[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.

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

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 four manufacturers/exporters. The period of review (the POR) is October 1, 1994, through September 30, 1995.

We have preliminarily determined that sales have been made below normal value (NV) 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: December 10, 1996.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Laurel LaCivita or Robert Blankenbaker at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4740 or (202) 482–0989, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

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. On October 30, 1995, the petitioner, North American Rubber Thread, requested that the Department conduct an antidumping administrative review for the following producers and exporters of extruded rubber thread: Heveafil Sdn. Bhd. (''Heveafil''), Rubberflex Sdn. Bhd. (''Rubberflex''), Filati Lastex Elastfibre (Malaysia) (''Filati''), and Rubfil Sdn. Bhd (''Rubfil''). On October 31, 1995, these same producers and exporters requested to be reviewed. On November 16, 1995, we published a notice of initiation of an administrative review of this order for the period October 1, 1994, through September 30, 1995, (60 FR 57573) for the following producers and exporters of extruded rubber thread: Heveafil, Rubberflex, Filati, and Rubfil. The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of 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.

Verification

We conducted a verification of information provided by Rubberflex using standard verification procedures, including on-site inspection of Rubberflex's sales and production facility, the examination of relevant sales and financial records, and original documentation containing relevant information.

Fair Value Comparisons

To determine whether sales of extruded rubber thread to the United States were made at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the ''Export Price'', ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for normal value and compared these to individual U.S. transactions.

Export Price

The Department used the EP, as defined in section 772(a) of the Act, where the subject merchandise was sold by the manufacturer or exporter to unaffiliated purchasers in the United States prior to importation and the CEP was not otherwise warranted based on the facts of record. For each of the companies, we calculated EP based on packed C&F, CIF, or FOB prices. We made deductions, where appropriate, for forwarding charges, insurance expenses, and ocean freight in accordance with section 772(c)(2) of the Act.

Constructed Export Price

We calculated CEP, as defined in section 772(b) of the Act, based on packed, F.O.B. or delivered prices to unaffiliated purchasers in the United States (the starting price). We made deductions for movement expenses as appropriate in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the Uruguay Round Agreements Act Statement of Administrative Action (SAA) (H. Doc. 316, 103d Cong., 2nd Sess. 823–824 (1996)), we made additional adjustments to the starting price by deducting selling expenses associated with economic activities in the United States, including movement expenses, commissions, direct selling expenses, and U.S. indirect selling expenses. Finally, we made an adjustment for CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

Normal Value

A. Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (NV), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the aggregate volume of home market sales of the foreign like product for each company was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we found that the home market was viable for all companies. Therefore, we have based NV on home market sales.

B. Model Match

In accordance with section 771(16) of the Act, we considered all products sold in the home market, fitting the description specified in the ''Scope of Review'' section above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We first searched for the home market model which is identical in characteristics to each U.S. model. When there were no contemporaneous sales of identical merchandise, we searched for the home market model which is most like or most similar in characteristics to each U.S. model. In determining similar merchandise comparisons, in accordance with 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 for 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.

C. Cost of Production and Constructed Value

Because the Department disregarded third country sales below the cost of production (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 section 773(b)(2)(A)(ii) of the Act, there were reasonable grounds to believe or suspect that both Heveafil and Rubberflex had made home market sales at prices below their COP in this review. Thus, the Department initiated a COP investigation with respect to Heveafil and Rubberflex in accordance with section 773(b)(1) of the Act. 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 NV in this review may have been made at prices below the COP as provided by section 773(b)(2)(A)(i) of the Act.

Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Filati and Rubfil in the home market. *See* COP Initiation Memorandum, dated August 8, 1996.

After calculating COP, we tested whether home market sales of the foreign like product were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time in accordance with section 773(b)(1). We compared model-specific COPs to the reported home market prices less any applicable adjustments.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that model because the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's sales of a given model were at prices less than the COP, we disregarded the below-cost sales if they (1) were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) 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)(4) of the Act, we used constructed value (CV) as the basis for NV when there were no useable sales of comparable merchandise in the home market. In accordance with section 773(e) of the Act, we calculated CV based on respondents' cost of materials and fabrication employed in producing the subject merchandise, selling, general and administrative expense (SG&A) and profit incurred and realized in connection with the production and sale of the foreign like product, and U.S. packing costs. We used the cost of materials, fabrication, and G&A as reported in the CV portion of each respondent's questionnaire response.

We used the U.S. packing costs as reported in the U.S. sales portion of each respondent's questionnaire response. We based selling expenses and profit on the information reported in the home market sales portion of the respondent's questionnaire response. *See Certain Pasta from Italy; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 61 FR 1344, 1349 (January 19, 1996). For SG&A expenses and actual profit, we used the average of actual amounts incurred and realized by respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country, in accordance with section 773(e)(2)(A) of the Act.

D. Price-to-Price Comparisons

For those price-to-price comparisons where we did not resort to CV, we based NV on the prices at which the foreign like products were first sold for consumption in the home market to an unaffiliated party in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the CEP or EP, in accordance with section 773(a)(1)(B)(i) of the Act. Respondents reported that they made all home market and CEP or EP sales of subject merchandise at the same level of trade (*i.e,* to manufacturers). For purposes of this review, we determine that the same level of trade exists for all respondents in both markets. Accordingly, pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual transactions to the monthly weighted-average price of sales of the foreign like product. We increased home market price by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act and reduced it by home market packing costs in accordance with section 773(a)(6)(B) of the Act. In accordance with section 773(a)(6)(C) of the Act, we increased NV by adding U.S. credit expense. We made circumstance of sale (COS) adjustments, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56(a), by deducting home market direct selling expenses. We also made adjustments, where applicable, for certain home market indirect selling expenses to offset U.S. commissions in accordance with 19 CFR 353.56(b). No other adjustments were claimed or allowed.

Facts Available

In accordance with section 776(a)(2)(D) of the Act, we preliminarily determine that the use of the facts

available is appropriate as the basis for Rubberflex's weighted-average dumping margin because, despite the Department's attempts to verify information provided by Rubberflex, the Department could not verify the information as required under section 782(i) of the Act. Where a party provides information requested by the Department but the information cannot be verified, section 776(a)(2)(D) of the Act requires the Department to use facts otherwise available. Further, in accordance with section 782(e)(2) of the Act, the Department has declined to consider information submitted by Rubberflex because the information cannot be verified. Moreover, we preliminarily determine that, pursuant to section 776(b) of the Act, Rubberflex did not cooperate to the best of its ability and that therefore we are required to use adverse facts available.

We found that responses provided by Rubberflex could not be verified. 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; 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 and packing labor expense, 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.

Rubberflex has not cooperated to the best of its ability, as demonstrated by the misreportings, inaccuracies, and omissions we found at our attempted verification which resulted from inconsistencies in data within Rubberflex's control. Therefore, as adverse facts available for Rubberflex, we have used Rubberflex's own calculated rate from a prior segment of this proceeding, (*see Antidumping Duty Order and Amendment of Final Determination of Sales at Less Than Fair Value; Extruded Rubber Thread from Malaysia*, 57 FR 46150 (October 7, 1992)), which is considered secondary information within the meaning of section 776(c) of the Act.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA, H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike for other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of this proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (Fresh Cut Flowers) (where the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

For Rubberflex, we examined the rates applicable to extruded rubber thread from Malaysia throughout the course of the proceeding. Given Rubberflex's level of participation in this segment of the proceeding, we preliminarily determine that 20.38 percent, which is Rubberflex's highest rate from a prior segment of this proceeding, is sufficiently adverse to encourage full cooperation in future segments of the proceeding. Moreover, this rate has probative value because it is Rubberflex's calculated rate from the less than fair value (LTFV) investigation. Furthermore, there is no evidence on the record indicating that this selected margin is not appropriate as adverse facts available. (*See, e.g.*, Fresh Cut Flowers.)

In summary, section 776(a)(2)(D) states that the Department ''shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title'' if an interested party or any other person provides such information but the information cannot be verified. Because we were unable to verify the information submitted by Rubberflex in this POR, we have used Rubberflex's highest rate from a prior segment of this proceeding (*i.e.*, 20.38 percent).

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins for the period October 1, 1994, through September 30, 1995 to be as follows:

Manufacturer/exporter	Margin (percent)
Filati Lastex Elastfibre (Malaysia) ...	13.86
Heveafil Sdn. Bhd	9.75
Rubberflex Sdn. Bhd	20.38
Rubfil Sdn. Bhd	44.44

Interested parties may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A hearing, if requested, will be held 44 days from the date of publication of this notice at the main Commerce Department building.

In accordance with 19 CFR 353.38, case briefs from interested parties are due within 30 days of publication of this notice. Rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted no later than 37 days of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing. The Department will issue final results of this review within 180 days of publication of these preliminary results.

Interested parties who wish to request a hearing or to participate if one is

requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within ten days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; (3) a list of issues to be discussed. In accordance with 19 CFR 353.38(b), issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentages stated above. The Department will issue appropriate appraisement instructions directly to the U.S. Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise 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 those rates established in the final results of this review; (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) the cash deposit rate for all other manufacturers or exporters will be 15.16 percent, the ''all others'' rate made effective by the final determination of sales at LTFV, as explained below.

On March 25, 1993, the 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 these decisions, it is appropriate to reinstate the ''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. Therefore, the Department is reinstating the ''all others'' rate made effective by the final determination of sales at LTFV (*see Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks From Japan,* 53 FR 20882 (June 7, 1988)).

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

This notice also 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 and 19 CFR 353.22(c)(5).

Dated: November 26, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–31355 Filed 12–9–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–412–810]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review; certain hot-rolled lead and bismuth carbon steel products from the United Kingdom.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom in response to requests by respondent, British Steel Engineering Steels Limited (BSES), and petitioner, Inland Steel Bar Company. This review covers the period March 1, 1995 through February 29, 1996.

We have preliminarily determined that sales have been made below normal value (NV). Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment (1) a statement of the issue and (2) a brief summary of the comment.

EFFECTIVE DATE: December 10, 1996.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Applicable Statute

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 the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

The Department published in the Federal Register the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom on March 22, 1993 (58 FR 15324). On March 4, 1996, we published in the Federal Register (61 FR 8238) a notice of opportunity to request an administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom covering the period March 1, 1995 through February 29, 1996.

In accordance with 19 CFR 353.22(a)(1), BSES and the petitioner, Inland Steel Bar Company, requested that we conduct an administrative review of BSES's sales. We published a notice of initiation of this antidumping duty administrative review on April 25, 1996 (61 FR 18378). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this review are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72,