

September 9, 1998), the Department of Commerce is extending the time limit for completion of the final results to not later than November 9, 1998. See September 4, 1998 Memorandum from Deputy Assistant Secretary for AD/CVD Enforcement Richard W. Moreland to Acting Assistant Secretary for Import Administration Joseph A. Spretini on file in the public file of the Central Records Unit, B-099 of the Department.

This administrative review and notice are in accordance with sections 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR section 351.213.

Dated: September 4, 1998.

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-816]

Notice of Initiation of Countervailing Duty Investigation: Elastic Rubber Tape from India

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

EFFECTIVE DATE: September 16, 1998.

FOR FURTHER INFORMATION CONTACT: Todd Hansen or Javier Barrientos at (202) 482-1276 and (202) 482-4207, respectively, Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1998).

The Petition

On August 18, 1998, the Department of Commerce (the Department) received a petition filed in proper form by or on behalf of Fulflex, Inc., Elastomer Technologies Group, Inc. (Elastomer), and RM Engineered Products, Inc. (RM) (collectively referred to hereinafter as "the petitioners"). Elastomer and RM are both wholly owned subsidiaries of

M-Tec Corporation. A supplement to the petition was filed on September 1, 1998.

In accordance with section 702(b)(1) of the Act, the petitioners allege that manufacturers, producers, or exporters of the subject merchandise in India receive 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 petitioners estimate the countervailing duty rate for Garware to be 50 percent. This figure is based on the findings of the EU in its Imposition of Provisional Countervailing Duty on Imports of Certain Broad Spectrum Antibiotics Originating in India (OJ L 166/17, Commission Regulation (EC) No. 1204/98, June 11, 1998) and the Department's determination in Certain Iron-Metal Castings from India: Preliminary Results of Countervailing Duty Administrative Review (63 FR 37534, July 13, 1998).

The petitioners state that they have standing to file the petition because they are interested parties, as defined under sections 771(9)(C) and (D) of the Act, and they have demonstrated that they are the only producers of ERT in the United States (see "Determination of Industry Support for the Petition" section below).

Scope of the Investigation

For purposes of this investigation, the product covered is elastic rubber tape. Elastic rubber tape is defined as vulcanized, non-cellular rubber strips, of either natural or synthetic rubber, 0.006 inches to 0.100 inches (0.15 mm to 2.54 mm) in thickness, and 1/8 inches to 1 5/8 inches (3 mm to 42 mm) in width. Such product is generally used in swimwear and underwear.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 4008.21.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed scope with the petitioners to insure that the scope in the petitions accurately reflects the product for which they are seeking relief. Moreover, as discussed in the preamble to our regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by September 29, 1998. Comments should be addressed to Import Administration's Central Records Unit at 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 us with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of India (GOI) for consultations with respect to the petition. On September 1, 1998, the GOI submitted written comments regarding the programs alleged in the petition. Consultations were held on September 4, 1998. See memorandum to the file regarding the consultations with the GOI, dated September 4, 1998 (public document on file in the Central Records Unit of the Department of Commerce, Room B-099).

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: (1) At least 25 percent of the total production of the domestic like product; and (2) 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.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of 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 of domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to 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 the law.¹

Section 771(10) of 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 under this title." 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.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigation" section, above. The Department has no basis on the record to find the petition's definition of the domestic like product to be inaccurate. The Department has therefore adopted the domestic like product definition set forth in the petition.

In this case, the Department has determined that the petition and supplemental information contained adequate evidence of sufficient industry support and, therefore, polling is unnecessary. See the Initiation Checklist prepared for this case, dated September 8, 1998 (public documents on file in the Central Records Unit of the Department of Commerce, Room B-099). The petitioners established industry support representing 100 percent of total production of the domestic like product.

Additionally, no person who would qualify as an interested party pursuant to sections 771(9)(A)(B)(C)(D)(E) or (F) has expressed opposition on the record to the petition. Therefore, to the best of the Department's knowledge, the producers who support this petition account for 100 percent of the production of the domestic like product produced by the portion of the industry expressing an opinion regarding the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Injury Test

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to this investigation. Accordingly, the U.S. International Trade Commission (ITC) must determine whether imports of the

subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the subsidized imports of the subject merchandise from India. The petitioners explain that the industry's injured condition is evident in the declining trends in net operating profits and income, net sales volumes and values, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation, and it determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Attachment 2 to the September 8, 1998, Initiation Checklist entitled "Analysis of Allegations and Evidence of Material Injury and Causation").

Allegation of Critical Circumstances

The petitioners allege that critical circumstances exist with respect to imports of ERT from India. To support this allegation, the petitioners have provided evidence in the petition of a trend of increasing imports recently and the potential for even greater increases in the near future. The petitioners also have asserted that the alleged subsidies are inconsistent with the Subsidies Agreement, based on the fact that both the Department and the European Union have determined several of the alleged subsidies to be countervailable export or import substitution subsidies in other countervailing duty proceedings. In taking into consideration the foregoing, we find that petitioners have alleged the elements of critical circumstances and supported it with reasonably available information. We, therefore, will investigate this matter further.

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a countervailing duty 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), and (2) is accompanied by information reasonably

available to the petitioners supporting the allegations.

The Department has examined the petition on elastic rubber tape (ERT) from India 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 countervailing duty investigation to determine whether manufacturers, producers, or exporters of ERT from India receive subsidies. See the September 8, 1998, Initiation Checklist regarding the initiation of this investigation. We will make our preliminary determination by November 12, 1998, unless this deadline is extended.

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in India:

1. Passbook/Duty Entitlement Passbook Schemes.
2. Export Promotion Capital Goods Scheme.
3. Export Processing Zones/Export Oriented Units Programs.
4. Income Tax Exemption Scheme.
5. Pre-Shipment Export Financing.
6. Post-Shipment Export Financing.
7. Import Mechanism (Sale of Import Licenses).
8. Exemption of the Interest Tax on Export Credits.
9. Rediscouinting of Export Bills Abroad.
10. Programs Operated by the Small Industries Development Bank of India.
11. Special Imprest Licenses.
12. Market Development Assistance.
13. Special Benefits to Export and Trading Houses and Super Star Trading Houses.
14. Duty Drawback on Excise Taxes.
15. Pre-Shipment Export Financing in Foreign Currency.

We are not including in our investigation the following program alleged to be benefitting producers and exporters of the subject merchandise in India:

Location Grants

The petitioners alleged that Garware may have received grants during the POI for having located its facilities in the "Maharashtra Industrial Zone." The petitioners did not provide any additional information such as the name of a particular program, the government agency administering the program, the eligibility requirements, or the specific manner in which benefits are provided.

We are not including this alleged subsidy in our investigation because the petitioners have not provided sufficient information. While the petitioners have

¹ See *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

asserted that Garware received government grants due to its location in an industrial zone, they have provided no factual information regarding a specific program under which these alleged grants may have been provided. Furthermore, the petitioners have not provided evidence that companies located in "industrial zones" are eligible for certain benefits. (We note that we are including in our investigation Export Processing Zones, Falta Free Trade Zones and Other Free Trade Zones.) Given the lack of information regarding this allegation, we are not including it in our investigation.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public version of the petition have been provided to the representatives of the Government of India. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition, as provided for under section 351.203(c)(2) of our regulations.

ITC Notification

Pursuant to section 702(d) of the Act, we have notified the ITC of this initiation.

Preliminary Determination by the ITC

The ITC will determine by October 2, 1998, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of ERT from India. 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 published pursuant to sections 702(c) and 777(i) of the Act.

Dated: September 8, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The NWS is publishing proposed certifications for the consolidation, automation, and closure of the Huntsville, Alabama Weather Service Office (WSO) which would be automated at FAA Weather Observation Service Level B and have its services consolidated into the future Birmingham, Alabama Weather Forecast Office (WFO).

In accordance with Pub. L. 102-567, the public will have 60-days in which to comment on these proposed consolidation, automation, and closure certifications.

DATES: Comments are requested by November 16, 1998.

ADDRESSES: Request for copies of the proposed consolidation, automation and closure package should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301-713-0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301-713-0300.

SUPPLEMENTARY INFORMATION: In accordance with section 706 of Pub. L. 102-567, the Secretary of Commerce must certify that this consolidation, automation, and closure will not result in a degradation of service to the affected area of responsibility and must publish the proposed consolidation, automation, and closure certifications in the FR. The documentation supporting these proposed certifications includes the following:

(1) A draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS

operations, which was considered in reaching the conclusion that no degradation in service would result from such action including the WSR-88D Radar Commissioning Report, User Confirmation of Services Report, and the Decommissioning Readiness Report;

(7) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the ASOS Commissioning Report; series of three letters between NWS and FAA confirming that weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning; Surface Aviation Observation Transition Checklist documenting transfer of augmentation and backup responsibility from NWS to FAA; successful resolution of ASOS user confirmation of services complaints; and an in-place supplementary data program at the responsible WFO;

(8) Warning and forecast verification statistics for pre-modernized and modernized services which were utilized in determining that services have not been degraded;

(9) An Air Safety Appraisal for offices which are located on an airport; and

(10) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Pub. L. 102-567. In December 1995 the Committee decided that, in general, they would forego the optional consultation on proposed certifications. Instead, the Committee would just review certifications after the public comment period has closed so their consultation would be with the benefit of public comments that had been submitted.

This notice does not include the complete certification package because it is too voluminous to publish. Copies of the certification package and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. At the June 25, 1997 MTC meeting the Committee stated that its endorsement of certifications is "subject to the following qualifications:

(1) The number of trained staff in each modernized field office meets staffing requirements as established by the modernization criteria and documented