Rubberflex used pre-shipment ECR loans. Filati and Rubfil used post-shipment ECR loans.

In order to determine whether these loans were provided at preferential rates, we compared the interest rate charged to a benchmark interest rate. As a benchmark for short-term loans, it is our practice to select the predominant source of short-term financing in the country as our benchmark for short-term loans. See section 355.44(b)(3) of the Department's Proposed Regulations. In Malaysia, term loans and overdrafts offered by commercial banks are the most predominant form of short-term financing. The average interest rates for these types of financing, however, are not individually available. Therefore, we have used as our benchmark for ECR loans the average commercial bank lending rate as an estimate of these predominant short-term lending rates. This rate is referred to by banks as the base lending rate (BLR). Commercial banks then add a 1 to 2 percent spread to the BLR. Therefore, to determine the commercial benchmark, we used the average of the commercial BLR rates as published by Bank Negara, the central bank of Malaysia, plus an average spread of 1.5 percent. (See Final Results of First Review.)

Based on a comparison of the ECR rates and the benchmark rate, we find that ECR loans continue to be provided at preferential interest rates. To calculate the benefit from ECR loans on which interest was paid in 1993, we used our short-term loan methodology which has been applied consistently in previous determinations and the previous administrative review in this case. (See Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Butt-Weld Pipe Fittings from Thailand (55 FR 1695; January 18, 1990); the Malaysian Rubber Thread Final Determination (57 FR 38474; August 27, 1992); and the Final Results of First Review (60 FR

17515; April 6, 1995). See also section 355.44(b)(3) of the Proposed Regulations. Because the post-shipment ECR loans were shipment-specific, we included in our calculations only those loans used to finance exports of extruded rubber thread to the United States. Because the pre-shipment loans were not shipment-specific, we included all loans on which interest was paid during the review period.

To calculate the benefit, we compared the amount of interest actually paid on these loans during the review period with the amount that would have been paid at the benchmark rate of 10.53 percent. The difference between those amounts is the benefit. We then divided total interest savings by total exports, in the case of pre-shipment loans, because they applied to all exports, or by exports to the United States, in the case of post-shipment loans, because they applied to specific shipments of exports to the United States. On this basis, we preliminarily determine the net bounty or grant from pre-shipment loans to be 0.45 percent for all manufacturers or exporters, and from post-shipment loans, we preliminarily determine the rate to be 0.27 percent for all manufacturers and exporters in Malaysia of extruded rubber thread.

B. Pioneer Status

Pioneer status is a tax incentive offered to promote investment in the manufacturing, tourist, and agricultural sectors. Pioneer status was first introduced under the Pioneer Industries (Relief from Income Tax) Ordinance, 1958. This ordinance was replaced by the Investment Incentives Act (IIA) in 1968, which was subsequently replaced by the Promotion of Investment Act (PIA) of 1986. Under the IIA and the PIA, the Minister of International Trade and Industry may determine products or activities to be pioneer products or activities.

Companies petition for pioneer status for products or activities that have already been approved and listed as pioneer products. Once a company receives pioneer status, its profits from the designated product or activity are exempt from the corporate income tax and the dividend tax for a period of five years, with the possibility of an extension for an additional five years. The five-year extension was abolished effective October 1, 1991. Furthermore, the computation of capital allowances, which are normally deducted against the adjusted taxable income, is postponed to the post-tax holiday period.

In evaluating a project for pioneer status, the Malaysian Industrial

Development Authority (MIDA) will consider whether:

(1) The product is being produced on a commercial scale suitable to the economic requirement or development of the country,

(2) There are prospects for further development, and

(3) The product or activity meets the national and strategic requirements of Malaysia.

Specifically, MIDA officials consider 12 essential criteria to evaluate whether a particular company should receive pioneer status. Two of these 12 criteria specifically address the export potential of the proposed product or activity. Nevertheless, companies that produce only for the domestic market may also receive pioneer status. Furthermore, some companies may be rejected even though their export potential is high. Under certain conditions, however, companies must agree to an export commitment (i.e., they must agree to export a certain percentage of their production) to receive pioneer status. Furthermore, an export requirement may sometimes be applied to certain industries after it is determined that the domestic market is saturated and will no longer support additional producers.

Considering the implications of this criterion, the Department views the pioneer program as a two-faceted program. The first facet comprises those instances where one or more of the 12 criteria applies, including favorable prospects for export, but where the export criteria do not carry preponderant weight. The Department found this facet of the program not countervailable in the *Malaysian Rubber Thread Final Determination*.

In cases where pioneer status is conferred on a company because it has been determined that the domestic market is saturated and will no longer support additional producers and because that company agrees to export a certain percentage of its production, the program conveys an export subsidy, regardless of the other "neutral" criteria the company is required to meet. This is because the company is clearly being approved due to the fact it will export and because receipt of benefits becomes contingent on export performance. In the investigation of this case (see *Malaysian Rubber Thread Final Determination*), we determined that pioneer status was granted to Rubberflex based on its obligation to export. Therefore, we found the program countervailable with respect to that company. See also Final Results of First Review. Rubberflex continues to hold pioneer status and claimed pioneer income during this review period.

Filmax, Filati, and Rubfil also held pioneer status. However, these companies experienced a tax loss during the period of review and, therefore, did not benefit from this program.

To calculate the benefit, we determined the tax savings from this program during the review period and divided that by total exports. On this basis, we determine the net bounty or grant from this program to be 0.28 percent *ad valorem* during the review period.

II. Programs Preliminarily Determined Not To Be Used

We also examined the following programs and preliminarily determine that the exporters of extruded rubber thread did not use them with respect to exports of the subject merchandise to the United States during the review period:

- Investment Tax Allowance.
- Abatement of Five Percent of Taxable Income Due to Location in a Promoted Industrial Area.
- Allowance of a Percentage of Net Taxable Income Based on the f.o.b. Value of Export Sales.
- Double Deduction of Export Credit Insurance Payments.
- Abatement of Taxable Income of Five Percent of Adjusted Income of Companies Due to Capital Participation and Employment Policy Adherence.
- Preferential Financing for Bumiputras.
- Abatement of Income Tax Based on the Ratio of Export Sales to Total Sales.
- Industrial Building Allowance.
- Double Deduction for Export Promotion Expenses.

III. Program Preliminarily Found to be Terminated Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports

This program was terminated effective January 1, 1993, and provided no residual benefits to manufacturers and exporters in Malaysia of extruded rubber thread. See *Final Results of First Review*.

Preliminary Results of Review

For the period January 1, 1993, through December 31, 1993, we preliminarily determine that the net bounty or grant to be 1.00 percent *ad valorem*.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess countervailing duties at 1.00 percent of the f.o.b. invoice price on shipments of the subject merchandise exported on or after January 1, 1993, and on or before December 31, 1993.

The Department also intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.00 percent for all firms on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to this proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under section 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

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 355.22.

Dated: May 15, 1995.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

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[C-614-503]

Lamb Meat From New Zealand; Final Results of Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order

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

ACTION: Notice of final results of countervailing duty administrative review and revocation of countervailing duty order.

SUMMARY: On March 1, 1995, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on lamb meat from New Zealand for the period April 1, 1992, through March 31, 1993. We have completed this review and determine the net subsidy to be 0.0013 percent *ad valorem* for all companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*. We will instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise as indicated above. In addition, because the requirements for revocation of the order have been met by the Government of New Zealand (GONZ) pursuant to 19 CFR 355.25(a)(1), the Department is revoking the countervailing duty order. **EFFECTIVE DATE:** May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill at the Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1995, the Department published in the **Federal Register** (60 FR 11072) the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand and intent to revoke the countervailing duty order. We invited interested parties to comment on the preliminary results and intent to revoke. We received no comments.

The review covered the period April 1, 1992, through March 31, 1993. The review involved 9 companies and the following programs which we verified have been terminated:

- (1) Livestock Incentive Scheme (LIS)
- (2) Regional Development Suspensory Loan Scheme (RDSL)
- (3) Export Assistance Grant Scheme (EAGS)
- (4) The Export Market Development Taxation Incentive (EMDTI)
- (5) Export Suspensory Loan Scheme (ESLS)
- (6) Export Programme Grant Scheme (EPGS / Export Programme Suspensory Loan Scheme (EPSLS))

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved, or processed, from