DEPARTMENT OF COMMERCE

International Trade Administration

[C–557–806]

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

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

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

SUMMARY: On May 13, 1997 the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on Extruded Rubber Thread from Malaysia for the period January 1, 1995 through December 31, 1995 (62 FR 26289). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Eric Greynolds, Kathleen Lockard 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) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuate to 19 C.F.R. § 335.22(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 Rudfil Sdn. Bhd. Heveafil and Filmax are affiliated parties. (*See Affiliated Parties* section below). This review also covers the period January 1, 1995 through December 31, 1995 and 13 programs.

Since the publication of the preliminary results on May 13, 1997 (62 FR 26289), the following events have occurred. We invited interested parties to comment on the preliminary results. On June 12, 1997, case briefs were submitted by Heveafil, Filmax, Rubberflex, Filati, and Rubfil which exported extruded rubber thread to the United States during the review period.

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

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 U.S. Customs purposes. Our written description of the scope of this review remains 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

Based upon the responses to our questionnaire, and written comments from the interested parties we determine the following:

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Export Credit Refinancing (ECR) Program. In the preliminary results, we found that both pre- and post-shipment loans under this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, have not led us to change our findings from the preliminary results. Accordingly, the net subsidies for pre-shipment and post-shipment loans remain unchanged from the preliminary results and are as follows:

PRE-SHIPMENT LOANS

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.15
Rubberflex	0.30
Filati	0.00
Rubfil	0.03

POST-SHIPMENT LOANS

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.00
Rubberflex	0.00
Filati	0.15
Rubfil	0.00

2. *Pioneer status.* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, have led us to modify our findings from the preliminary results for this program for Rubberflex (*See Department's Position* on *Comment 7*). Accordingly, the net subsidies for this program have changed and are as follows:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.74
Rubberflex	0.00
Filati	0.00
Rubfil	0.00

3. *Industrial building allowance.* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	[1]
Rubberflex	0.00
Filati	0.00
Rubfil	0.00

[1] Less than 0.005%.

4. *Double deduction for export promotion expenses.* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for this program remain unchanged from the preliminary results as are as follows:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.01
Rubberflex	0.00
Filati	0.00
Rubfil	0.00

II. Programs Found To Be Not Used

In the preliminary results, we examined the following programs and determined 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 Payment, and
- Preferential Financing for Bumiputras.

We did not received any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

Analysis of Comments

Comment 1: The Department had no authority to issue a CVD order. Respondents allege that the Department initiated the original investigation pursuant to Section 303(a)(2) of the Act, and, therefore, the Department can impose countervailing duties under this section only if there is an injury determination by the International Trade Commission (ITC). (The ITC discontinued its injury determination under Section 303(a)(2) because the duty-free status of rubber thread from Malaysia was terminated). Respondents contend that without an injury determination, the Department had no authority to issue a countervailing duty order and to require the payment of cash deposits. Respondents further maintain that the Department cannot simply transfer the jurisdiction for an investigation from Section 303(a)(2) to Section 303(a)(1) without issuing a public notice that it intends to proceed with the investigation under a different statutory provision. *See Certain Textile Mill Products and Apparel from Turkey* (50 FR 9817; March 12, 1987); *Certain Textile Mill Products and Apparel from the Philippines* (50 FR 1195; March 26, 1985) and *Certain Textile Mill Products and Apparel from Indonesia* (50 FR 9861; March 12, 1985). Further, because there was no initiation notice or a preliminary determination under Section 303(a)(1), a final determination under that section was not appropriate. If the Department wanted to proceed with the investigation, it was required to reinitiate under the appropriate provision.

In addition, respondents argue that the Department's untimeliness theory in previous reviews is misplaced. They state that the Department has the power to modify its judgments or correct its errors and that *Ceramica Regiomontana* v. *United States*, 64 F.3d 1579 (Fed. Cir. 1995) (*Ceramica 1995*) confirmed the right to challenge the continuing validity of an order during a review proceeding. Respondents also cite to *Gilmore Steel Corp.* v. *United States*, 585 F. Supp. 670, 674 (CIT 1984) (*Gilmore*), to support their ''timeliness'' argument regarding the Department's authority to correct errors, such as ''jurisdictional defects.''

Department's Position: As the Department pointed out in the previous views, respondents' challenge to the Department's authority to issue the order is untimely. Challenges to the issuance of an order must be filed within 30 days of the date the order is published. See 19 U.S.C. Sec. 1516a(a)(2). The countervailing duty order on extruded rubber thread from Malaysia was published on August 25, 1992. Respondents voluntarily withdrew a timely-filed complaint challenging the order on these same grounds. Respondents' attempt to revive that challenge in this proceeding is untimely.

Contrary to respondents' assertions, there was not requirement that the Department reinitiate its investigation as a result of the decision by the United States to terminate the duty-free status of Malaysian rubber thread. Indeed, respondents' interpretation could create an impermissible gap in statutory coverage, which Congress did not intend. *See Techsnabexport. Ltd.* v. *United States*, 802 F. Supp. 469, 472 (CIT 1992). Nor do the administrative cases relied upon by respondents support their position. In those cases, the Department published notice that authority to continue the particular investigations was transferred from section 303 of the Tariff Act of 1930 to title VII of the Act.

In the course of administrative reviews conducted under this order, respondents have misconstrued judicial precedent regarding the correction of ''jurisdictional defects.'' *Gilmore* involved a challenge to the termination of a pending investigation based upon information obtained in the course of that investigation. In particular, the petitioner contended that the Department lacked the authority to rescind the investigation based upon insufficient industry support for the petition after the 20-day initiation period had elapsed. 585 F.Supp. at 673. In upholding the Department's determination, the court recognized that administrative officers have the authority to correct errors, such as ''jurisdictional defects,'' at any time during the proceeding. *Id.* At 674–75. The court did not state or imply that the Department may reverse a decision to issue an antidumping duty order in the context of an administrative review under section 751 of the Act. Indeed, the case did not even involve an administrative review. The court simply held that the administering authority may, in the context of the original investigation, rescind an ongoing proceeding after the expiration of the 20-day initiation period. In short, *Gilmore* says nothing to excuse respondents' failure to timely challenge the issuance of the order in this case.

Similarly, we disagree with respondents' reliance on *Ceramica 1995. Ceramica 1995* challenged the continued imposition of countervailing duties following Mexico's change in status to a ''country under the Agreement'' which entitled it to an injury test. Unlike respondents in the instant review, *Ceramica 1995* did not challenge the validity of the original countervailing duty order, nor did the Federal Circuit determine that the issuance of the order was invalid. Consequently, *Ceramica 1995* is an inappropriate basis to excuse respondents' failure to timely challenge the issuance of the order.

Comment 2: Country-wide subsidy rate. Respondents argue that the Department improperly assigned company-specific rates without first determining whether the overall country-wide subsidy rate was above *de minimis.* They contend that the Department acted contrary to its established practice of applying its two-part test in measuring levels of subsidization. According to respondents, the Department should first calculate the net subsidy on a country-wide basis to determine whether the country-wide rate was above *de minimis,* in accordance with *Ceramica Regiomontana, S.A. v. United States,* 853 Supp. 431,439 (Ct. Intl. Trade 1994) (*Ceramica 1994).* If the country-wide benefit is *de minimis,* the overall subsidy level would be zero. Only if the country-wide rate was above *de minimis* would the Department proceed to the second step of its test to determine if individual rates would apply. Respondents cite *Certain Iron Metal Castings from India, Preliminary Results of Countervailing Duty Administrative Review* (61 FR 25623; May 22, 1996); *Carbon Steel Butt-Weld Pipe Fitting from Thailand; Final Results of Countervailing Administrative Review* (61 FR 4959; Feb. 9, 1996); *Extruded Rubber Thread from Malaysia, Final Results of Countervailing Duty Administrative Review* (60 FR 51982, 51983; October 4, 1995), in which the Department applied its two-step test.

According to respondents, as a precondition to imposing countervailing duties, the statute requires subsidization to occur with respect to imports of the subject merchandise on an overall or aggregated basis. In addition, respondents contend that the URAA altered the assessment provision but not the requirement to determine whether subsidies were being provided on a country-wide basis.

Department's Position: There is no legal basis to support respondent's argument. Pursuant to the URAA, there is no longer a preference for calculating a single country-side subsidy rate in countervailing duty proceedings. The URAA replaced the former practice of calculating subsidies on a country-wide basis in favor of individual rates for investigated or reviewed companies. The procedures for countervailing duty cases are now essentially the same as those in antidumping case, except as provided for in section 777A(a)(2)(B) of the Act. Section 777A(e) requires the calculation of an individual countervailable subsidy rate for each known producer/exporter of the subject merchandise, except where it is not practicable to determine individual countervailable subsidy rates because of the larger number of exporters or producers involved in the investigation or review. This exception was inapplicable in this review as there were only five producers/exporters for which a review was requested.

As a result, the judicial and administrative precedents relied upon by respondents are inappropriate as they refer to the requirements as they existed prior to effective date of the URAA. All of the reviews cited by respondents were requested and initiated prior to January 1, 1995, the effective date of the URAA. More pertinent citations would be to reviews conducted under the URAA. *See, e.g., Certain Iron-Metal Castings From India; Final Results of Countervailing Duty Administrative Review (1994 Castings Review)* (62 FR 32297; June 13, 1997), since that review was initiated pursuant to requests for administrative reviews filed after January 1, 1995.

Comment 3: Financial contribution. Respondents argue that the Department cannot countervail benefits under the ECR loan program or the Pioneer Industries program because neither involves a financial contribution by the Government of Malaysia (GOM). The WTO Subsidies Agreement defined the term ''subsidy'' as one involving a ''financial contribution,'' therefore adding a new requirement to the pre-existing notion of a subsidy. Accordingly, a program cannot be a countervailable subsidy unless it involves a ''financial contribution.'' In the case of the ECR loans, they argue that there cannot be any financial contribution because the funds that the GOM lends to exporters generate a profit. In the case of the Pioneer Industries program, they argue that because the only company claiming the tax exemption would have paid the same amount of taxes without the exemption, the GOM did not forgo or fail to collect any revenues as a result of the program. Respondents believe that the Department's preliminary determination overlooks this new requirement.

Department's Position: We disagree with respondents that the Department overlooked the requirement of a financial contribution. Under section 771(5)(D) (i) and (ii) of the Act, a financial contribution is defined as ''the direct transfer of funds, such as grants, loans, and equity infusions, or the potential direct transfer of funds or liabilities, such as loan guarantees,'' or ''foregoing or not collecting revenue that is otherwise due, such as granting tax credits or deductions from taxable income.'' The ECR Loan and Pioneer Industries tax programs clearly fall within these definitions. We also note that under Article 1.1(a)(1) (i) and (ii) of the Subsidies Agreement, a financial contribution is defined as ''where government practice involves a direct transfer of funds (*e.g.,* grants, loans, and equity infusions), potential direct transfers of funds of liabilities (*e.g.,* loan guarantees)'' or ''government revenue that is otherwise due, is foregone or not collected (*e.g.,* fiscal incentives such as tax credits).''

Respondents mistakenly focus on the ''financial contribution'' concept in terms of the cost to the Malaysian government. As explained in the previous reviews, the Department has a longstanding practice of valuing the benefit to the recipient rather than the cost to the government for the purpose of calculating countervailing duty rates. This practice is now reflected in section 771(5)(E) of the Act, which states that the subsidy benefit ''shall normally be treated as conferred where there is a benefit to the recipient.'' In addition, Article 14 of the Subsidies Agreement defines the method for calculating the amount of a subsidy in terms of the benefit to the recipient.

In the case of ECR loans, the funds that the GOM lends to the exporters are lent on a short-term basis at an interest rate below the amount the exporters would have paid on a comparable commercial loan. In the case of the Pioneer Industries program, a company that has received pioneer status is allowed not to pay taxes otherwise due to the government. (Also, *see Department's Position* on *Comment 7.*) Therefore, under both programs, financial contributions are provided to the recipients (the respondents) and the Department properly treated those benefits as countervailable subsidies.

Comment 4: Short-term loan benchmark. Respondents contend that the benefit from the ECR program was overstated because the Department's benchmark for the ECR pre-shipment loans incorrectly excluded Banker's Acceptances (''BA's'') from the calculated benchmark interest rate and incorrectly included rates on overdrafts in calculating the benchmark.

Department's Position: We disagree with respondents. While the BA rates are an acceptable benchmark for post-shipment loans, 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. As such, we used the average of the commercial bank lending rates charged to each company during the POR for revolving lines of credit and overdrafts

as the benchmark. ECR post-shipment loans and BAs are short-term borrowing instruments used to finance specified export shipments, unlike ECR pre-shipment loans that provide a more general line of credit.

Comment 5: Pre-shipment ECR loans do not benefit U.S. exports. Respondents argue that the Department overstated the net subsidy for the review period and for duty deposit purposes because in calculating eligibility for the pre-shipment export financing, the Department failed to take account of the exclusion by Heveafil and Filmax of U.S. exports in obtaining export financing. In addition, respondents claim that the two companies did not use funds from exports to the United States to repay any of the pre-shipment loans. They claim that in a similar situation, the Department concluded that exports to the United States did not receive benefits from short-term financing. *See Suspension of Countervailing Duty Investigation; Certain Forged Steel Crankshafts from Brazil* (52 FR 28177, 28179; July 28, 1987) (*Crankshafts from Brazil*). Although in the first administrative review, the Department rejected this method of eliminating the effect of a subsidy, respondents maintain that Heveafil and Filmax received no benefit with regard to U.S. shipments. Respondents further assert that the Department found a subsidy in this case, in part, because there was no strict segregation of U.S. exports and the materials used in their manufacture from materials and exports to other markets financed with ECR loans. However, according to the respondents, the Department was presented with exactly the same issue in *Crankshafts from Brazil* and in that case the Department did not require that the exporters segregate raw materials purchased with export financing.

Department's Position: The GOM provides ECR financing based on export performance. The explicit purpose of this program is to promote the export of manufactured and approved agricultural products. Two types of ECR financing are available: pre-shipment and post-shipment financing. There is no evidence that the GOM limits these ECR loans to increase exports only to markets other than the United States, nor is there evidence of a provision that prevents exporters from receiving ECR loans for exports to the United States.

During the review period, both Heveafil and Filmax applied for and used pre-shipment financing based on certificates of performance (CP). Pre-shipment financing based on CPs is a line of credit based on previous exports and, when received, cannot be tied to specific sales in specific markets. Where a benefit is not tied to a particular product or market, it is the Department's practice to allocate the benefit to all products exported by a firm where the benefit is received pursuant to an export program. *See e.g., 1994 Castings Review*. Because pre-shipment loans were not shipment-specific, we included all loans in calculating the subsidy rate.

By excluding exports to the United States from their application for ECR pre-shipment export financing, the companies merely reduced the amount of financing they received. Reducing the pool of funds available for total export financing does not eliminate financing to any particular product. Tying occurs in the provision of the subsidy, usually through government mandate requirements or in certain limited situations where the application for the subsidy can be isolated to specific shipments, *e.g.*, post-shipment loans provided on a shipment-by-shipment basis where the company can demonstrate through source documentation that it did not apply for or receive loans on shipments to the United States. *See e.g., 1994 Castings Review*. Hence, the companies did not eliminate ECR pre-shipment financing for U.S. exports.

We disagree with respondents that, in similar circumstances, the Department has concluded that the exclusion of U.S. exports from applications in the manner described by respondents eliminates any countervailable subsidy that would otherwise be present. As stated in the last review of this order, *Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review* (61 FR 55272; October 25, 1996), respondents' reliance on the *Crankshafts from Brazil* suspension agreement is misplaced. Suspension agreements are unusual, negotiated arrangements in which parties to a proceeding agree to renounce countervailable subsidies. As such, unlike final determinations, they do not serve as administrative precedent. Moreover, the *Crankshafts from Brazil* suspension agreement is consistent with our allocation practice.

Comment 6: Pioneer Program is neither specific nor contingent upon export performance. Respondents argue that the Department previously found the Pioneer Status Program not countervailable because it was found to be not specific. *See Carbon Steel Wire Rod from Malaysia: Final Results of Countervailing Duty Administrative Review;* 56 FR 14927 (April 12, 1991) (*Wire Rod*). Respondents assert that it is not countervailable because tax benefits under this program are not limited to any sector or region of the Malaysian economy, nor is the program exclusively available to exporting companies. They contend that the Department confirmed, in the first administrative review, both the *de jure* and *de facto* availability of this program to the entire Malaysian economy, and that the pioneer status tax benefits are not targeted to specific industries or companies in a discriminatory manner. Further, the Department verified in the original investigation that the internal guidelines used to grant pioneers status are characterized by neutral criteria unrelated to exports, location or any other factors that could require a determination that the program is countervailable.

Respondents further argue that the Department verified in the first administrative review that the GOM does not require export commitments, or view them as preponderant, in evaluating applications; that export potential is merely one of 12 factors considered in granting status; and that a product will not be accepted based on export potential alone. Further, respondents argue that the Department verified in the first administrative review that the GOM commonly approves companies that do not make export commitments, as well as some that do make them.

Therefore, export performance is not viewed as a preponderant factor, but as one of many neutral criteria.

Department's Position: We addressed this identical argument in the previous review of this order. In *Wire Rod*, we concluded that benefits were not used by a specific industry or group of industries and that no industry or group of industries used the program disproportionately; accordingly, we found the program not to be countervailable. That determination, however, did not specifically address situations where companies had a specific export condition attached to their pioneer status approval. In the *Wire Rod* investigation, although petitioners raised the issue of an export requirement with respect to pioneer status, the export requirement was not at issue with the companies investigated in *Wire Rod*.

In this case, recipients of the tax benefits conferred by Pioneer Status can be divided into two categories: industries and activities that will find market opportunities in Malaysia and elsewhere, and those that face a saturated domestic market. At verification of the first administrative review, we established that an export requirement may sometimes be applied

to certain industries after it is determined that the domestic market will no longer support additional producers. The extruded rubber thread industry is among these industries.

The combination of the necessary export orientation of the industry due to lack of domestic market opportunities and the explicit export condition attached to pioneer status approval in the rubber thread industry leads us to conclude that the Pioneer Status program constitutes an export subsidy to the rubber thread industry. Whether or not the commitment was voluntary, as respondents suggest, the company has obligated itself to export a very large portion of its production, and that commitment was a condition for approval of benefits. Thus, the Department upholds its decision to countervail this program as an export subsidy.

Comment 7: Overstatement of Pioneer Program. Respondents argue that the Department overstated the benefit from the Pioneer program because it failed to deduct the normal capital allowances that would have been allowed if the program had not been used. Further, they claim, the Department incorrectly allocated pioneer status tax benefits over only export sales even though pioneer status tax benefits are also applicable to profits on domestic sales. According to the respondents, this is inconsistent with the Department's practice to allocate benefits over total sales to which they are ''tied.''

Respondents also argue that the Department countervailed Rubberflex's pioneer benefit in the 1993 review, and must avoid countervailing the same benefit in the 1995 review.

Department's Position: The Department disagrees with the respondents' allegation that it overstated the benefit from the Pioneer Program because of capital allowances. When a company receives pioneer status, it is allowed to accumulate the normal capital allowances for use in future years. Heveafil/Filmax did not pay income taxes during the period of review because of its pioneer status. Therefore, the income tax exemption under the Pioneer Program has conferred a benefit upon the company because it used its pioneer status to offset income. Because Heveafil/Filmax is also able to accumulate capital allowances which can be used to offset taxable income in the future, after its pioneer status expires, there is no basis for adjusting the benefit from the income tax exemption for these allowances. Moreover, export sales should form the denominator because receipt of pioneer status tax benefits is contingent upon exportation. Accordingly, we have not overstated the benefit from the Pioneer Program. *See e.g., Final Affirmative Countervailing Duty Determination: Certain Agricultural Tillage Tools From Brazil* (50 FR 34525; August 26, 1985) and *1994 Castings Review.*

We agree with the respondents' claim that there is no countervailable subsidy to Rubberflex under the Pioneer Program in the instant review. In the 1993 review, the Department used the estimated tax return submitted by Rubberflex to calculate the countervailing duty rate for the Pioneer Program. For the 1995 preliminary review, the year in which Rubberflex for this program. Because we have previously countervailed the benefit from that tax return in our 1993 administrative review of this order, we have not countervailed it again in this review. Therefore, the new *ad valorem* rate for Rubberflex for this program is 0.00% (*See* Section I(A)(2) above).

Final Results of Review

In accordance with 19 CFR § 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 determine the net subsidy for the following companies to be:

Manufacturer/exporter	Rate (percent)
Heveafil/Filmax	0.90
Rubberflex	0.30
Filati	0.15
Rubfil	0.03

The Department will instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. As provided for in 19 C.F.R. § 355.7, any rate less than 0.5 percent *ad valorem* in an administrative review is *de minimis.* Accordingly, for those producers/exporters, no cash deposits will be required.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding, conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. (*See Extruded Rubber Thread From Malaysia: Final Results of Countervailing Duty Administrative Review,* 60 FR 51982 (October 4, 1995). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1995 through December 31, 1995, the assessment rates that will be applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This countervailing duty order was determined to be subject to section 753 of the Act (as amended by the Uruguay Round Agreements Act of 1994). *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, is suspended until the ITC issues a final injury determination. We will not issue assessment instructions for any entries made after January 1, 1995; however, as discussed above, we will instruct Customs to collect cash deposits in accordance with the final results of this administrative review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. § 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: September 10, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–24845 Filed 9–17–97; 8:45 am]

BILLING CODE 3510–DS–M