

packing (*See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077, July 9, 1993)). We included those sales that passed the arm's length test in our analysis (see 19 CFR 353.45(a)).

Reimbursement

Section 353.26 of the regulations states that "[I]n calculating the United States price, the Secretary will deduct the amount of any antidumping duty which the producer or reseller: (i) Paid directly on behalf of the importer; or (ii) reimbursed to the importer." The Statement of Administrative Action of the Uruguay Round Agreements Act, in addressing the issue of reimbursement, states that "[C]ommerce has the full authority under its current regulations (19 CFR 353.26) to increase the duty when an exporter directly pays the duties due, or reimburses the importer, whether independent or affiliated, for the importer's payment of duties." In *Color Television Receivers from the Republic of Korea: Final Results of Antidumping Duty Administrative Reviews*, 61 FR 4408, 4410 (February 6, 1996), Commerce stated the following:

In effect, antidumping duties raise prices of subject merchandise to importers, thereby providing a level playing field upon which injured U.S. industries can compete. The remedial effect of the law is defeated, however, where exporters themselves pay antidumping duties, or reimburse importers for such duties.

Since we found no evidence that the conditions mentioned above exist with respect to these companies, we did not apply § 353.26 of our regulations.

Preliminary Results of Review

As a result of our comparison of USP to FMV we preliminarily determine that the following margin exists:

CERTAIN WELDED CARBON STEEL PIPE AND TUBE FROM TURKEY

Producer/manufacturer/exporter	Weighted-average margin
Borusan	8.55%
Yucelboru	0%

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs

and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of these administrative reviews including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between the USP and FMV may vary from the percentages stated above.

Furthermore, the following deposit requirements will be effective for all of Yucelboru's 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 for by section 751(a)(1) of the Tariff Act. A cash deposit of estimated antidumping duties shall be required on shipments of review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey as follows: (1) The cash deposit rate for Yucelboru will be the rate established in the final results of this review; (2) for Borusan and 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, 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 review, the cash deposit rate will be 14.74 percent. This is the "all others" rate from the LTFV investigation. *See Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube from Turkey*, 51 FR 17784 (May 15, 1986).

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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: May 5, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97-12507 Filed 5-12-97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration [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. For information on the net subsidy for each reviewed company, as well for all non-reviewed companies, see the Preliminary Results of Review section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service ("Customs") to collect cash deposits of countervailing duties as detailed in the Preliminary Results of Review section of this notice. Interested parties are invited to comment on these preliminary results. (See Public Comment section of this notice.)

EFFECTIVE DATE: May 13, 1997.

FOR FURTHER INFORMATION CONTACT: Judy Kornfeld or Richard Herring, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3146 or (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 12, 1996, the Department published a notice of "Opportunity to Request Administrative Review" (61 FR 41768) of this countervailing duty order. We received a timely request for review, and we

initiated the review, covering the period January 1, 1995 through December 31, 1995, on September 17, 1996 (61 FR 48882).

In accordance with 19 C.F.R. 355.22(a), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Heveafil Sdn. Bhd., Filmax Sdn. Bhd., Rubberflex Sdn. Bhd., Filati Lastex Elastofibre Sdn. Bhd. (Filati), and Rubfil Sdn. Bhd. Heveafil and Filmax are affiliated parties. (See Affiliated Parties section below.) This review also covers 13 programs.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the 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 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 is 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 is dispositive.

Affiliated Parties

Heveafil owns and controls Filmax and both companies produce subject merchandise. Therefore, we determine them to be affiliated companies under section 771(33) of the Act and, consistent with prior reviews of this order, we have calculated a single rate applicable to both of these companies. See *Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review* (61 FR 55272; October 25, 1996) (*Malaysian Rubber Thread 1994 Review*). For further information, see *Memorandum to File from Judy Kornfeld Regarding Status as Affiliated Parties* dated March 28, 1997, on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce.

Analysis of Programs

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. 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. These loans are provided in Malaysian Ringgits. 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 an export subsidy 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*) because receipt of loans under this program was contingent upon export performance. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. During the period of review (POR), Heveafil, Filmax, Rubberflex and Rubfil used ECR pre-shipment loans; Rubfil and Filati used ECR post-shipment loans.

Section 771(5)(E)(ii) of the Act states that, in the case of a loan, if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market, then a countervailable benefit is bestowed. In this case, as the benchmark interest rates, we are using company-specific interest rates on comparable commercial loans to determine whether there is a benefit from the ECR pre-shipment and post-shipment loans.

With respect to ECR post-shipment loans, we preliminarily determine that Banker's Acceptances (BAs) are a comparable form of alternative short-term commercial financing because both

BAs and ECR post-shipment loans are short-term borrowing instruments used to finance specified export shipments. Therefore, as the benchmark for ECR post-shipment loans to Filati and Rubfil, we used each company's average effective BA rate, inclusive of the cost of commissions for the BA, for all BA loans taken out during the POR.

BAs, however, are not comparable to ECR pre-shipment loans. The ECR pre-shipment financing used by the respondents is based on a line of credit, much like a general short-term loan in the Malaysian market. We determined in the *Malaysian Rubber Thread 1994 Review* that term loans and overdrafts offered by commercial banks are comparable forms of short-term financing in Malaysia. During the POR, respondents used revolving lines of credit and overdrafts for short-term commercial financing. Therefore, we have used as our benchmark for ECR pre-shipment loans that were taken out by Heveafil, Filmax, Rubfil or Rubberflex, the average of the commercial bank lending rates charged to each company during the POR for revolving lines of credit and overdrafts.

Using these benchmarks, we continue to find these loans countervailable (except for the ECR post-shipment loans received by Rubfil because the interest rate charged is equal to or greater than the benchmark rate) because the interest rate charged is less than the rate for comparable commercial loans that the company could actually obtain in the market. To calculate the benefit from ECR loans on which interest was paid in 1995, we used our short-term loan methodology which has been applied consistently in previous determinations. (See, e.g., *Certain Iron-Metal Castings from India; Preliminary Results of Countervailing Duty Administrative Review* (61 FR 64669; December 6, 1996). Because the ECR post-shipment loans are shipment-specific, we included in our calculations only those loans approved to finance or taken out to finance export shipments of extruded rubber thread to the United States. Because the pre-shipment loans are not tied to specific shipments, we included all loans on which interest was paid during the POR.

To determine the benefit, we compared the amount of interest actually paid on these loans during the POR with the amount that would have been paid at each benchmark rate for pre-shipment financing and post-shipment financing. The difference between those amounts is the benefit. We then divided each company's 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 *ad valorem* subsidy from pre-shipment loans to be the following for each of the reviewed companies:

Net subsidies—producer/exporter	Subsidy rate (percent)
Heveafil/Filmax	0.15
Rubberflex30
Filati00
Rubfil03

For post-shipment loans, we preliminarily determine the *ad valorem* subsidy to be the following for each of the reviewed companies:

Net subsidies—producer/exporter	Subsidy rate (percent)
Heveafil/Filmax	0.00
Rubberflex00
Filati15
Rubfil00

2. 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 for a period of five years, with the possibility of an extension for an additional five years. The five-year extension was abolished for companies which applied for pioneer status on or after November 1991. Further, the computation of capital allowances, which are normally deducted against the adjusted taxable income, is postponed to the post-tax holiday period.

Under certain conditions, 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.

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 that the program constitutes an export subsidy with respect to that company. In addition, in past administrative reviews, we reviewed the pioneer status of Filati, Filmax and Rubfil and found the program countervailable with respect to all of these companies because pioneer status was granted to each based on a commitment that they would export a majority of their production. See *Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review* (60 FR 17515; April 6, 1995). See also *Malaysian Rubber Thread 1994 Review*. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of these findings. Rubberflex, Filati, Filmax and Rubfil continued to hold pioneer status during the POR, but only Rubberflex and Filmax claimed pioneer income on the income tax return filed during the POR. Filati did not file a tax return during the POR and Rubfil reported a loss on the tax return filed during the POR. Therefore, these two companies did not use this program.

To calculate the benefit to Rubberflex and Filmax, we calculated the amount of tax that would have been paid absent the program and compared that to the amount of tax actually paid. The difference equals the tax savings received by each company. Dividing the tax savings by total exports, we preliminarily determine the *ad valorem* subsidy from this program to be the following for each of the reviewed companies:

Net subsidies—producer/exporter	Subsidy rate (percent)
Heveafil/Filmax	0.74
Rubberflex77
Filati00
Rubfil00

3. Industrial Building Allowance

Sections 63 through 66 of the Income Tax Act of 1967, as amended, allow an

income tax deduction for a percentage of the value of constructed or purchased buildings used in manufacturing. In 1984, this allowance, which had been limited to manufacturing facilities, was extended to include buildings used as warehouses to store finished goods ready for export or imported inputs to be incorporated into exported goods. This program includes a 10 percent initial and a 2 percent annual tax allowance (i.e., 12 percent in the first year and 2 percent thereafter). The program effectively reduces a company's taxable income, and the tax allowance can be carried forward to future tax years until fully exhausted. Rubber-based exporters are eligible for this program. We found this program countervailable in the *Malaysian Rubber Thread Final Determination* because use of this allowance is limited to exporters. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this program's countervailability.

Heveafil claimed allowances under this program on the tax return filed during the POR. To determine the benefit, we calculated the tax savings from this program during the review period for Heveafil and divided the savings amount by Heveafil/Filmax's total exports, because these benefits applied to all exports. On this basis, we preliminarily determine the *ad valorem* subsidy from this program to be the following for each of the reviewed companies:

Net subsidies—producer/exporter	Subsidy rate (percent)
Heveafil/Filmax	Less than 0.005.
Rubberflex	0.00.
Filati	0.00.
Rubfil	0.00.

4. Double Deduction for Export Promotion Expenses

Section 41 of the Promotion of Investments Act allows companies to deduct expenses related to the promotion of exports twice, once in calculating net income on the financial statement and again in calculating taxable income. We found this program countervailable in the *Malaysian Rubber Thread Final Determination* because its use is limited to exporters. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

Heveafil claimed deductions under this program on the tax return filed during the POR. To determine the benefit, we calculated the tax savings

from this program during the review period for this company and divided those savings by Heveafil/Filmax's total exports, because these benefits applied to all exports. On this basis, we preliminarily determine the *ad valorem* subsidy from this program to be the following for each of the reviewed companies:

Net subsidies—producer/exporter	Subsidy rate (percent)
Heveafil/Filmax	0.01
Rubberflex	0.00
Filati	0.00
Rubfil	0.00

II. Programs Preliminarily Determined to be Not Used

We examined the following programs and preliminarily determine that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under these programs during the period of review:

- Investment Tax Allowance,
- Abatement of a Percentage of Net Taxable Income Based on the F.O.B. Value of Export Sales,
- Abatement of Five Percent of Taxable Income Due to Location in a Promoted Industrial Area,
- Abatement of Taxable Income of Five Percent of Adjusted Income of Companies due to Capital Participation and Employment Policy Adherence,
- Double Deduction of Export Credit Insurance Payments, and
- Preferential Financing for Bumiputras.

Preliminary Results of Review

In accordance with 19 C.F.R. § 355.22(c)(4)(ii), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1995 through December 31, 1995, we preliminarily determine the subsidy for the following companies to be:

Net subsidies—producer/exporter	Net subsidy rate (percent)
Heveafil/Filmax	0.90
Rubberflex	1.07
Rubfil	0.03
Filati	0.15

If the final results of this review remain the same as these preliminary results, the Department intends to instruct Customs to collect cash deposits as indicated above.

This countervailing duty order was determined to be subject to section 753 of the Act. *Countervailing Duty Order; Opportunity to Request a Section 753 Injury Investigation*, 60 FR 27,963 (May 26, 1995), amended 60 FR 32,942 (June 26, 1995). In accordance with section 753(a), domestic interested parties have requested an injury investigation with respect to this order with the International Trade Commission (ITC). Pursuant to section 753(a)(4), liquidation of entries of subject merchandise made on or after January 1, 1995, the date Malaysia joined the World Trade Organization (WTO), is suspended until the ITC issues a final injury determination. Therefore, we will not issue assessment instructions for any entries made on or after January 1, 1995; however, we will instruct Customs to collect cash deposits in accordance with the final results of this administrative review. As provided for in the Act, any rate less than 0.5 percent *ad valorem* in an administrative review is *de minimis*. Accordingly, for those companies with *de minimis* rates, no cash deposits will be required.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. See 19 C.F.R. § 355.22(a). Pursuant to 19 C.F.R. § 355.22(g), for all companies for which a review was *not* requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company v. United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 C.F.R. § 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 C.F.R. § 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review. However, as noted above, pursuant to section 753(a)(4), we will not issue assessment instructions for these unreviewed companies, unless

and until the ITC issues a final injury determination.

Public Comment

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the 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. Parties who submit argument in this proceeding are requested to submit with the argument (1) A statement of the issue and (2) a brief summary of the argument. 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 C.F.R. § 355.38.

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 19 C.F.R. § 355.38, 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)).

Dated: May 5, 1997.

Robert S. LaRossa,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

Determination Not to Revoke Countervailing Duty Orders

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

ACTION: Notice of determination not to revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty orders listed below.