

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-560-803, C-560-804]

**Initiation of Antidumping and Countervailing Duty Investigations: Extruded Rubber Thread From Indonesia**

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

**EFFECTIVE DATE:** April 28, 1998.

**FOR FURTHER INFORMATION CONTACT:**

Anne D'Alauro (antidumping investigation) or Stephanie Moore (countervailing duty investigation), Office of CVD/AD Enforcement VI, International Trade Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482-2786.

**INITIATION OF INVESTIGATIONS:****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 the regulations codified at 19 CFR Part 351, published in the **Federal Register** on May 19, 1997 (62 FR 27296).

**The Petition**

On March 31, 1998, the Department of Commerce (the Department) received a petition filed in proper form by North American Rubber Thread Co., Ltd. ("the petitioner"). A supplement to the petition was filed on April 13, 1998.

The petitioner alleges that imports of extruded rubber thread from Indonesia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that countervailable subsidies are being provided to producers and/or exporters of extruded rubber thread from Indonesia within the meaning of section 701 of the Act. The petitioner alleges that imports of such unfairly traded (*i.e.*, dumped and subsidized) extruded rubber thread from Indonesia materially injure, or threaten material injury to, an industry in the United States.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has

demonstrated sufficient industry support (see discussion below).

**Scope of Investigation**

For purposes of the antidumping and countervailing duty investigations, the product covered is extruded rubber thread ("rubber thread") from Indonesia. 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 inches or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter.

Rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to insure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. The petitioner addressed the scope in its March 31, 1998 and April 13, 1998 submissions to the Department. As discussed in the preamble to the new regulations (62 FR at 27323), the Department is setting aside a period for parties to raise issues regarding product coverage. We encourage parties to submit such comments by May 8, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. 20230. This period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

**Consultations**

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of Indonesia to participate in consultations with respect to the countervailing duty petition. The Government of Indonesia did not avail itself of this opportunity.

**Determination of Industry Support for the Petition**

Sections 702(b)(1) and 732(b)(1) of the Act require that a petition be filed on behalf of the domestic industry. Sections 702(c)(4)(A) and 732(c)(4)(A) of the Act provide 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 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 provision regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct statutory authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.<sup>1</sup>

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 adopted the domestic like product definition set forth in the petition.

The Department's analysis indicates that the petitioner accounts for at least 25 percent of the total production of the domestic like product. The Department has confirmed the petitioner's assertion

<sup>1</sup> 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 Fed. Reg. 32376, 32380-81 (July 16, 1991).

that Globe Manufacturing Co. ("Globe") is the only other producer of the domestic like product. On April 17, 1998, Globe submitted a statement of opposition to the petition. However, the Department has determined to disregard Globe's position.

To satisfy the requirements of sections 702 and 732, petitioners and supporters of the petition, in addition to accounting for at least 25 percent of total domestic production, must account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support or opposition to the petition (sections 702(c)(4)(A) and 732(c)(4)(A) of the Act). However, under certain circumstances, the Department must disregard the positions of domestic producers related to foreign producers. In addition, the Department may disregard the position of producers who are importers. (Sections 702(c)(4)(B) and 732(c)(4)(B) of the Act). In this case, the petitioner alleged that Globe is related to an Indonesian producer of subject merchandise and that Globe is also an importer of subject merchandise from Indonesia. Globe's April 17, 1998 submission clarifies the facts alleged by the petitioner. Based on our examination of the information presented by Globe, we have determined that Globe's position should be disregarded for purposes of determining industry support for the petition pursuant to sections 702(c)(4)(B) and 732(c)(4)(B) of the Act. See Industry Support section of the AD/CVD Checklist (Public Version) which is on file in room B-099 of the main Commerce building. Therefore, we conclude that the petitioner met the statutory requirement for industry support. Accordingly, the Department determines that the petition is filed on behalf of the domestic industry within the meaning of sections 702(b)(1) and 732(b)(1) of the Act.

#### **Injury Test**

Because Indonesia is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to the countervailing duty investigation. Accordingly, the U.S. International Trade Commission (ITC) must determine whether imports of the subject merchandise from Indonesia 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, or is

threatened with material injury, by reason of imports of the subject merchandise being sold at less than fair value and/or benefitting from the bestowal of countervailable subsidies. The allegations of injury and causation are supported by relevant evidence including business proprietary data from the petitioner and the Indonesian export statistics provided in the petition. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation. See Tab B accompanying the AD/CVD Checklist (public version) which is on file in room B-099 of the main Commerce building.

#### **Allegation of Sales at Less Than Fair Value/Constructed Export Price and Normal Value**

The following is a description of the allegation of sales at less than fair value upon which our decision to initiate the antidumping duty investigation is based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, as appropriate.

The petitioner identified several exporters and producers of rubber thread in Indonesia. The petitioner provided allegations of sales at less than fair value based on constructed export price ("CEP"), within the meaning of section 772(b) of the Act, and based on normal value ("NV"), within the meaning of section 773 of the Act. The petitioner based CEP on price quotes during mid-1997 made by a U.S. importer affiliated with an Indonesian supplier of rubber thread to potential U.S. customers. The petitioner calculated a net U.S. price by subtracting estimates of movement costs and selling expenses. Movement costs (such as international freight, insurance and brokerage) were estimated based on the difference between the CIF values and the U.S. Customs values for rubber thread imports from Indonesia reported in the official U.S. import statistics during 1997. Selling expenses were based on North American's own experience for selling expenses for 1997, since the petitioner was unable to determine what the selling expenses of the Indonesian affiliated importer were.

The petitioner stated that it was unable to determine rubber thread prices or costs in Indonesia and thus used its own cost information, adjusted

for known differences, because this was the only information which was reasonably available to the petitioner. The calculation of NV is thus based on constructed value ("CV") using the petitioner's own cost of producing one pound of rubber thread, with adjustments for known differences between its cost experience and those of producers in Indonesia. See Tables Accompanying the AD/CVD Checklist (Public Version) which is on file in room B-099 of the main Commerce building.

Constructed value consists of the cost of materials, labor, overhead, general expenses, and profit. The petitioner used its own cost of rubber latex, the primary material input, from mid-1997 and adjusted for potential differences in the precise mixture used by Indonesian producers, the percentage of latex content, scrap, and transportation costs. Other chemical inputs (about 50 differing chemicals and pigments) were provided with adjustments for losses incurred in production. The petitioner did not include the cost of talc, used by most Indonesian producers, within the calculation of material costs, but included these costs as an item of overhead. The petitioner provided information regarding skilled labor costs in Indonesia and, in combination with its labor experience, made adjustments to calculate labor costs in Indonesia. The petitioner describes the cost estimates for Indonesian labor so derived as conservative since the calculation relies on the petitioner's lowest standard cost experience.

The petitioner calculated factory overhead in two different ways. In one example, the petitioner's 1997 costs for overhead as well as electricity were provided and adjusted for Indonesian cost differences. In a second example, the petitioner calculated factory overhead using the Department's "Index of Factor Values for Use in AD Investigations Involving Products from the People's Republic of China" (AD Factor Values) which provided a factory overhead ratio of 25 percent for Indonesia. This ratio was applied to the combined costs of labor and materials (exclusive of talc). A slight but inconsequential increase to the overhead amount results when talc is included within materials prior to application of the overhead ratio.

General expenses were calculated using two similar methodologies. The petitioner provided its own 1997 experience for selling, general and administration expenses (SG&A). In a less conservative approach, the petitioner also provided the ratio reported in the AD Factor Values for

general expenses in Indonesia of 27.5 percent. The specific calculations underlying each of these methodologies are detailed in the tables attached to the AD/CVD checklist. Since the petitioner did not include an amount for profit within its CV calculation, we note that the estimated CV would be higher if an amount for profit were added. In accordance with 773 of the Act, the methodology used by the petitioner to derive NV compares with Department practice and petition requirements.

The comparisons of NV to net U.S. prices result in estimated dumping margins that range from 0.81 percent (highest CEP compared to lowest NV estimate) to 62 percent (lowest CEP to highest NV estimate).

#### **Fair Value Comparisons**

Based on the data provided by the petitioner, there is reason to believe that imports of rubber thread from Indonesia are being, or are likely to be, sold in the United States at less than fair value.

#### **Allegations of Subsidies**

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 petitioner supporting the allegations. 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 Indonesia.

1. Export Financing
2. Import Duty Exemptions on Capital Equipment
3. Corporate Income Tax Holidays
4. Investment Credit for the Expansion of the Rubber Industry

#### **Initiation of Antidumping and Countervailing Duty Investigations**

The Department has examined the petition on rubber thread from Indonesia and has found that it complies with the requirements of sections 702(b) and 732(b) of the Act. Therefore, in accordance with sections 702(b) and 732(b), we are initiating antidumping and countervailing duty investigations to determine whether manufacturers, producers, or exporters of rubber thread from Indonesia are being, or are likely to be, sold in the United States at less than fair value and whether manufacturers, producers or exporters of rubber thread from Indonesia received subsidies. See Tab B accompanying the AD/CVD Checklist (public version) which is on file in room

B-099 of the main Commerce building. Unless the relevant deadline is extended, we will make our preliminary determinations for the countervailing duty investigation no later than June 24, 1998 and for the antidumping duty investigation no later than September 8, 1998.

#### **Distribution of Copies of the Petitions**

In accordance with sections 702(b)(4)(A)(i) and 732(b)(3)(A) of the Act, copies of the public version of the petition have been provided to the representatives of the Government of Indonesia. We will attempt to provide copies of the public version of the petition to all exporters named in the petition, as provided for in section 351.203(c)(2) of the Department's regulations.

#### **ITC Notification**

Pursuant to sections 702(d) and 732(d) of the Act, we have notified the ITC of these initiations.

#### **Preliminary Determinations by the ITC**

The ITC will determine by May 15, 1998, whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Indonesia of rubber thread. A negative ITC determination will result in the investigation being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: April 20, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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#### **DEPARTMENT OF COMMERCE**

#### **International Trade Administration**

[A-122-601]

#### **Brass Sheet and Strip From Canada; Termination of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of termination of antidumping duty administrative review.

**SUMMARY:** On October 29, 1997, the Department of Commerce published in the **Federal Register** a notice of

termination of the administrative review of brass sheet and strip from Canada covering imports of subject merchandise for the period January 1, 1993 through December 31, 1993. Due to a procedural oversight by the Department of Commerce, the signature date of this notice of termination, October 21, 1997, was one day prior to the date of the respondent's formal written request for termination of the 1993 review, which was submitted to the Department of Commerce on October 22, 1997. In light of this procedural error, the Department of Commerce rescinded its termination of this review and reopened the administrative record of this proceeding for comments by interested parties on the question of termination of this review. After careful review of the comments submitted by interested parties, the Department of Commerce decided that this review should be terminated and hereby terminates this review.

**EFFECTIVE DATE:** April 28, 1998.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Thomas Futtner, Office of 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) 482-4474 or (202) 482-3814, respectively.

**Applicable Statute and Regulations:** Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

The Department of Commerce (the Department) published an antidumping duty order on brass sheet and strip from Canada on January 12, 1987 (52 FR 1217). On January 5, 1994, the Department published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on brass sheet and strip from Canada (59 FR 564). On January 21, 1994, a manufacturer/exporter, Wolverine Tube (Canada) Inc., (Wolverine) requested an administrative review of its exports of the subject merchandise to the United States for the period of review (POR) January 1, 1993, through December 31, 1993. In accordance with 19 CFR 353.22(c), we initiated the review on February 17, 1994 (59 FR 7979). Wolverine was the only interested party to request this review. On or about October 17, 1997, Wolverine notified the Department by telephone of its