Extruded Rubber Thread From Indonesia

Investigation No. 731-TA-787 (Final)

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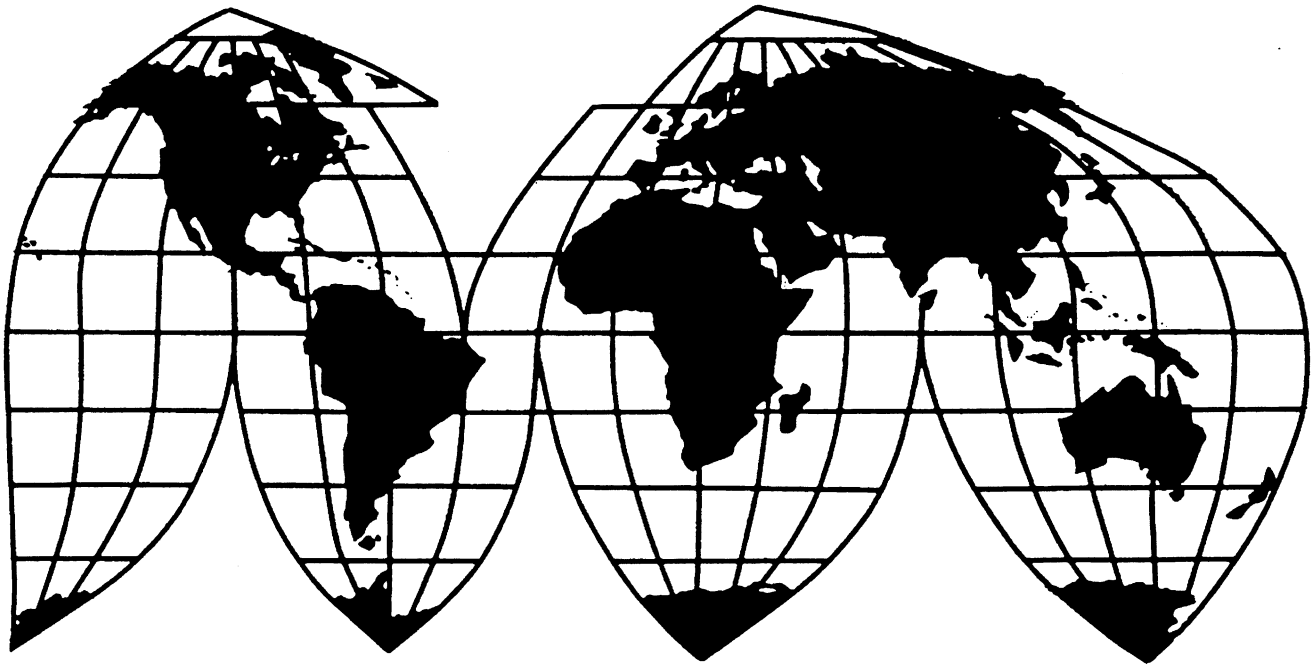
U.S. International Trade Commission



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GLOSSARY

Act	Tariff Act of 1930, as amended
***	***
Bakrie	P.T. Bakrie Rubber Industry
***	***
C.i.f.	Cost-insurance-freight
CNIF	Customs Net Import File
COGS	Cost of goods sold
COMPAS	Commercial Policy Analysis System
Commerce	U.S. Department of Commerce
Commission	U.S. International Trade Commission
***	***
FDA	Food & Drug Administration
FR	Federal Register
F.o.b.	Free-on-board
***	***
GSP	Generalized system of preferences
Globe	Globe Manufacturing Co.
HTS	Harmonized Tariff Schedule of the United States
***	***
Hickory	Hickory Rubber Thread Co.
ISO	International Standards Organization
LTFV	Less than fair value
***	***
NAFTA	North American Free Trade Agreement
NTR	Normal trade relations
North American	North American Rubber Thread Co.
PRWs	Production and related workers
Persero	P.T. Perleebunan Nusuntara III
R&D	Research and development
***	***
***	***
SG&A	Selling, general & administrative
Swasthi	P.T. Swasthi Parama Mulya
***	***
***	***
Transcript	Hearing transcript

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-787 (Final)

EXTRUDED RUBBER THREAD FROM INDONESIA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is threatened with material injury[3] by reason of imports from Indonesia of extruded rubber thread,[4] provided for in heading 4007.00.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).[5]

BACKGROUND

The Commission instituted this investigation effective March 31, 1998, following receipt of a petition filed with the Commission and the Department of Commerce by North American Rubber Thread Co., Ltd., Fall River, MA. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of extruded rubber thread from Indonesia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 19, 1998 (63 FR 64276). The hearing was held in Washington, DC, on March 25, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Askey dissenting.

[3] Commissioner Crawford finds two like products corresponding to the scope of this investigation as defined by Commerce. She finds (1) that the industry in the United States producing food-grade extruded rubber thread is not materially injured, or threatened with material injury, by reason of LTFV imports from Indonesia, and (2) that the industry in the United States producing all other extruded rubber thread is materially injured by reason of such imports.

[4] For purposes of this investigation, Commerce has defined "extruded rubber thread" 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 inches or 18 gauge, in diameter.

[5] The Commission did not determine that it would have found material injury but for the suspension of liquidation of entries of the merchandise under investigation, pursuant to 19 U.S.C. §1673d(b)(4)(B).

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that an industry in the United States is threatened with material injury by reason of imports of extruded rubber thread from Indonesia that have been found by the Department of Commerce ("Commerce") to be sold at less than fair value ("LTFV").[1] [2]

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the "domestic like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 ("the Act") defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[3] In turn, 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."[4]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[5] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[6] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[7] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise being sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[8]

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[1] Commissioner Crawford finds two like products: food-grade extruded rubber thread and all other extruded rubber thread. With respect to food-grade extruded rubber thread, she determines that an industry in the United States is neither materially injured nor threatened with material injury by reason of the subject imports. With respect to all other extruded rubber thread, she determines than an industry in the United States is materially injured by reason of the subject imports. *See* Additional and Dissenting Views of Commissioner Carol T. Crawford.

[2] Commissioner Askey determines that an industry in the United States is neither materially injured nor threatened with material injury by reason of the subject imports from Indonesia. *See* Dissenting Views of Commissioner Thelma J. Askey.

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(10).

[5] *See, e.g.,* Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer and producer perceptions; and, where appropriate, (6) price. *See id.* at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[6] *See, e.g.,* Nippon Steel, 19 CIT at 454-55.

[7] Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991).

[8] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find single like

(continued...)

Commerce has defined the imported article within the scope of these investigations 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[es] or 18 gauge, in diameter.[9]

In the preliminary phase of this investigation the Commission determined that there is one like product.[10] We have been presented with no new arguments or new evidence to change that finding in this final phase of the investigation. Accordingly, for the same reasons articulated in the preliminary phase determination, *i.e.,* the common manufacturing facilities and production employees, channels of distribution and technical interchangeability of all extruded rubber thread, albeit with some limitations, and comparable prices, we determine that there is one like product, consisting of all extruded rubber thread, including food-grade.[11] [12]

B. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product."[13] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all of the domestic production of the like product, whether toll produced, captively consumed, or sold in the domestic merchant market.[14] Based on our domestic like product determination, we find that the domestic industry consists of the producers of all extruded rubber thread, as the Commission found in the preliminary investigation.[15]

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act.[16] That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves

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[8] (...continued)
product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[9] 64 Fed. Reg. 14690, 14691 (Mar. 26, 1999).

[10] Extruded Rubber Thread from Indonesia, Inv. No. 701-TA-375 & 731-TA-787 (Preliminary), USITC Pub. 3106, at 6 (May 1998) ("Preliminary Determination"). Commissioner Crawford determined that there were two like products: food-grade extruded rubber thread and extruded rubber thread other than food-grade. *Id.* at 17.

[11] As indicated above, Commissioner Crawford finds two domestic like products: food-grade and all other extruded rubber thread. As she did in the preliminary phase of the investigation, she bases her findings on the different uses and the lack of interchangeability. *See* Additional and Dissenting Views of Commissioner Carol T. Crawford.

[12] Commissioner Askey does not join the remainder of these views. *See* Dissenting Views of Commissioner Thelma J. Askey.

[13] 19 U.S.C. § 1677(4)(A).

[14] *See* United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996).

[15] Preliminary Determination at 7.

[16] 19 U.S.C. § 1677(4)(B).

importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[17]

In this investigation, Globe Manufacturing Company ("Globe"), ***,[18] imported substantial amounts of extruded rubber thread from Indonesia during the period of investigation.[19] Accordingly, Globe is an importer of subject merchandise and the Commission must consider whether appropriate circumstances exist to exclude it from the domestic industry. North American Rubber Thread Co., Ltd. ("North American") argued in the preliminary phase of the investigation that Globe should be excluded from the domestic industry, because Globe accounted for the vast majority of subject imports from Indonesia. North American maintains in this final phase of the investigation that, in light of the increasing imports of fine-gauge extruded rubber thread from Indonesia -- which compete with Globe's domestic production -- Globe is less able to protect itself from injury from subject imports and that "a justifiable reason exists now to include Globe as part of the domestic industry."[20]

Globe imported a substantial volume of extruded rubber thread from Indonesia over the period of investigation.[21] As noted in the preliminary phase, Globe appears to have restructured its operations to focus on producing high-value products in the United States, such as fine-gauge and heat-resistant extruded rubber thread, and to substitute imports from Indonesia for its production of standard grades of extruded rubber thread, which are competing head-to-head with North American's domestic product.[22]

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[17] *See* Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd without opinion*, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude such parties include:

> (1) the percentage of domestic production attributable to the importing producer;
> (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
> (3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. *See, e.g.*, Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Final), USITC Pub. 2793, at I-7 - I-8 (July 1994).

[18] Confidential Report ("CR") at III-2, Public Report ("PR") at III-1.

[19] CR at III-2 - III-3, PR at III-1.

[20] North American's Posthearing Brief at 3.

[21] Globe imported *** pounds of extruded rubber thread from Indonesia in 1996, *** pounds in 1997 and *** pounds in 1998. Globe's ratio of subject imports to U.S. production was *** percent in 1996, *** percent in 1997 and *** percent in 1998. Its total U.S. production was *** pounds in 1996, *** pounds in 1997 and *** pounds in 1998. CR/PR at Table III-2.

[22] CR at III-4 n.7, PR at III-2 n.7. North American ***. CR at III-1 n.1, PR at III-1 n.1. *See also* Letter from Julie Pennell, President, Hickory Rubber Thread, Inc. to the Honorable Lynn M. Bragg (Mar. 31, 1999) (North American has never offered fine-gauge extruded rubber thread); Letter from Lau Ser Seng, Managing Director, PT Swasthi Parama Mulya, Indonesia to the Honorable Lynn M. Bragg (Mar. 30, 1999) (Swasthi competes with Globe with respect to fine-gauge extruded rubber thread, which North American does not produce).

As a result, Globe significantly reduced its domestic production while significantly increasing the volume of its imports. These facts, coupled with ***, suggest that Globe's primary interest lies in importation.[23]

Accordingly, in this final phase of the investigation we determine that appropriate circumstances exist to exclude Globe and therefore define the domestic industry to consist of North American, the only other domestic producer.

II. NO MATERIAL INJURY BY REASON OF DUMPED IMPORTS[24]

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the dumped imports under investigation.[25] [26] In making these determinations, the Commission must consider the volume of the dumped imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[27] The statute defines "material injury" as

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[23] Commissioner Crawford does not consider Globe's *** as a factor in her decision to exclude Globe from the domestic industry.

[24] Commissioner Crawford determines that the domestic industry producing all other extruded rubber thread (*i.e.*, extruded rubber thread that is not food-grade) is materially injured by reason of the subject imports. *See* Additional and Dissenting Views of Commissioner Carol T. Crawford.

[25] 19 U.S.C. § 1673d(b).

[26] Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is materially injured "by reason of" LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of unfairly traded imports, not by reason of the unfairly traded imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently are causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports." S. Rep. No. 96-249 at 75 (1979). However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id. at 74; H.R. Rep. No. 96-317 at 46-47 (1979). The Commission is not to determine if the unfairly traded imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 96-249 at 74. Rather, it is to determine whether any injury "by reason of" the unfairly traded imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 100-71 at 116 (1987) (emphasis added); Gerald Metals v. United States, 132 F.3d 716 (Fed. Cir. 1997) (rehearing denied).

For a detailed description and application of Commissioner Crawford's analytical framework, *see* Certain Steel Wire Rod from Canada, Germany, Trinidad & Tobago, and Venezuela, Inv. Nos. 731-TA-763-766 (Final), USITC Pub. 3087 at 29 (March 1998) and Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 at 35 (April 1997). Both the Court of International Trade and the United States Court of Appeals for the Federal Circuit have held that the "statutory language fits very well" with Commissioner Crawford's mode of analysis, expressly holding that her mode of analysis comports with the statutory requirements for reaching a determination of material injury by reason of the subject imports. United States Steel Group v. United States, 96 F.3d 1352, 1361 (Fed. Cir. 1996), *aff'g* 873 F. Supp. 673, 694-95 (Ct. Int'l Trade 1994).

[27] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination," but shall "identify each [such] factor . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

"harm which is not inconsequential, immaterial, or unimportant."[28] In assessing whether the domestic industry is materially injured by reason of dumped imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[29] No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[30]

For the reasons discussed below, we determine that the domestic industry producing extruded rubber thread is not materially injured by reason of LTFV imports from Indonesia, but that it is threatened with material injury.[31] [32]

A. Conditions of Competition

We find a number of conditions of competition pertinent to the extruded rubber thread industry. First, extruded rubber thread is manufactured in different varieties, including standard grades, heat-resistant, fine-gauge and food-grade, that comprise various segments of the market.[33] Second, nonsubject imports from Malaysia and Globe's domestic production are significant sources of supply in the U.S. market other than North American and the subject imports.[34] As discussed above, Globe's domestic production is concentrated in fine-gauge and heat-resistant extruded rubber thread, while its imports are concentrated in standard grades. Third, raw material costs account for a substantial proportion of the

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[28] 19 U.S.C. § 1677(7)(A).

[29] 19 U.S.C. § 1677(7)(C)(iii).

[30] 19 U.S.C. § 1677(7)(C)(iii).

[31] Commissioner Crawford finds that the domestic industry producing food-grade extruded rubber thread is neither materially injured nor threatened by material injury by reason of imports of extruded rubber thread from Indonesia. She also finds that the domestic industry producing all other extruded rubber thread is materially injured by reason of imports of extruded rubber thread from Indonesia. Because she finds that there are two domestic like products, she makes separate determinations with respect to each like product. *See* Additional and Dissenting Views of Commissioner Carol T. Crawford.

[32] As an initial matter, we note that we have considered data for the three-year period from 1996 through 1998 in this investigation. We also considered information submitted by North American regarding earlier periods. North American's Prehearing Brief, Exh. 2; *see also* North American's Posthearing Brief at 11-12. Although the Commission usually examines data for a three-year period in its investigations, we have the discretion to determine the appropriate period of investigation. Wieland Werke, AG v. United States, 718 F. Supp. 50, 55 (Ct. Int'l Trade 1989). The Commission has examined longer time periods in other investigations where it found that an examination of the longer time period would better allow it to understand the conditions in the market, the cyclical nature of an industry, or generally provide it with a broader perspective of the market. *See, e.g.,* Fresh Atlantic Salmon from Chile, Inv. No. 731-TA-768 (Final), USITC Pub. 3116 (July 1998), at 14; Portable Electric Typewriters from Singapore, Inv. No. 731-TA-515 (Final), USITC Pub. 2681 (Sept. 1993), at 11; Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (Apr. 1991), at 28); Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-451 (Final), USITC Pub. 2305 (Aug. 1990). We note, however, that petitioner has expressly argued that the extruded rubber thread market is not cyclical. Conference Tr. at 12.

[33] Commissioner Crawford notes that because she finds two domestic like products, she joins in this discussion of the conditions of competition only insofar as it applies to the domestic like product that is defined as all extruded rubber thread other than food-grade extruded rubber thread.

[34] CR/PR at Tables I-1, III-2. Imports from Malaysia are subject to an antidumping duty order. CR at I-2, PR at I-2.

total production cost of extruded rubber thread. The price of natural rubber, the primary raw material, declined 46.7 percent over the period of investigation.[35]

In addition, we note that within specific product types extruded rubber thread is a commodity product sold largely on the basis of price.[36] Moreover, demand is relatively inelastic, such that modest reductions in price would be unlikely to stimulate meaningful additional demand for extruded rubber thread, whether now or in the near future.[37] [38]

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[39]

Subject imports increased over the period of investigation. The volume of these imports nearly doubled,[40] while their value rose by more than a factor of two.[41] Subject imports' market share also increased, both in terms of quantity and value.[42] Despite these increases, U.S. market share increased in 1998.[43] This increase in domestic market share may reflect the fact that Globe reduced its imports in 1998, possibly as a consequence of the filing of the petition in March 1998.[44] P. T. Swasthi Parama Mulya, the other Indonesian exporter, ***, but these exports are concentrated in fine-gauge extruded rubber thread, which does not compete directly with North American.[45]

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[35] CR at V-1, PR at V-1. Rubber latex accounts for *** percent of total cost of goods sold. CR at V-1, PR at V-1. In the preliminary determination, the Commission also noted that the level of demand for extruded rubber thread is prone to noticeable fluctuations. Preliminary Determination at 10. We find that this condition has changed in the final phase of the investigation in that apparent consumption increased from *** pounds in 1996 to *** pounds in 1997, then declined only slightly to *** pounds in 1998. CR/PR at Table I-1.

[36] Tr. at 10; Petitioner's Prehearing Brief at 1; *see* CR at II-8 - II-13, PR at II-4 - II-8.

[37] Petitioner's Prehearing Brief at 3.

[38] Commissioner Crawford concurs that these conditions of competition, among others, are relevant to an analysis of the U.S. market. Because she finds separate domestic like products and separate industries, Commissioner Crawford does not join the remainder of these views. For her separate determinations, *see* Additional and Dissenting Views of Commissioner Carol T. Crawford.

[39] 19 U.S.C. § 1677(7)(C)(i).

[40] The quantity of U.S. shipments of extruded rubber thread from Indonesia increased from *** pounds in 1996 to *** pounds in 1998. CR/PR at Table I-1.

[41] The value of these shipments increased from $*** in 1996 to $*** in 1998. CR/PR at Table I-1.

[42] In 1996, subject imports' share of the quantity of apparent U.S. consumption was *** percent, whereas in 1998, it was *** percent. In 1996, subject imports' share of the value of apparent U.S. consumption was *** percent and it was *** percent in 1998. CR/PR at Table IV-2.

[43] U.S. market share was *** percent in 1996 and *** percent in 1997, and then increased to *** percent in 1998. CR/PR at Table C-2.

[44] *See* Tr. at 7 ("our filing of the dumping petition caused a leveling off and a reduction in such Globe Indonesian import activity to North American's benefit").

[45] *See* CR at VII-4, PR at VII-3; Letter from Julie Pennell, President, Hickory Rubber Thread, Inc. to The Honorable Lynne Bragg [*sic*] (rec'd Mar. 25, 1999), at 2; Foreign Producer Questionnaire Response of P. T. Swasthi Parama Mulya.

C. Price Effects of Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports,

> the Commission shall consider whether -- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[46]

The record shows that purchasers of extruded rubber thread consider price to be a significant -- albeit not necessarily the most important -- factor in making purchasing decisions.[47] The record also shows that domestic extruded rubber thread and subject imports are generally substitutable.[48]

In this investigation we collected quarterly pricing data for three representative extruded rubber thread products. Subject imports consistently undersold the domestic product.[49] The price of domestic products has declined over the period of investigation.[50] Given the significant decreases in rubber latex costs, however, it is difficult to assess to what extent decreasing extruded rubber thread prices are attributable to declining raw material costs rather than subject imports.[51] We find that the declines are due in part to the decreased cost of rubber latex, which accounts for *** percent of the total cost of goods sold.[52] We also note that prices stabilized in 1998, subsequent to the filing of the petition in March 1998,[53] and there is information in the record indicating that the pendency of the investigation may have contributed to more stable prices in 1998.[54]

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[46] 19 U.S.C. § 1677(7)(C)(ii).

[47] CR at II-8 - II-9 & Table II-2, PR at II- 5 & Table II-2.

[48] CR at II-8 - II-9, PR at II-5.

[49] There were 21 instances in which price comparisons between the U.S. and Indonesian products were possible. In every instance, the Indonesian product was priced below the U.S. product. CR/PR at Tables V-1 - V-3, Figure V-3. Margins of underselling ranged from *** to *** percent. CR/PR at Table V-5.

[50] *See* CR/PR at Tables V-1 - V-3.

[51] *See* Tr. at 20.

[52] CR at V-1, PR at V-1; *see* Tr. at 19-20.

[53] *See* CR/PR at Tables V-1 - V-3.

[54] *See* CR at V-5 n.10; PR at V-3 n.10; North American's Prehearing Brief at 7-8.

D. Impact of Subject Imports [55] [56]

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[57] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development.

U.S. production increased during the period of investigation.[58] While U.S. capacity was steady throughout the period, capacity utilization increased, although significant excess capacity remains.[59] Net sales also increased, when measured both by quantity and value.[60] Employment measures also improved somewhat.[61] During the period, there was a decline, albeit irregular, in inventories.[62] Capital expenditures fell between 1996 and 1997, but then increased to the previous level in 1998.[63] Research and development expenditures decreased over the entire period.[64] Gross profit increased and the domestic industry experienced an operating profit throughout the period of investigation.[65] The cost of

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[55] As part of its consideration of the impact of imports, the statute as amended by the Uruguay Round Agreements Act ("URAA") specifies that the Commission is to consider "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V). Commerce's final dumping margins range from 5.13 percent to 28.29 percent. INV-W-076 (Apr. 26, 1999), Att. B.

[56] Chairman Bragg notes that she does not ordinarily consider the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. *See* Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

[57] 19 U.S.C. § 1677(7)(C)(iii). *See also* URAA Statement of Administrative Action, H.R. Rep. 316, 103d Cong., 2d Sess., vol. I, at 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports."). *See also id.* at 851.

[58] U.S. production increased from *** pounds in 1996 to *** pounds in 1997, where it remained in 1998. CR/PR at Table III-3.

[59] U.S. capacity was *** pounds from 1996 to 1998, but capacity utilization climbed from *** percent in 1996 to *** percent in 1997, then rose further to *** percent in 1998. CR/PR at Table III-3.

[60] The quantity of net sales increased from *** pounds in 1996 to *** pounds in 1997, then remained steady at *** pounds in 1998. The value of net sales rose from $*** in 1996 to $*** in 1997, then fell to $*** in 1998. CR/PR at Table VI-2.

[61] Between 1996 and 1997, the number of production and related workers decreased from *** to ***, then increased to *** in 1998. Hours worked increased from *** to *** in 1997, then increased further to *** in 1998. Wages paid remained steady at $*** from 1996 to 1997, then rose to $*** in 1998. Productivity increased from *** pounds per hour to *** pounds per hour between 1996 and 1997, then fell to *** pounds per hour in 1998. CR/PR at Table III-6.

[62] Inventories fell from *** pounds in 1996 to *** pounds in 1997, then climbed slightly to *** pounds in 1998. CR/PR at Table III-5.

[63] Capital expenditures declined from $*** in 1996 to $*** in 1997, then rose to $*** in 1998. CR/PR at Table VI-5.

[64] Research and development expenditures decreased from $*** in 1996 to $*** in 1997, then climbed to $*** in 1998. CR/PR at Table VI-5.

[65] Gross profit increased from $*** in 1996 to $*** in 1997, then rose further to $*** in 1998. Operating profit increased from $*** in 1996 to $*** in 1997, then to $*** in 1998. CR/PR at Table VI-2.

goods sold also declined, primarily reflecting declining rubber latex prices.[66] This significant decrease in raw material costs appears to have contributed to the industry's modestly improved financial performance in 1998 and, to some extent, may mask the full impact of subject imports. Thus, many of the factors we examined show a mixed picture of an industry whose production, sales and profits are increasing, while prices for its product have declined and imports have increased.

We are directed by the statute to consider the pendency of this investigation in considering any change in volume, price effects and impact of the subject imports after the filing of the petition.[67] North American argues that it benefitted in 1998 from the filing of the petition and the pendency of the investigation.[68] Because some of these indicators show improvement particularly at the end of the period of investigation, it appears that the pendency of the investigation, which commenced in March 1998, affected the financial condition of the domestic industry. In particular, we note that Globe reduced the volume of its imports in 1998.[69] As noted earlier, Globe primarily imports standard grades of extruded rubber thread, which compete directly with North American's domestic production.[70] The decrease in Globe's imports in 1998 may explain why North American recaptured market share in that year.[71] While we believe that North American's stronger performance in 1998 is related to some extent to the pendency of this investigation, the record indicates that other factors -- such as significantly decreased rubber latex costs -- also contributed to North American's improved performance.

In sum, based on our consideration of the volume, price effects and impact of subject imports on the industry, we do not find present material injury by reason of subject imports.

III. THREAT OF MATERIAL INJURY BY REASON OF DUMPED IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[72] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued.[73] In making our determination, we have considered all statutory factors that are relevant to this investigation,[74] including

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[66] The cost of goods sold increased from $*** in 1996 to $*** in 1997, then decreased to $*** in 1998. CR/PR at Table VI-2.

[67] 19 U.S.C. § 1677(7)(I).

[68] North American's Prehearing Brief at 7; Tr. at 11.

[69] CR/PR at Table III-2.

[70] *See* CR at III-4 n.7, PR at III-2 n.7. Hickory Rubber Thread, Inc., another U.S. importer, ***, but these imports consist primarily of fine-gauge extruded rubber thread. *See* Importer Questionnaire Response of Hickory Rubber Thread, Inc.

[71] *See* CR/PR at Table C-2.

[72] 19 U.S.C. § 1673b(a) and 1677(7)(F)(ii).

[73] 19 U.S.C. § 1677(7)(F)(ii).

[74] 19 U.S.C. § 1677(7)(F)(i). Factor I is inapplicable because this investigation does not involve countervailing duties. We note that petitioner had alleged countervailing duties, but Commerce made a negative final determination. 64 Fed. Reg. 14695 (Mar. 26, 1999). Factor VI regarding product-shifting is not an issue in this investigation. Factor VII is inapplicable because this investigation does not involve imports of a raw agricultural

(continued...)

imminent increases in production capacity in Indonesia, the rate of the increase in the volume and market penetration of subject imports, the low prices of subject imports, and the substantial inventories of subject merchandise.

The volume of the subject imports nearly doubled over the period examined[75] and market penetration increased substantially.[76] Production of extruded rubber thread in Indonesia increased significantly over the period.[77] There remains considerable excess capacity in Indonesia.[78] Also, there is evidence in the record that ***, Bakrie Rubber Industry, plans to increase substantially its production capacity.[79] Further, P.T. Perleebunan Nusuntara III, *** producer, recently began taking steps to sell extruded rubber thread in the United States.[80] The United States is the largest market for the Indonesian producers and the percentage of shipments to the U.S. market increased during the period, while Indonesia's home market shipments decreased by almost one-half over the period.[81] Inventories increased during the period of investigation and were very substantial at the end of the period.[82] All of these factors indicate the likelihood of substantially increased imports of subject merchandise unless an order is issued.

As stated above, consistent underselling at substantial margins was present throughout the period of investigation.[83] Moreover, domestic prices declined over the period.[84] While we attribute these price declines in part to decreases in rubber latex costs, the pricing evidence from the period of investigation indicates that subject imports will enter the U.S. market at prices that are likely to have significant price depressing or suppressing effects on the domestic product, particularly as the volume of subject imports increases. In this regard, we note that price is a very important factor in purchasing decisions and

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[74] (...continued)
product.

[75] U.S. shipments of subject imports from Indonesia increased from *** pounds in 1996 to *** pounds in 1997, then to *** pounds in 1998. CR/PR at Table I-1.

[76] Subject imports' market share increased from *** percent in 1996 to *** percent in 1997, then increased further to *** percent in 1998. CR/PR at Table IV-2.

[77] Indonesian production of subject imports increased from *** pounds in 1996 to *** pounds in 1997, then fell to *** pounds in 1998. CR/PR at Table VII-1.

[78] Capacity utilization increased from *** percent in 1996 to *** percent in 1997, then decreased to *** percent in 1998. CR/PR at Table VII-1.

[79] During the period of investigation, Bakrie operated two extruders, while it has plans to operate four. It was to expand from two to three extruders by March 1999, and then add a fourth by August 2000. Petitioner's Prehearing Brief at 12-13 & Exhs. 5-6; Tr. at 12-13, 40.

[80] CR at VI-11, PR at VI-2; Petitioner's Prehearing Brief at 13-14. This company ***. *See* CR at VI-11, PR at VI-2.

[81] Shipments to the United States increased from *** pounds in 1996 to *** pounds in 1997, then increased further to *** pounds in 1998. Home market shipments rose from *** pounds in 1996 to *** pounds in 1997, then declined to *** pounds in 1998. Exports to all other markets remained steady at *** pounds in 1996 and 1997, then climbed to *** pounds in 1998. CR/PR at Table VII-1.

[82] U.S. importers' end-of period inventories increased from *** pounds in 1996 to *** pounds in 1997, then fell only slightly to *** pounds in 1998. The ratio of U.S. importers' end-of-period inventories to U.S. shipments of imports increased from *** percent in 1996 to *** percent in 1997, then decreased to *** percent in 1998. CR/PR at Table VII-2.

[83] *See* CR/PR at Tables V-1 - V-3.

[84] CR/PR at Tables V-1 - V-3.

domestic and Indonesian extruded rubber thread are broadly interchangeable.[85] Also, as discussed above, the filing of the petition may have constrained import pricing in 1998 to some extent,[86] suggesting that more aggressive pricing is likely unless an order is issued.

The domestic industry's condition improved somewhat during the period, but was never robust.[87] While North America has earned profits, it reported that it has not been able to implement several capital expansion projects in which it is interested and has had to delay the speed at which it was moving forward with others, including utilization of a patent for a new extruded rubber thread product, which was granted over 18 months ago.[88] Further, four years ago North American bought an extruded rubber thread production line belonging to a former competitor, but states it has not been able to begin commercial production with this equipment because of the impact of dumped subject imports.[89] Moreover, as discussed earlier, North American appears to have benefitted from the filing of its petition in early 1998. We find a substantial likelihood of significantly increased negative effects on the domestic industry's production and development efforts due to subject imports, which are likely to worsen in the immediate future in light of the fact that subject imports' volumes and market penetration are increasing.[90]

In sum, we find that the volume of subject imports will increase significantly and these imports will enter the U.S. market at prices that are likely to have significant depressing or suppressing effects, unless an order is issued. Such negative volume and price effects would adversely impact the domestic industry. Accordingly, we find that the domestic industry producing extruded rubber thread is threatened with material injury by reason of subject imports from Indonesia.

We do not find that but for the suspension of liquidation, we would have found the domestic industry to be experiencing material injury.[91] The record does not indicate that absent suspension of liquidation in October 1998, the domestic industry would have been materially injured by reason of subject imports.

CONCLUSION

For the foregoing reasons, we determine that the domestic industry producing extruded rubber thread is threatened with material injury by reason of subject imports from Indonesia.

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[85] CR at II-7 - II-8, PR at II-3 - II-4.

[86] CR at V-5 n.10, PR at V-3 n.10; North American's Prehearing Brief at 7-8 & Exh. 3.

[87] *See* CR/PR at Tables III-3, III-6, VI-2.

[88] Petitioner's Prehearing Brief, Exh. 2; Petitioner's Posthearing Brief at 10, 16-17, 22-23, 25; Tr. at 33-34.

[89] Petitioner's Posthearing Brief at 16-17.

[90] *See* CR at IV-1 -IV-2, PR at IV-1.

[91] *See* 19 U.S.C. § 1673d(b)(4).

ADDITIONAL AND DISSENTING VIEWS OF COMMISSIONER CAROL T. CRAWFORD

On the basis of the information contained in the record of this investigation, I find two like products, extruded rubber thread ("ERT") other than food-grade ERT and food-grade ERT. I determine that the industry in the United States producing ERT other than food-grade ERT is materially injured by reason of imports of ERT other than food-grade ERT from Indonesia that are sold in the United States at less-than-fair-value ("LTFV"). However, I determine that the industry in the United States producing food-grade ERT is not materially injured or threatened with material injury by reason of imports of food-grade ERT from Indonesia that are sold in the United States at LTFV. Because my findings differ from those of my colleagues on the issues of like product and present material injury, my separate views follow.

I. LIKE PRODUCT

I have joined my colleagues in finding that all types of ERT, other than food-grade ERT, and all gauges of ERT should be included in the same like product. However, I do not concur in their conclusion to include food-grade ERT in the same like product as other ERT. Rather, I find that food-grade ERT is a separate like product.

While there are differences in physical characteristics between food-grade ERT and other ERT, a clear dividing line exists based on different uses and the lack of interchangeability. Food-grade ERT is used only in rubber netting that is used to wrap food, primarily boneless meats. Food-grade ERT must satisfy Food and Drug Administration ("FDA") requirements for use as a food wrap. Therefore, purchasers of food-grade ERT are prohibited from using other ERT to wrap food. Consequently, consumers simply cannot use other types of ERT as an alternative to food-grade ERT. While it may be possible that food-grade ERT could be used in place of other ERT, no evidence has been offered that such interchangeability actually occurs except in extremely rare instances.[1] In sum, the legal restrictions on food-grade ERT dictate different uses for food-grade ERT and other ERT.

The FDA requirements create a clear dividing line between food-grade ERT and other ERT. Therefore, I find two like products, food-grade ERT and ERT other than food-grade ERT.

II. DOMESTIC INDUSTRY

Having found two like products, I find two domestic industries, the industry producing ERT other than food-grade ERT and the industry producing food-grade ERT. My analyses of the composition of these respective industries follow.

A. The Industry Producing ERT other than Food-grade ERT

Both petitioner North American and Globe produce ERT other than food-grade ERT. Globe is a related party because it imports ERT from Indonesia. I concur in my colleagues' finding that appropriate circumstances exist in these investigations to exclude Globe from the domestic industry. Excluding Globe from the domestic industry leaves only one firm, North American, that is a domestic producer. Therefore, the domestic industry producing ERT other than food-grade ERT consists solely of North American.

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[1] CR at I-10; PR at I-7.

B. The Industry Producing Food-grade ERT

Only one firm, Globe, reported producing any food-grade ERT during the period of investigation. It produced small quantities of food-grade ERT during the period of investigation.[2] No domestic producer imports subject imports of food-grade ERT. Rather, all of the subject imports of food-grade ERT are imported by a firm that is not a domestic producer of food-grade ERT.[3] There is no other evidence on the record to indicate that any domestic producer is a related party. Therefore, I conclude that no domestic producer of food-grade ERT is a related party. Consequently, the domestic industry producing food-grade ERT consists of Globe, the sole domestic producer of food-grade ERT.

III. ANALYTICAL FRAMEWORK

In determining whether a domestic industry is materially injured by reason of LTFV imports, the statute directs the Commission to consider:

> (I) the volume of imports of the merchandise which is the subject of the investigation,
> (II the effect of imports of that merchandise on prices in the United States for like products, and
> (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States....[4]

In making its determination, the Commission may consider "such other economic factors as are relevant to the determination."[5] In addition, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry ... within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[6]

The statute directs that we determine whether there is material injury by reason of the LTFV imports. Thus we are called upon to evaluate the effect of such dumped imports on the domestic industry and determine if they are causing material injury. There may be, and often are, other "factors" that are causing injury. These factors may even be causing greater injury than the dumping. However, the statute does not require us to weigh or prioritize the factors that are independently causing material injury. Rather, the Commission is to determine whether injury "by reason of" the dumped imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effects of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry."[7] It is important, therefore, to assess the effects of the dumped imports in a way that distinguishes those effects from the effects of other factors unrelated to the dumping. To do this, I compare the current condition of the industry to the industry conditions that would have existed without

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[2] CR at I-10; PR at I-7.

[3] CR at I-9; PR at I-6; Preliminary CR/PR at Table VII-1.

[4] 19 U.S.C. § 1677(7)(B)(i).

[5] 19 U.S.C.§ 1677(7)(B)(ii).

[6] 19 U.S.C. § 1677(7)(C)(iii).

[7] S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added); Gerald Metals, Inc. v. United States, 132 F.3d 716 (Fed. Cir. 1997) (rehearing denied).

the dumping, that is, had subject imports all been fairly priced. I then determine whether the change in conditions constitutes material injury.[8]

In my analysis of material injury, I evaluate the effects of the dumping[9] on domestic prices, domestic sales, and domestic revenues. To evaluate the effects of the dumping on domestic prices, I compare domestic prices that existed when the imports were dumped with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of the dumping on the quantity of domestic sales,[10] I compare the level of domestic sales that existed when imports were dumped with what domestic sales would have been if the imports had been priced fairly. The combined price and quantity effects translate into an overall domestic revenue impact. Understanding the impact on the domestic industry's prices, sales, and overall revenues is critical to determining the state of the industry, because the effects on the statutory impact factors[11] (*e.g.*, employment, wages, *etc.*) are derived from the impact on the domestic industry's prices, sales, and revenues.

I then determine whether the price, sales, and revenue effects of the dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been priced fairly. If so, the domestic industry is materially injured by reason of the dumped imports.

For the reasons discussed below, I determine that the domestic industry producing ERT other than food-grade ERT is materially injured by reason of the dumped imports from Indonesia. However, I find that the domestic industry producing food-grade ERT is not materially injured or threatened with material injury by reason of the dumped imports from Indonesia.

IV MATERIAL INJURY BY REASON OF LTFV IMPORTS OF ERT OTHER THAN FOOD-GRADE ERT FROM INDONESIA

The statute requires us to consider the volume of subject imports, their effect on domestic prices, and their impact on the domestic industry. I consider each requirement in turn, in the context of the conditions of competition distinctive to the domestic industry producing ERT other than food-grade ERT.

A. Conditions of Competition

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of the dumping. This environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market.

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[8] Both the Court of International Trade and the United States Court of Appeals for the Federal Circuit have held that the "statutory language fits very well" with my mode of analysis, expressly holding that my mode of analysis comports with the statutory requirements for reaching a determination of material injury by reason of the subject imports. United States Steel Group v. United States, 96 F.3d 1352, at 1361 (Fed.Cir. 1996), *aff'g* 873 F.Supp. 673, 694-695 (Ct. Int'l Trade 1994).

[9] As part of its consideration of the impact of imports, the statute as amended by the URAA now specifies that the Commission is to consider in an antidumping proceeding, "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V).

[10] In examining the quantity sold, I take into account sales from both existing inventory and new production.

[11] 19 U.S.C. § 1677(7)(C)(iii).

My analysis of the conditions of competition that are distinctive to the affected industry,[12] *i.e.*, the domestic industry producing ERT other than food-grade ERT, follows.

1. Demand Conditions

An analysis of demand conditions tells us what options are available to purchasers, and how they are likely to respond to changes in market conditions, for example an increase in the general level of prices in the market. Purchasers generally seek to avoid price increases, but their ability to do so varies with conditions in the market. The willingness of purchasers to pay a higher price will depend on the importance of the product to them (*e.g.*, how large a cost factor), whether they have options that allow them to avoid the price increase, for example by switching to alternative products, or whether they can exercise buying power to negotiate a lower price. An analysis of these demand-side factors tells us whether demand for the product is elastic or inelastic, that is, whether purchasers will reduce the quantity of their purchases if the price of the product increases. For the reasons discussed below, I find that the overall elasticity of demand for ERT is relatively low.

Importance of the Product and Cost Factor. Key factors that measure the willingness of purchasers to pay higher prices are the importance of the product to purchasers and the significance of its cost. In the case of an intermediate product (*e.g.*, an input), the importance will depend on its cost relative to the total cost of the downstream product in which it is used. When the price of the input is a small portion of the total cost of the downstream product in which it is used, changes in the price of the input are less likely to alter demand for the downstream product, and, by extension, demand for the input.

The cost share of ERT in downstream products varies significantly depending on the product in which it is being used, ranging from 2 to 70 percent. It appears that for the large majority of products the cost share is quite high, ranging from 10 to 40 percent.[13] This high cost share would indicate a fairly high elasticity of demand. However, these cost shares are for the first downstream product in which ERT is used (*e.g.*, the elastic webbing waistband in underwear). Thus, ERT's cost share in the final downstream product in which it is used is likely to be much smaller for a number of products. In fact, North American has provided evidence that suggests the cost share of ERT in a finished garment is indeed quite small, at about *** per garment.[14] As such, the elasticity of demand will be lower.

Alternative Products. Another important factor in determining whether purchasers would be willing to pay higher prices is the availability of viable alternative products. Often purchasers can avoid a price increase by switching to alternative products. If such an option exists, it can impose discipline on producer efforts to increase prices.

There are only very limited substitute products for ERT, and those that can be substituted apparently are much higher priced so that substitution is not economically feasible.[15] The limited

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[12] 19 U.S.C. § 1677(7)(C).

[13] CR at II-7; PR at II-3.

[14] The current sales price of finished one-inch elastic knitted webbing, one of the most common sizes, is about *** per yard. For woven webbing, the sales price is about *** per yard. Rubber thread constitutes about 50 percent of the cost of the raw material in elastic webbing (depending on the price of the rigid yarn), and about 40 percent of the final sales price. Assuming that a typical garment contains one yard of elastic webbing, and using an average sales price of *** per yard for the elastic web, then the cost of the rubber thread is *** per garment. Prehearing Brief of Petitioner, North American Rubber Thread, Exhibit 7 at 48.

[15] CR at II-5 to II-7; PR at II-2 to II-3.

availability of substitute products reduces the elasticity. In addition, petitioner testified that "the demand for elastic thread is inelastic."[16]

Because the cost share of ERT in the final downstream products is likely to be quite small and there is only limited availability of substitute products, demand is likely to be fairly inelastic.

2. Substitutability

Simply put, substitutability measures the similarity or dissimilarity of imported versus domestic products from the purchaser's perspective. Substitutability depends upon 1) the extent of product differentiation, measured by product attributes such as physical characteristics, suitability for intended use, design, convenience or difficulty of usage, quality, *etc.*; 2) differences in other nonprice considerations such as reliability of delivery, technical support, and lead times; and 3) differences in terms and conditions of sale. Products are close substitutes and have high substitutability if product attributes, other nonprice considerations, and terms and conditions of sale are similar.

While price is nearly always important in purchasing decisions, non-price factors that differentiate products determine the value that purchasers receive for the price they pay. If products are close substitutes, their value to purchasers is similar, and thus purchasers will respond more readily to relative price changes. On the other hand, if products are not close substitutes, relative price changes are less important and are therefore less likely to induce purchasers to switch from one source to another.

Because demand elasticity for ERT is relatively low, overall purchases will not decline significantly if the overall prices of ERT increase. However, purchasers can avoid price increases from one source by seeking other sources of ERT. In addition to any changes in overall demand, the demand for ERT from different sources will decrease or increase depending on their relative prices and their substitutability. If ERT from different sources is substitutable, purchasers are more likely to shift their demand when the price from one source (*i.e.*, subject imports) increases. The magnitude of this shift in demand is determined by the degree of substitutability among the sources.

Purchasers have four potential sources of ERT: domestically-produced ERT, subject imports, nonsubject imports, and ERT produced by Globe.[17] Purchasers are more or less likely to switch from one source to another depending on the similarity, or substitutability, between and among them. I have evaluated the substitutability among ERT from different sources as follows.

Overall, the substitutability among different sources of ERT largely is determined by the product mixes of the various sources. Data regarding these product mixes were presented during the preliminary phase of this investigation. However, because 1998 data were unavailable for the different product mixes, I have relied upon the data from the preliminary phase of this investigation for an analysis of the issue of substitutability among different sources of ERT. The product mix within the domestic industry is *** dominated by standard talcless ERT, which accounted for about *** percent of North American's 1997 shipments. Similarly, standard talcless ERT accounted for *** percent of non-food-grade shipments of subject imports from Indonesia.[18] Based on these product mixes, the domestic ERT and the subject imports appear to be very good substitutes for each other. The substitutability is somewhat reduced by nonprice factors. As noted earlier, Globe imports the subject product from Indonesia and

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[16] Commission hearing in Extruded Rubber Thread from Malaysia, Inv. No. 753-TA-34, transcript at p. 26.

[17] Although Globe is excluded from the domestic industry, it does not somehow disappear from the U.S. market. Rather, Globe remains in the U.S. market as an alternative source of supply of ERT.

[18] Preliminary CR/PR at Table C-3.

resells it to its longstanding customers, who require Globe's dependable quality and service. These longstanding relationships and quality requirements reduce the substitutability between the domestic product and the subject imports. In addition, record evidence indicates that the quality of subject imports from Indonesia is higher than the quality of North American's ERT, which further reduces the substitutability between the two. While quality differences reduce substitutability, the overwhelming overlap in product mixes indicates that subject imports and the domestic product are at least moderate, and more likely, fairly good substitutes for each other.

Subject Indonesian imports and nonsubject Malaysian imports appear to be fairly good substitutes for each other. There is significant overlap in the product mixes of these two sources, with standard talcless ERT accounting for *** percent and *** percent of shipments, excluding food-grade ERT, of Indonesian imports and Malaysian imports, respectively in 1997.[19] In addition, there are few, if any, quality differences between these two sources. Therefore, subject imports from Indonesia and nonsubject Malaysian imports are likely fairly good substitutes for each other.

Excluding food-grade ERT, standard talcless ERT accounted for *** percent of shipments of nonsubject Malaysian ERT in 1997. Thus, there is a smaller overlap in these product mixes than between the domestic product and the subject imports. However, the overlap in the product mixes of Malaysian ERT and North American's ERT is still significant. Therefore, these two sources of ERT are likely to be moderate or fairly good substitutes for each other. However, as with subject Indonesian imports, there are quality differences between Malaysian ERT and North American's ERT that reduce the substitutability between them. Therefore, nonsubject Malaysian imports and the domestic product are likely only moderate substitutes for each other.

In 1997, standard talcless ERT accounted for *** percent of Globe's domestic shipments.[20] Thus, based on product mix alone, Globe's ERT is a poor substitute for ERT from the other three sources. However, as noted above Globe can and does manufacture a product comparable to the subject Indonesian ERT, but has replaced nearly all of its domestic production with subject imports of standard talcless ERT from Indonesia. Thus, Globe has the ability to change its product mix to produce more standard talcless ERT. In 1997, Globe had *** pounds of unused capacity available with which it could have produced standard talcless ERT.[21] However, Globe's clear focus on higher-value products limits the potential for using its ability to produce the comparable standard talcless product. Consequently, Globe's ERT is something less than a moderate substitute, and likely a poor substitute, for ERT from the other three sources.

3. Supply Considerations

Supply conditions in the market are a third condition of competition. Supply conditions determine how producers would respond to an increase in demand for their product, and also affect whether producers are able to institute price increases and make them stick. Supply conditions include producers' capacity utilization, their ability to increase their capacity readily, the availability of inventories and products for export markets, production alternatives and the level of competition in the market.

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[19] Preliminary CR/PR at Table C-3.

[20] Preliminary CR/PR at Table C-3. In 1997, Globe's shipments of its U.S.-produced talcless product accounted for *** percent of its combined shipments of domestic and Indonesian standard talcless product in 1997. Preliminary CR/PR at Table III-2.

[21] Preliminary CR/PR at Table III-3.

Since Globe is excluded from the domestic industry, the elasticity of supply is based solely on the information relating to North American. For the reasons discussed below, I find that the elasticity of supply of ERT other than food-grade ERT is quite high.

Capacity Utilization and Capacity. Unused capacity can exercise discipline on prices, if there is a competitive market, as no individual producer could enforce a price increase. Any attempt at a price increase by any one producer would be beaten back by its competitors who have the available capacity and are willing to sell more at a lower price. In 1997 North American's capacity utilization, and thus the domestic industry's capacity utilization, was *** percent. In absolute terms, the domestic industry had unused capacity of *** pounds in 1998.[22] Consequently, the domestic industry had *** capacity available to supply the demand for subject imports.

Inventories and Exports. In 1997 the domestic industry's inventories of *** pounds accounted for *** percent of its total shipments, while its exports of *** pounds accounted for *** percent of total shipments.[23] Nominally, these inventories and exports represent available supply that North American could have shipped into the U.S. market. While North American's exports conceivably could be used to supply demand in the U.S. market, the unit value of its export shipments is *** the unit value of its domestic shipments.[24] Thus, it is unlikely that exports would be diverted absent a significant increase in the price in the U.S. market. Therefore, it is likely that only North American's unused capacity and inventories would be available to supply an increase in demand for the domestic product.

Level of Competition. The level of competition in the domestic market has a critical effect on producer responses to demand increases. A competitive market is one with a number of suppliers in which no one producer has the power to influence price significantly. In the U.S. market, the domestic industry consists of only one producer, North American. Nevertheless, there is significant competition in the market. Nonsubject imports are a substantial source of competition in this market, accounting for *** percent of consumption, by quantity, in 1998.[25] In addition, Globe remains a source of supply for ERT, even though it is excluded from the domestic industry. Although the domestic industry consists of only one producer, there is substantial competition from nonsubject imports and Globe. Consequently, I find that there is a significant level of competition in the U.S. market for ERT other than food-grade ERT.

Based on the level of competition in the U.S. market, and the domestic industry's unused capacity and inventories, I find that domestic supply is fairly elastic.

B. Volume of Subject Imports

Subject imports from Indonesia increased from *** pounds in 1996 to *** pounds in 1997, and then to *** pounds in 1998. The value of subject imports from Indonesia was $*** in 1996, $*** in 1997, and $*** in 1998.[26] By quantity, the subject imports held a market share of *** percent in 1996, *** percent in 1997, and *** percent in 1998. Their market share by value was *** percent in 1996, *** percent in 1997, and *** percent in 1998.[27]

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[22] CR/PR at Table C-2.

[23] Id.

[24] Id.

[25] Id.

[26] CR/PR at Table IV-1.

[27] CR/PR at Table C-2.

Nonsubject imports are a major factor in the U.S. market. Total nonsubject imports increased from *** pounds in 1996 to *** pounds in 1997, before falling to *** pounds in 1998. The value of total nonsubject imports was $*** in 1996, $*** in 1997, and $*** in 1998.[28] By quantity, total nonsubject imports held a market share of *** percent in 1996, *** percent in 1997, and *** percent in 1998. The market share by value was *** percent in 1996, *** percent in 1997, and *** percent in 1998.[29]

Malaysian ERT, which has been fairly traded since the 1992 orders, accounted for the largest portion of nonsubject imports. Nonsubject imports from Malaysia increased from *** pounds in 1996 to *** pounds in 1997, but decreased to *** pounds in 1998. The value of nonsubject imports from Malaysia was $*** in 1996, $*** in 1997, and $*** in 1998.[30] By quantity, nonsubject imports from Malaysia held a market share of *** percent in 1996, *** percent in 1997, and *** percent in 1998. Malaysian market share by value was *** percent in 1996, *** percent in 1997, and *** percent in 1998.[31]

While it is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry, whether the volume is significant cannot be determined in a vacuum, but must be evaluated in the context of its price and volume effects. Based on the market share of subject imports from Indonesia and the conditions of competition in the domestic market, the volume of the subject imports is significant in light of its price and volume effects.

C. Effect of Subject Imports on Domestic Prices

I find that subject imports are not having significant effects on domestic prices for ERT. To determine the effect of subject imports on domestic prices, I examine whether the domestic industry could have increased its prices had the subject imports not been dumped.

In most cases, if the subject imports had not been traded unfairly, their prices in the U.S. market would have increased. In these investigations the final dumping margins range from 5.13 to 28.29 percent.[32] Based on these margins alone, prices for the subject imports likely would have risen if they had been priced fairly, and they would have become more expensive relative to the domestic product and other alternative sources for the product (*e.g.*, nonsubject imports from Malaysia and ERT produced by Globe). In such a case, if the products are substitutable, demand would have shifted away from subject imports and towards the relatively less-expensive products.

At fairly traded prices, a substantial portion of the demand supplied by subject imports from Indonesia likely would have shifted away from this source. It is likely that most of this shift in demand away from subject imports would have been captured by both the domestic industry and nonsubject imports from Malaysia because they are all fairly good substitutes for each other. However, it is likely that very little of the shift in demand away from subject imports would have been captured by Globe,

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[28] CR/PR at Table IV-1.

[29] CR/PR at Table C-2.

[30] CR/PR at Table IV-1.

[31] CR/PR at Table C-2.

[32] INV-W-076 (Apr. 26, 1999), Att. B.

because ERT from this source is a poor substitute for subject Indonesian ERT.[33] Thus it is likely that demand for both the domestic product and nonsubject imports would have increased.

Since subject imports from Indonesia held a market share of *** percent in 1998,[34] the shift in demand away from the subject imports likely would have been fairly large. By quantity, nonsubject imports from Malaysia accounted for *** percent of the market in 1998, and thus represent significant competition for the domestic industry, which accounted for only *** percent of the market in 1998.[35] Therefore, more of the demand for subject imports likely would have shifted to nonsubject imports than to the domestic product. Nonetheless, since subject imports from Indonesia and domestic ERT are fairly good substitutes for each other, a significant portion of the demand for subject imports likely would have shifted to the domestic product.

The elasticity of demand indicates the domestic supplier should have been able to increase prices in response to this shift in demand. However, any attempt by the domestic industry to increase its prices in response to the shift in demand would have been unsuccessful. There is significant competition from nonsubject imports, possible competition from Globe, and the domestic industry has substantial unused production capacity available, as well as some inventories, with which it would have competed for sales, had demand shifted away from the subject imports. This competition would have enforced price discipline in the market. In these circumstances, any effort by the domestic producer to raise its prices would have been beaten back by the competition. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of these subject imports. Consequently, I find that the subject imports from Indonesia are not having significant effects on prices for domestic ERT.

D. Impact of Subject Imports on the Domestic Industry

To assess the impact of subject imports on the domestic industry, I consider output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors.[36] These factors together either encompass or reflect the volume and price effects of the subject imports, and so I gauge the impact of the dumping through those effects.

The domestic industry would not have been able to increase its prices significantly if the subject imports from Indonesia had been sold at fairly traded prices. Therefore, any impact of the dumped imports on the domestic industry would have been on the domestic industry's output and sales.

As I have discussed above, competition from nonsubject imports is significant, and thus, had the subject imports not been unfairly traded, only some of the demand satisfied by the subject imports would have shifted to the domestic product. The increase in demand for the domestic product likely would have been significant, and the domestic producer could have increased its production and sales to satisfy the increased demand. The domestic industry likely would have captured enough of the demand for subject

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[33] As discussed previously, Globe can and does manufacture a standard talcless product that is comparable to the subject imports from Indonesia. Thus, some of the shift in demand away from the subject imports could shift to Globe's ERT, particularly since the purchasers are longstanding customers. However, Globe currently produces only very small quantities of this comparable product, and the unit value for this product is ***. Preliminary CR/PR at Table C-3. Consequently, it is unlikely that Globe would have increased its production of standard talcless ERT, absent an increase in the price that it could obtain for this product.

[34] CR/PR at Table C-2.

[35] Id.

[36] 19 U.S.C. § 1677(7)(C)(iii).

imports from Indonesia that its output and sales, and therefore its revenues, would have increased significantly had the subject imports not been dumped. Consequently, the domestic industry likely would have been materially better off if the subject imports from Indonesia had been fairly traded.

E. Conclusion

On the basis of the foregoing analysis, I determine that a domestic industry producing ERT other than food-grade ERT is materially injured by reason of the subject imports from Indonesia.

V. NO MATERIAL INJURY OR THREAT OF MATERIAL INJURY BY REASON OF LTFV IMPORTS OF FOOD-GRADE EXTRUDED RUBBER THREAD FROM INDONESIA

As discussed above, only one domestic firm reported producing any food-grade ERT during the period of investigation. However, this firm has not obtained the required FDA approval, and therefore cannot legally sell its product commercially. In addition, petitioner has testified that it will be able to manufacture food-grade ERT, but not until the FDA issues its final regulations governing food-grade ERT. Nonetheless, at the current time neither domestic firm is legally able to sell food-grade ERT in the U.S. market.

Had subject imports of food-grade ERT been priced fairly, there would have been no shift in demand to domestic food-grade ERT, because none of the domestic production of this product can be sold legally in the U.S. market. In addition, there would have been no shift in demand to other domestic ERT products because those products cannot be sold in food-grade applications. Therefore, there would have been no increase in demand for domestic ERT. Absent an increase in demand for domestic ERT, the domestic industry would not have been able to increase its prices, output, sales or revenues had the subject imports of food-grade ERT not been dumped. Therefore, the domestic industry would not have been materially better off if the subject imports had not been dumped. Consequently, there is no material injury to a domestic industry by reason of subject imports of food-grade ERT from Indonesia.

Regardless of the volumes and prices of subject imports of food-grade ERT that may be imported in the U.S. market in the immediate future, the fact that no domestic firm is legally able to sell food-grade ERT means that none of the sales in the immediate future can be captured by the domestic industry. Thus, imposing duties on these subject imports will not have any effect, much less a material effect, on the domestic industry. Consequently, there is no material injury or threat of material injury to the domestic industry by reason of subject imports of food-grade ERT from Indonesia.

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DISSENTING VIEWS OF COMMISSIONER THELMA J. ASKEY

On the basis of the record in this investigation, I find that the domestic industry is not materially injured or threatened with material injury by reason of imports of extruded rubber thread ("ERT") from Indonesia. I join the description of domestic like product found in my colleagues' joint opinion. My other conclusions differ from theirs. I therefore write separately to explain the reasoning leading to my negative determination.

I. Domestic Industry

I agree with my colleagues that the domestic industry comprises two producers, North American and Globe. The statute provides that "related parties," e.g. importers of subject merchandise, may be excluded from the domestic industry in appropriate circumstances.[1] Globe is one of the largest importers of ERT from Indonesia and ***. Globe ***. Despite its status as a related party, I do not find that appropriate circumstances exist to exclude Globe from the domestic industry for the purposes of our investigation.

The Commission generally considers three factors when determining whether to exclude a related party: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the producer has decided to import the product subject to investigation; (3) the competitive position of the related producers vis-à-vis the rest of the industry (whether exclusion or inclusion will skew the data for the rest of the industry).[2] The Commission has also considered the ratio of import shipments to U.S. production and whether the primary interest of the related producer lies in domestic production or importation.[3]

Globe, which ***. North American accounted for *** percent of the domestic industry's production by volume in 1998 and *** percent of total volume of U.S. consumption.[4] Globe accounted for *** percent of domestic production by volume in 1998 and *** percent of the volume of U.S. consumption.[5] Globe accounted for *** percent of U.S. production over the entire 1996-1998 period of investigation ("POI").[6]

Historically, the Commission has asked whether the related party is importing in order to benefit from the unfair trade practice or to enable it to continue production and to compete in the domestic

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[1] 19 U.S.C. § 1677(4)(B).

[2] Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992).

[3] Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Final), USITC Pub. 2793, at I-7-8 (July 1994).

[4] Table C-2, CR at C-5, PR at C-3; Table III-1, CR at III-2, PR at III-1.

[5] Id.

[6] Table III-2, CR at III-3, PR at III-2.

market.[7] Globe imports commodity-type ERT (***) from Indonesia because ***."[8] The record indicates that Globe has decided to concentrate its U.S. production on fine-gauge and heat-resistant thread while it imports most of the commodity-type ERT that it sells in the U.S. market. Globe's production ***.[9] Globe is responsible for ***.[10] ***.[11]

Identifying whether a company's decision to import stems from a desire to benefit from the unfair trading practice or whether it stems from a desire to continue production to compete in the domestic market is not easy. In this case, however, Globe's questionnaire response supports the conclusion that it has made the competitive decision to concentrate its domestic production on higher-priced fine-gauge and heat-resistant ERT, while it imports commodity-grade ERT to fill out its product line.

This conclusion is bolstered by the fact that Globe ***.[12] Globe's financial performance over the POI was ***. By contrast, ***.[13] In 1997, the year in which Globe ***, its subject import volume was ***.[14] However, this was also the year that ***.[15] The year in which Globe's imports ***, was also ***.[16]

The ratio of Globe's imports to its total U.S. production ***.[17] The record nevertheless supports a conclusion that Globe's primary interest remains in domestic production rather than in importation. Globe continues to ***. It faces increasing import competition in the fine-gauge thread segment of the market, but continues to produce fine-gauge thread domestically.[18]

For the foregoing reasons, I conclude that Globe should not be excluded from the domestic industry because of its status as a related party. Globe accounts for such a large percentage of domestic production that excluding its production would distort the data on the condition of the domestic industry. Globe is not benefitting significantly from its subject imports. In fact, it ***. Globe produces *** fine-gauge ERT in the United States; excluding Globe from the domestic industry would thus ***.[19] Though

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[7] Torrington, 790 F. Supp. at 1168; see also Steel Wire Rope from the Republic of Korea and Mexico, Inv. No. 731-TA-546-47 (Final), USITC Pub. 2613, at 14-15 (March 1993) (producers may import to fill out production lines, satisfy particular customer specifications, or to maintain competitive prices in a product line they could not produce themselves and sell at the same price).

[8] Globe's Final Importer Questionnaire Response, at II-4.

[9] CR at III-4 n.7; PR at III-2.

[10] Globe's Preliminary Producer Questionnaire Response at 6.

[11] Id.; Table III-3, CR at III-5; PR at III-2.

[12] Empire Plow Co. v. United States, 675 F. Supp. 1348, 1353-54 (Ct. Int'l Trade 1987) (benefits accrued from the relationship between the related parties appears to be a major factor in ITC consideration).

[13] Table VI-2, CR at VI-4; PR at VI-1.

[14] Table III-2, CR at III-3; PR at III-2.

[15] Table III-2, CR at III-3; PR at III-2; Table III-3, CR at III-5; PR at III-2.

[16] Table III-2, CR at III-3; PR at III-2.

[17] Table III-2, CR at III-3; PR at III-2.

[18] Globe's Final Producer Questionnaire Response, at III-9; fine-gauge thread represented approximately ***; Globe predicted that proportion will continue. CR at III-4 n.7, PR at III-2.

[19] CR at III-1; PR at III-1.

Globe's volume of subject imports has increased over the POI, I find that Globe's primary interest continues to lie in domestic production rather than importation.

II. No Material Injury By Reason of Subject Imports

In determining whether an industry in the United States is materially injured by reason of the allegedly subsidized and LTFV imports under investigation, I must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[20] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[21] I have considered all of the relevant economic factors that bear on the state of the industry in the United States.[22] No single factor is dispositive and I have considered all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[23]

A. Conditions of Competition

The statute provides that the Commission examines all relevant economic factors that may affect the impact of dumped imports on the domestic industry "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[24] Several conditions of competition have informed my decision in this case.

Raw material costs (primarily of rubber latex) account for a substantial proportion of the total cost of producing ERT. Rubber latex costs fell significantly in mid-1996, then declined more gradually through the rest of the POI.[25] The Daily Market Indicator Price for December 1998 was 46.7 percent below the January 1996 price.[26] Rubber latex accounts for about *** percent of North American's cost of goods sold ("COGS"), while Globe reported it as accounting for roughly *** percent of its COGS.[27]

ERT is sold on both contract and spot bases. Globe reported that ***. Hickory, another importer of subject merchandise, ***. Globe and Hickory ***, while North American stated that ***. All suppliers reported ***.[28]

Globe was the largest importer over the POI. Globe imported approximately *** percent of all subject imports in the first two years of the POI, though its imports diminished to approximately ***

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[20] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination," but shall "identify each [such] factor . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[21] 19 U.S.C. §1677(7)(A).

[22] 19 U.S.C. § 1677(7)(C)(iii).

[23] Id.; 19 U.S.C. §§ 1673d(b).

[24] 19 U.S.C. § 1677(7)(C)(iii).

[25] CR at III-4; PR at III-2. North American reported price declines of approximately *** percent over the period.

[26] CR at V-1; PR at V-1.

[27] CR at V-1; PR at V-1.

[28] CR at V-4-5; PR at V-3.

percent of all Indonesian imports in 1998.[29] Globe attributes that reduction to the entry into the market of a new Indonesian exporter, Swasthi.[30]

Overall production capacity remained constant over the period of investigation at *** million pounds.[31] Capacity utilization varied somewhat and ultimately declined. It started at *** percent in 1996, rose to *** percent in 1997, and fell to *** percent in 1998.[32] North American's capacity utilization actually increased over the POI, and North American further noted that ***.[33]

The demand for ERT is a derived demand, depending primarily on the demand for the downstream products in which it is used -- narrow elastic fabric used in different kinds of apparel and home furnishings, some medical products, and food-grade netting used by meat-packers. Increasing competition in the textile industry has negatively affected U.S. textile producers. Purchasers indicated their demand for ERT directly correlated with the demand for their products. Demand for non-latex products may be increasing for certain applications.[34] Overall U.S. consumption increased *** percent over the POI; consumption was slightly higher in 1997 at *** million pounds than in 1998 at *** million pounds.[35] Demand is relatively inelastic given that substitute products are limited and ERT generally accounts for only a small proportion of the cost of the end product.

Substitution with other products is generally limited because of price and performance concerns. Some products are theoretically substitutable for ERT, but are not practical substitutes. Cut rubber thread, which has a different structure from ERT, cannot easily be used on much of the knitting and weaving machinery used by ERT purchasers. Spandex and neoprene, both synthetic products, could be used in place of ERT but are significantly more expensive to produce than ERT. Also, although spandex may be superior to ERT in some cases, it is not suitable for materials that will be dry-cleaned because dry-cleaning chemicals can react with spandex.[36]

Different sizes of ERT are not interchangeable. Similarly, specialty types of ERT, *e.g.*, food-grade and heat-resistant, may not be replaced by standard ERT. Although the specialty types could be used in place of standard ERT, such replacement generally does not occur because of higher cost or limited availability. Talcless and talced ERT of the same size are theoretically interchangeable, but users do not substitute them in practice.[37]

Twenty-eight purchasers of ERT responded at least in part to the ITC's questionnaires. Sixty-two percent of purchasers selected quality as the most important factor in purchasing decisions. One importer noted that lower prices might "get them in the door" with large customers for fine-gauge rubber thread, but that superior quality permitted them to retain those customers. Indonesian and U.S.-produced ERT of the same gauge are generally interchangeable, although some purchasers indicated that U.S.

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[29] Table III-2, CR at III-3; PR at III-2; Table C-2, CR at C-3; PR at C-3.

[30] Globe's Final Producer Questionnaire Response at IV-E.

[31] Table III-3, CR at III-5; PR at III-2.

[32] Id.

[33] CR at III-4; PR at III-2.

[34] CR at II-5; PR at II-3.

[35] CR at Table C-1, CR at C-3; PR at C-3.

[36] CR at II-5-6; PR at II-3.

[37] CR at II-8; PR at II-4. Knitters use talcless ERT and braiders used talced ERT.

products have some advantages in terms of availability of products in small quantities, delivery, and technical support.[38]

C. Volume of Subject Imports

Section 771(7)(C)(i) provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[39]

The volume of subject imports increased over the POI, growing from *** percent of the market in 1996 to *** percent of the market in 1998, an *** percent increase.[40] Subject imports gained market share primarily at the expense of Globe, the primary importer of subject merchandise, whose market share *** percent over the POI (from *** percent to *** percent of domestic consumption).[41] Some of the increase has also come at the expense of non-subject imports, which lost *** percent of their market share over the POI.[42] North American's share of the U.S. market increased slightly over the POI, from *** percent to *** percent of domestic consumption.[43] Accordingly, while the increase in volume of subject imports over the POI is significant, that increase occurred primarily from one U.S. producer's decision to fill out its product line with imports of subject merchandise.

B. Price Effects of Subject Imports

Section 771(7)(C)(ii) provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[44]

The Commission has data on the average unit values ("AUVs") of two types of commodity-grade ERT imported from Indonesia that competed with products of U.S. producers. Imported ERT Product One undersold the product of both U.S. producers in all quarters for which data are available at values ranging from $*** to $*** per pound.[45] Product One is not imported in great quantities -- imports ranged from *** pounds in third quarter 1997 to *** pounds in second quarter of 1998.[46] Imported ERT Product Two undersold U.S. production in most quarters for which information is available; in 1998 the imported product was slightly more expensive than Globe's U.S.-produced merchandise, but still

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[38] CR at II-10, II-13; PR at II-5, II-6.

[39] 19 U.S.C. § 1677(7)(C)(i).

[40] Table C-1, CR at C-3; PR at C-3.

[41] Table C-2, CR at C-5; PR at C-3.

[42] Table C-2, CR at C-5; PR at C-3. Non-subject imports primarily come from Malaysia and have been subject to a dumping order since 1992. CR at I-2; PR at I-2.

[43] Table C-2, CR at C-5; PR at C-3.

[44] 19 U.S.C. § 1677(7)(C)(ii).

[45] Table V-1, CR at V-10; PR at V-4.

[46] Id.

undersold North American's product.[47] Product Two was imported in much greater quantities, ranging from *** pounds in first quarter 1996 to *** pounds in first quarter 1998; its margins of underselling were lower, however, ranging from $*** to $*** over the period.[48] We have no data on the average unit values of fine-gauge thread.

The average unit value of U.S.-produced ERT generally declined throughout the POI, although AUVs fluctuated somewhat during that time.[49] One producer's average unit value for Products One and Two declined by $*** over the POI, while the other producer's AUV showed a spread of $*** over the POI for Product One and $*** for Product Two. At least some of that decline in price may be attributable to the fact that the cost of the primary input in ERT, rubber latex, fell significantly over the POI -- 46.7 percent according to the major industry publication.[50] Consequently, the COGS over the POI decreased by $*** per pound from 1996 to 1998.[51]

Sixty-two percent of responding purchasers reported that quality was the most significant factor in their purchasing decisions. This fact suggests that Indonesian imports are not gaining market share because of low prices. In fact, three of the four purchasers that North American identified as having switched to low-priced Indonesian imports told Commission staff that they switched primarily for quality reasons. These purchasers found North American's product inferior to Globe's because of poor or inconsistent quality.[52]

Though the data show relatively consistent underselling over the POI, I find that the subject merchandise did not have significant price suppressing or depressing effects. The decline in AUVs illustrated by Commission data resulted largely from a decline in the price of rubber latex, the major input in ERT production. In addition, the evidence suggests that several of the lost sales identified by the domestic industry resulted from concerns about the quality of the domestic product, not from underselling.

D. Impact of the Subject Imports

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry," including actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, investment, and existing development and production efforts of the domestic industry; and the magnitude of the dumping margin.[53] I have considered these factors within the context of the conditions

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[47] Table V-2, CR at V-11; PR at V-5.

[48] Id.

[49] Table V-1, CR at V-10; Table V-2, CR at V-11; PR at V-5.

[50] CR at V-1. Globe stated that in October 1998 it ***. Globe's Final Producer Questionnaire Response at IV-B-26.

[51] CR at VI-1; PR at VI-1.

[52] CR at V-16-19; PR at V-6-7.

[53] I have considered the magnitude of the dumping margin in making my determination. OINV Memo INV-W-076 (April 26, 1999).

of competition relevant to the ERT industry.[54] I conclude that imports of the subject merchandise are not having a negative impact on the domestic industry.

The domestic industry is not experiencing injury resulting from subject imports. The domestic industry's financial performance has remained positive throughout the POI, and even peaked during 1997, the year during which subject imports reached their highest volume. The domestic industry showed an operating loss of $*** in 1996, a profit of $*** in 1997, and a profit of $*** in 1998.[55] The industry's other indicators are less positive, with production declining from *** pounds in 1996 to *** million pounds in 1998.[56] Average number of production and related workers, hours worked, and wages paid all declined over the POI.[57] However, hourly wage rates and productivity increased over the POI.[58] Capital expenditures grew from $*** in 1996 to $*** in 1998, and peaked at $*** in 1997.[59] Research and development expenditures also increased over the POI, growing from $*** in 1996 to $*** in 1998.[60]

The aggregate numbers recounted above are generally positive. An anomalous fact in this investigation is that ***. One might therefore speculate that petitioner is not being injured by subject imports, whereas the non-petitioning producer is in a more precarious position. Yet, the non-petitioning producer, Globe, ***. Globe accounted for approximately *** percent of Indonesian imports in 1996 and 1997, and accounted for approximately *** percent of imports in 1998.[61] The principle of enlightened self-interest suggests that Globe would not be importing subject merchandise if by so doing it causes or exacerbates any financial injury to itself. Indeed, Globe *** and apparently finds importing subject merchandise to be consistent with its status as a domestic producer.[62]

For the foregoing reasons, I find that imports of the subject merchandise are not having a negative impact on the domestic industry.

III. The Domestic Industry Is Not Threatened with Material Injury by Reason of the Subject Imports

Because I have concluded that the domestic industry is not materially injured by reason of the subject imports, I must also determine whether the industry is threatened with material injury by reason of the subject imports.[63] The statute directs the Commission to consider nine factors when performing its threat analysis. I have considered all of the statutory factors relevant to these investigations in making my

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[54] No party has alleged that the captive production provision, 19 U.S.C. § 1677(7)(C)(iv), should be applied.

[55] Table VI-1, CR at VI-2; PR at VI-1.

[56] Table III-3, CR at III-5; PR at III-2.

[57] Table III-6, CR at III-9; PR at III-3. The number of production and related workers declined from *** in 1996 to *** in 1998, while hours worked declined from *** to ***. Total wages paid declined from $*** to $***.

[58] Id. Hourly wages increased from $*** to $***, while productivity increased from *** pounds per hour to *** pounds per hour.

[59] CR at Table VI-5, CR at VI-9; PR at VI-2.

[60] Id.

[61] Table III-2, CR at III-3; PR at III-2; Table C-1, CR at C-3; PR at C-3.

[62] This situation is thus readily distinguishable from that faced by the U.S. producer in Sebacic Acid from China, which brought the dumping petition. Sebacic Acid, USITC Pub. 2793, at I-8.

[63] 19 U.S.C. §§ 1673d(b), 1677(7)(F).

determination that the domestic industry is not threatened with material injury by reason of the subject imports.[64] In making my determination, I have considered all of the factors as a whole, and have been mindful that further dumped or subsidized imports must be imminent and that any determination "may not be made on the basis of mere conjecture or supposition."[65]

In conjunction with the statutory threat factors, I have considered whether the domestic industry is in a vulnerable condition such that it is more likely to be injured by imports of the subject merchandise. I find that the industry is not in a vulnerable condition. The industry's financial performance was generally positive over the POI. The domestic industry lost some market share, but nearly all of that loss is attributable to one domestic producer's decision to import commodity-type ERT and to concentrate its domestic production on the higher-end product.

The record reflects mixed evidence as to Indonesian capacity and projected capacity increases. In questionnaire responses, Indonesian producers have projected that capacity will remain steady through 2000, though they project an increase in capacity utilization from *** percent in 1998 to *** percent in 2000.[66] One of the Indonesian producers, which had two extruders on-line in 1998, projected in its audited financial statement that it would start production on a third extruder in March 1999 and on a fourth in August 2000.[67] The record before us does not show that the third extruder actually began production in March. Further, even assuming it has commenced production, we have no information as to its projected capacity. As for the projected fourth extruder, I believe that an increase in capacity projected to start in August 2000 is too distant to qualify as posing an "imminent" threat of increased imports as required by the statute.[68] Overall, I conclude that the projected changes in production and capacity utilization are too small to result in substantially increased imports of the subject merchandise into the United States.

The volume of imports increased steadily over the POI, rising from *** pounds in 1996 to *** pounds in 1998.[69] The majority of this increase (*** percent) came from 1996 to 1997, however, and the domestic industry remained profitable during that time.[70] As I have already noted, one of the domestic producers was responsible for *** over the POI. Non-Globe imports consist primarily of fine-gauge thread ***. Globe is the *** U.S.-producer of fine-gauge thread and acknowledges that it faces increasing competition from those imports, yet Globe still ***. Therefore, I continue to conclude that a member of the domestic industry is primarily responsible for the increase in subject imports and I am reluctant to attribute any injury or threat thereof to those subject imports.

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[64] Two of the factors are not relevant here. The Department of Commerce has determined that the Government of Indonesia does not provide countervailable subsidies to the ERT industry in Indonesia. The factor relating to raw and processed agricultural products is also not relevant here. The Commission is also directed to consider the effect of any dumping in third-country markets, but staff have identified no barriers to Indonesian exports to other countries and no pending investigations. 19 U.S.C. § 1677(7)(F)(iii). CR at VII-4; PR at VII-3.

[65] 19 U.S.C. § 1677(7)(F)(ii).

[66] CR at Table VII-1, CR at VII-2; PR at VII-2.

[67] Exhibit 6 to Petitioner's Pre-Hearing Brief of March 19, 1999.

[68] "The 'essence of threat lies in the ability and incentive to act imminently.'" Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), *quoting* Republic Steel Corp. v. United States, 591 F. Supp. 640, 650 (1984).

[69] Table I-1, CR at I-11; PR at I-7.

[70] Id.; CR at VI-1, CR at VI-2; PR at VI-1.

I have already concluded that the subject imports are not having price depressing or suppressing effects on the domestic prices, and I do not find that the situation is likely to change in the near future. Though domestic AUVs have declined over the POI, they have declined to a much smaller degree than one would expect were subject imports, which have generally had significantly lower AUVs, exercising a price suppressing or depressing effect. The significant drop in the price of rubber latex, the largest component of ERT, is more likely to have affected U.S. prices. In addition, as noted before, many lost sales were attributable to deficiencies in quality rather than to price competition.

Indonesian inventories of subject merchandise have declined over the POI (from *** pounds in 1996 to *** pounds in 1998) and are projected to decline still further through 2000.[71] Inventories of subject merchandise in the United States increased over the POI, from *** pounds in 1996 to *** pounds in 1998.[72] The decrease in Indonesian inventories over the POI was *** the increase in U.S. inventories. In addition, the ratio of inventories to U.S. shipments of imports has decreased over the POI, from *** percent to *** percent.[73] Therefore, I do not find that inventories of subject merchandise have increased over the POI.

The record contains virtually no data on the ability of Indonesian producers to shift production from other types of product to subject merchandise in the event of an increase in demand.

Over the POI, the domestic industry's production and development efforts do not appear to have been adversely affected by the subject imports. Capital expenditures grew from $*** in 1996 to $*** in 1998, and peaked at $*** in 1997.[74] Research and development expenditures also increased over the POI, growing from $*** in 1996 to $*** in 1998.[75] One U.S. producer has reported reducing its capital investments and being rejected for bank loans due to poor financial performance,[76] but I do not believe this one fact justifies a finding that subject imports have adversely affected the domestic industry's production and development efforts.

No other adverse trends indicate the probability that subject imports pose an imminent threat of material injury. Based on the foregoing factors, I find that the domestic industry is not threatened with material injury by reason of the subject imports.

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[71] Table VII-1, CR at VII-2; PR at VII-2.

[72] Table VII-2, CR at VII-4; PR at VII-3.

[73] Id.

[74] CR at Table VI-5, CR at VI-9; PR at VI-2.

[75] Id.

[76] CR at VI-10; PR at VI-2.

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PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by North American, Fall River, MA, on March 31, 1998, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of extruded rubber thread[1] from Indonesia that are alleged to be sold in the United States at LTFV.[2] Information relating to the background of the investigation is provided below.[3]

Date	*Action*
March 31, 1998	Petition filed with Commerce and the Commission; institution of Commission investigation (63 FR 17444, Apr. 9, 1998)
April 28, 1998	Commerce's notice of initiation (63 FR 23267, Apr. 28, 1998)
May 15, 1998	Commission's preliminary determination (63 FR 29250, May 28, 1998)
October 27, 1998 ...	Commerce's preliminary determination (63 FR 59279, Nov. 3, 1998);[4] scheduling of final phase of Commission investigation (63 FR 64276, Nov. 19, 1998)
March 18, 1999	Commerce's final determination (64 FR 14690, Mar. 26, 1999)[5]
March 25, 1999	Commission's hearing[6]
April 29, 1999	Commission's vote
May 7, 1999	Transmission of Commission determination to Commerce

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[1] The extruded rubber thread subject to this investigation consists of 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 inches or 18 gauge, in diameter. Extruded rubber thread is classified in heading 4007.00.00 of the HTS. Column 1-general (NTR) tariff rates are as follows: 2.5 percent *ad valorem* for 1996, 1.7 percent *ad valorem* for 1997, and 0.8 percent *ad valorem* in 1998. Extruded rubber thread imported under column 1-general is free of duty as of January 1, 1999.

[2] On Mar. 31, 1998, North American also filed a petition alleging that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Indonesia of extruded rubber thread that were being subsidized by the Government of Indonesia. The Commission instituted a countervailing duty investigation (inv. No. 701-TA-375 (Preliminary)) and, on May 15, 1998, made an affirmative determination with regard to those imports. On Mar. 18, 1999, however, Commerce made a negative final determination concerning whether manufacturers, producers, or exporters of extruded rubber thread in Indonesia received subsidies (64 FR 14695, Mar. 26, 1999). Accordingly, the Commission terminated its countervailing duty investigation on extruded rubber thread from Indonesia (inv. No. 701-TA-375 (Final)) (64 FR 16999, Apr. 7, 1999).

[3] The most recent *Federal Register* notices cited in the tabulation for each agency are presented in app. A.

[4] Commerce calculated preliminary LTFV margins to be as follows: 13.07 percent for Bakrie, 0.09 percent for Swasthi, and 13.07 for all other exporters. The rate for Swasthi was *de minimis*.

[5] Commerce calculated final LTFV margins to be as follows: 28.29 percent for Bakrie, 44.86 percent for Swasthi, and 31.54 for all other exporters. Commerce based its calculations on a comparison of constructed export price (for Bakrie) or export price (for Swasthi) to normal value. Subsequently, Commerce proposed changes in these rates resulting from its correction of ministerial errors. These changes decreased the rate for Swasthi to 5.13 percent and the rate for all other exporters to 24.00 percent. See Commerce memorandum of Apr. 19, 1999.

[6] A list of witnesses appearing at the hearing is presented in appendix B.

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Related Commission Investigations and Existing Orders

Antidumping and Countervailing Duty Investigations

Extruded rubber thread imported from Malaysia currently is subject to an antidumping duty order. The order results from investigations conducted by Commerce and the Commission in response to antidumping and countervailing duty petitions filed by North American on August 29, 1991. Commerce issued an antidumping order on October 7, 1992. Commerce's last antidumping administrative review (for the period October 1, 1996 to September 30, 1997) resulted in antidumping margins for extruded rubber thread from Malaysia that ranged from a low of 1.22 percent to a high of 54.31 percent.[7]

In the 1991-92 investigations, the Commission made an affirmative final injury determination only for the antidumping investigation (inv. No. 731-TA-527 (Final)). At the time of the filing of the petitions, Malaysia was entitled to an injury determination in connection with the countervailing duty petition and the Commission instituted a preliminary investigation (inv. No. 303-TA-22 (Preliminary)) under section 303(a) of the Act. It subsequently made a preliminary affirmative determination in that investigation, and, following Commerce's preliminary affirmative countervailing duty (or subsidy) determination, instituted countervailing duty investigation No. 303-TA-22 (Final). On March 12, 1992, however, the duty-free entry afforded under the GSP to extruded rubber thread that is the product of Malaysia was withdrawn and, accordingly, Malaysia was no longer entitled to an injury determination under section 303 of the Act. The Commission discontinued its countervailing duty investigation and, following its final affirmative subsidy determination, Commerce issued a countervailing duty order.

With regard to that order, and in response to Uruguay Round Agreements that again entitled Malaysia to an injury determination, on June 30, 1995, North American requested that the Commission determine, under section 753(a) of the Act, whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked. In response, the Commission initiated, effective December 15, 1997, a section 753 investigation (inv. No. 753-TA-34) concerning the existing countervailing duty order for extruded rubber thread from Malaysia. On June 25, 1998, the Commission determined that an industry in the United States is not likely to be materially injured by reason of imports of extruded rubber thread from Malaysia if the countervailing duty order concerning such extruded rubber thread is revoked.[8] Subsequently, on July 28, 1998, Commerce revoked the order (63 FR 41544, Aug. 4, 1998).

Escape Clause (Section 201) Investigation

In response to a petition filed by North American, the Commission, effective June 23, 1992, instituted under section 202 of the Trade Act of 1974 an investigation involving extruded rubber thread (inv. No. TA-201-63). In its determination, the Commission was equally divided on the question of whether or not extruded rubber thread was being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with imported extruded rubber thread.[9] On January 15,

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[7] 64 FR 12967, Mar. 16, 1999.

[8] 63 FR 35945, July 1, 1998.

[9] Chairman Newquist and Commissioners Rohr and Nuzum voted in the affirmative. Vice Chairman Watson and Commissioners Brunsdale and Crawford voted in the negative. Those Commissioners voting in the

(continued...)

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1993, the President selected as the determination of the Commission the views of those Commissioners who found in the negative and, accordingly, no import relief measures were taken under section 203 of the Trade Act of 1974.

DATA PRESENTED IN THE REPORT

A summary of data collected in the current investigation is presented in appendix C, tables C-1 and C-2. U.S. industry data are based on questionnaire responses of the two producing firms (the petitioner, North American, and Globe). These two firms accounted for all known U.S. production of extruded rubber thread from 1996 through 1998, the period covered by the Commission's questionnaires in this investigation. Inasmuch as Globe imported a substantial amount of extruded rubber thread from Indonesia, table C-2 presents summary data on the U.S. market excluding Globe. Data regarding imports of the subject product are based on information received in response to the Commission's questionnaires. Separate data for food-grade extruded rubber thread are presented in appendix D. All data presented in the report are for all extruded rubber thread regardless of gauge.[10]

THE SUBJECT PRODUCT

Extruded rubber thread consists of vulcanized rubber thread obtained by extrusion of stabilized or concentrated natural rubber latex, of any cross sectional shape.[11] This part of the report presents information on both imported and domestically produced extruded rubber thread. In addition, a discussion of the factors that the Commission typically considers in defining the product(s) "like" that extruded rubber thread subject to investigation is presented later in the section entitled "Like Product Issues."[12]

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[9] (...continued)
affirmative recommended in a report transmitted on Dec. 21, 1992, that the President impose a tariff-rate quota on imports of extruded rubber thread. *Extruded Rubber Thread*, USITC Pub. 2563, Dec. 1992.

[10] The scope of the investigation, as noted earlier, is limited to extruded rubber thread measuring from 140 gauge (0.18 mm or 0.007 inches) to 18 gauge (1.42 mm or 0.056 inches) in diameter. The Commission, however, did not draw a distinction among gauge ranges for purposes of defining the like product in the determination it made in the preliminary phase of this investigation, nor in any past determinations concerning extruded rubber thread. The variance between data corresponding to the scope of this investigation and data presented in this report is not significant; during the period examined, extruded rubber thread under 18 gauge accounted for approximately *** percent of U.S. shipments and none of the imports from Indonesia, and there is no known production of extruded rubber thread over 140 gauge.

[11] The size of an individual thread usually is expressed in "gauge" or "count," terms that refer to the number of threads which would, if set down side-by-side, produce a ribbon 1 inch wide. There is no known production of thread that is finer than 110 gauge.

[12] The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

Physical Characteristics

As noted above, extruded rubber thread (a monofilament elastomeric fiber) is vulcanized and is produced by a low-pressure extrusion of compounded natural rubber latex. Extruded rubber thread is manufactured and sold by both U.S. and foreign manufacturers, including those in Indonesia, in standard sizes falling within the range of 22 gauge through 60 gauge and as fine-gauge thread (or that over 75 gauge).[13] Standard extruded rubber thread is sometimes referred to as "heavy-gauge" thread. North American also ***. There are no known exports of extruded rubber thread under 18 gauge from Indonesia.[14]

For ease of handling and shipment, manufacturers generally bond the rubber threads temporarily together in the form of a ribbon or tube or wind the thread onto a bobbin. The width of the ribbon varies depending on the thread diameter and number of threads per ribbon. Ribbons can be made from 2 to more than 90 threads; however, ribbons of 40 and 48 threads are most common. Packaging extruded rubber thread into tubes or tube shapes is a more recent innovation. Globe indicated that such packaging allows high-volume users to integrate the extruded rubber thread at higher speeds into their production process and increase their own efficiency and productivity.[15]

Extruded rubber thread is typically black or white in color; however, it is also available from U.S. sources in such colors as light blue, red, and cream. Brightly colored rubber thread has been developed in recent years. In contrast, ***.[16]

There are also a number of specialty rubber thread products, including food-grade rubber thread. Food-grade extruded rubber thread is manufactured into an elastic netting which then is used to package (usually) boneless meats. Extruded rubber thread of food-grade quality is manufactured using FDA-approved processes and formulations to meet stated requirements. It must be treated so that it does not impart a taste to foods. More importantly, food-grade extruded rubber thread must also have lower levels of nitrosamines, which have been suggested as a cause of certain types of cancers. Other specialty thread products include fine-gauge and heat-resistant extruded rubber thread.[17]

Uses

The textile industry is the largest user of extruded rubber thread, processing the product into such items as panty hose, women's lingerie, underwear waistbands, sock tops, and jogging suits, as well as

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[13] Most standard extruded rubber thread is sold within the 26 gauge to 48 gauge size ranges. Conversation with ***, Mar. 17, 1998. The size range of the product imported from Indonesia by Globe, a U.S. manufacturer and the *** importer from Indonesia, is *** gauge to *** gauge. Another importer, Hickory, sells Indonesian product in Indonesian gauge ranges (***) that include ***. Conversation with ***, Hickory, Mar. 2, 1999.

[14] Globe, the *** U.S. importer of the subject product, ***.

[15] Globe stated further that "We do not believe that North American is equipped to offer this product or to produce it in the volume necessary for larger users." Conference transcript, p. 20.

[16] Globe letter of May 1, 1998.

[17] Fine-gauge extruded rubber thread is constructed with a gauge greater than 75 and is usually used for hosiery. Heat-resistant extruded rubber thread is produced using antioxidants and vulcanizing agents to provide better protection against heat degradation. It is primarily manufactured for use in underwear waistband elastics, where its greater resistance to heat provides better performance during repeated laundering. Heat-resistant extruded rubber thread is also used in such limited applications as hospital garments and in bandages that are subject to sterilization by heating in an autoclave.

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into items as diverse as diapers, furniture webbing, and "koosh" balls. Traditional customers for extruded rubber thread in the textile industry include coverers, weavers, braiders, and knitters. It is either used "as is" or wrapped with a rigid fiber, such as nylon or cotton, to limit elongation and to maintain the thread under constant tension. Using varying manufacturing techniques, weavers, braiders, and knitters incorporate rubber thread, bare or covered, into their production of narrow fabric and sell the output to apparel makers.

Channels of Distribution

Both U.S. firms and importers of Indonesian-produced extruded rubber thread sell all product directly to the unrelated manufacturers of the elasticized goods described above.

Manufacturing Process

Production of extruded rubber thread begins with the preparation of the rubber latex mixture. Producers add a variety of chemicals in small amounts to the natural rubber latex to impart desired physical properties to the end product and to prepare the latex mix for vulcanization.[18] Desirable physical properties include acceptable tensile strength, elongation at room temperature, and resilience or rebound elasticity.[19] The chemical additives are blended thoroughly with the liquid latex to ensure homogeneity and the latex is then "matured" in an activation tank for 1 to 5 days. Maturation results in thread that is free of lumps and blisters and does not show an irregular thickening when extended or retracted. After the maturation process, the latex is passed through a homogenizer, which removes any remaining lumps in the mixture that might clog the capillary nozzles during the subsequent extrusion process and lead to thread breakage. The latex then enters a vacuum/feed tank to remove air bubbles and adjust the feed rate through the extruder.[20]

The latex mix is next extruded at low pressure through glass capillary nozzles into an aqueous acetic acid solution, which acts as a coagulant to solidify the liquid latex into a continuous thread. From there, the newly formed thread passes into a hot wash bath where excess acetic acid is washed off, then enters a drying oven that cures or vulcanizes the thread. At this point the thread is sticky, so a lubricant or antiblocking agent (*i.e.*, talcum powder or silicone-based lubricant) is applied to "detackify" each thread. Following lubrication, the threads are lightly bonded together in ribbons to form flat tapes or tubes, which are placed into an oven where they are rotated for up to 20 minutes. They next pass over cooling rollers and are either wound onto bobbins or packaged in boxes.

The Indonesian product is manufactured using production techniques and materials that are comparable to those used in U.S. production. According to Globe, the *** U.S. importer of the subject product, its Indonesian supplier "utilizes similar technology as Globe and meets Globe's high product standards. In particular, Globe's supplier utilizes the same equipment that Globe uses to produce a high-

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[18] Vulcanization is an irreversible process during which the chemical structure of a rubber compound changes and it becomes less plastic, more elastic, and more resistant to swelling from liquids.

[19] For given types of extruded rubber thread, there are standardized levels for the various properties that are accepted worldwide.

[20] It is important that the latex mix has a uniform viscosity. Viscosity affects the rate of flow of the latex mix through the extruder and any change in viscosity will vary the diameter of the thread.

quality heavy gauge thread in the United States, and Globe's engineers work with its supplier to ensure compliance with Globe's ISO-9000 registration status."[21]

Like Product Issues

In its petition, North American stated that the domestic like product "for purposes of the Commission's injury determination should be all extruded rubber thread, as also previously found by the Commission in its antidumping investigation involving extruded rubber thread from Malaysia."[22] Parties in opposition to the petition in the preliminary phase of this investigation agreed with petitioner's suggested domestic like product definition.[23] In its views in the preliminary phase, the majority of the Commission agreed that the like product was all extruded rubber thread; one commissioner, however, found two like products: (1) extruded rubber thread except for food-grade extruded rubber thread, and (2) food-grade extruded rubber thread.[24]

Issue of Food-Grade Extruded Rubber Thread

Unlike other types of extruded rubber thread, the food-grade variety must be produced to a formulation that meets FDA requirements.[25] By contrast, extruded rubber thread other than food-grade is typically produced to meet such standards as ISO-9000. In general, all types of extruded rubber thread, including food-grade, are manufactured on the same machinery using the same basic manufacturing

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[21] Globe's postconference brief, p. 22; conference transcript, p. 21. Globe became ISO-9000 registered in 1996. ISO 9000 standards are a series of global, market-driven criteria that assure end users that a producer has exercised recommended quality control procedures in the design, development, testing, and service of its products, as well as adhered to certain management standards. The standards have been adopted by 26 of the largest producer and consumer nations, and ISO registration (*i.e.*, approval) is generally a pre-requirement to sell products in those countries. In this investigation, Globe has ***. Field visit with North American, Jan. 13, 1999.

[22] Petition, p. 10.

[23] Specifically, Globe indicated that it had "no basis on which to disagree with {the petitioner's} apparent position, as set forth in its petition, that the domestic like product ... consists of all types of extruded rubber thread, including talced, talcless, heat resistant, heavy gauge, fine gauge, and food-grade." Globe's postconference brief, p. 9.

[24] See Views of Commissioner Carol T. Crawford, *Extruded Rubber Thread from Indonesia*, USITC Pub. 3106, May 1998, p. 17.

[25] In 1990, the FDA regulated rubber meat netting as a "food" additive and attempted to ban its use in the United States. The problem apparently centered around the presence in rubber thread of nitrosamines, compounds that were suspected carcinogens. In Feb. 1991, two U.S. producers of meat packing netting (and purchasers of food-grade extruded rubber thread) sued the FDA for violation of "due process" for imposing the ban without a prior hearing. A subsequent settlement of the suit stipulated that the FDA would refrain from any prohibition of the use of extruded rubber thread in meat netting as long as manufacturers made "good faith" efforts to obtain FDA approval. In addition, certain Malaysian manufacturers, who at the time were the only suppliers of food-grade extruded rubber thread, were allowed to continue selling their product in the United States pending final agreement on regulatory limits. The FDA has not yet issued final approval.

process.[26] North American states that ***.[27] Swasthi, the Indonesian manufacturer that produces food-grade extruded rubber thread, ***.[28]

Food-grade extruded rubber thread typically is not used in place of the non-food-grade product, but there is no technological or regulatory obstacle to its use in non-food applications.[29] By contrast, non-food-grade extruded rubber thread cannot be used in applications where food-grade thread is used (*e.g.*, for meat netting) because of FDA regulations. Food-grade extruded rubber thread is distributed through the same channels as other types of extruded rubber thread, inasmuch as it is sold directly to end users, which are manufacturers of meat netting. Finally, food-grade extruded rubber thread is generally a little cheaper than other types of extruded rubber thread, and, according to the petitioner, costs less to produce.[30]

During the period examined, there was no domestic production of food-grade extruded rubber thread for commercial shipment. Globe, however, ***.[31] North American indicated that, during the period examined, it was interested in pursuing production of food-grade rubber thread, but determined that, in light of then-existing pricing levels and the cost of participating in an FDA proceeding, such production would not be economically feasible.[32] It asserted that, ***, it does have the technology to produce the food-grade product.[33]

Size of the U.S. Market

Table I-1 presents apparent U.S. consumption and U.S. market shares for the period 1996-98. As shown, apparent U.S. consumption increased from 1996 to 1997 (by *** percent in terms of quantity) then fell in 1998 by *** percent. The markets into which extruded rubber thread are sold are mature and, according to U.S. producers, demand for the product reportedly has not changed appreciably since 1996.[34] Changes in demand are discussed more fully in Part II of this report.

Table I-1
Extruded rubber thread: U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1996-98

* * * * * * *

[26] Hearing transcript (transcript), p. 21. The exact recipe for the rubber latex mixture used in the production process will vary depending on the performance characteristics desired in the thread, but the basic process is the same.

[27] North American stated that ***. Conversation with North American, Mar. 2, 1999.

[28] Conversation with ***, Hickory, Mar. 2, 1999.

[29] It is seldom used in such applications because its pigmentation is natural in hue; thus, it is unsuited to those textile applications where specific colors are required. North American indicated, however, that there is no reason that food-grade extruded rubber thread could not be used as a substitute for other types of extruded rubber thread; ***. Conversation with North American, Mar. 2, 1999; transcript, p. 21. Swasthi contends that significant differences in properties make food-grade extruded rubber thread and non-food-grade extruded rubber thread poor substitutes for each other. Swasthi letter of Mar. 30, 1999.

[30] Transcript, p. 31; conversation with North American, Mar. 2, 1999.

[31] Globe ***.

[32] Transcript, p. 22.

[33] Transcript, p. 22; conversation with North American, Mar. 2, 1999.

[34] Transcript, p. 10. Globe noted that ***.

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PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

INTRODUCTION

The discussion in this section draws from information provided by North American, Globe, and Hickory. As noted in Part I, North American and Globe account for total U.S. production of extruded rubber thread. Globe and Hickory accounted for *** of U.S. imports of extruded rubber thread from Indonesia in 1998. In addition, information provided by 28 firms that responded to the Commission's purchaser questionnaire is included where appropriate.[1]

MARKET SEGMENTS

Extruded rubber thread is sold directly to firms that manufacture a variety of products, including narrow fabrics (knit, woven, and braided), shock (bungee) cords, tubular elastic netting (both for food and non-food products), bandages and other medical supplies, covered elastic yarn, elastic tapes, furniture webbing, and disposable diapers. The specific type of extruded rubber thread used by these firms is directly related to the end products being manufactured.[2] In each instance, the gauge size may vary depending on the specific end use (*e.g.*, the required fineness of the narrow fabric). Food-grade extruded rubber thread is required for the production of netting used by the food industry and requires approval by the FDA; heat-resistant extruded rubber thread is generally used in the production of waist bands for men's underwear and in medical products that may require sterilization. In 1998, company purchases of extruded rubber thread ranged from 34,000 to 2.5 million pounds. Four companies purchased greater than a million pounds and six companies purchased less than 100,000 pounds. The industries using extruded rubber thread appear to be fairly competitive, with 25 of 28 responding purchasers able to list three or more competitor companies. Table II-1 shows estimates, provided by ***, of total U.S. extruded rubber thread consumption broken out by market sector and gauge range during 1996-98.

Information collected from purchasers' questionnaires showed a difference in cost of extruded rubber thread depending on end use. Low and medium gauged extruded rubber thread used in narrow fabric was consistently priced lower than the finer gauged extruded rubber thread used in yarn, irrespective of country of origin. The difference in unit value in U.S. material, in 1998, between the lowest-priced, narrow elastic and the highest-priced, fine-gauge yarn was $*** per pound. The difference in unit value in Indonesian material, in 1998, between the lowest priced narrow elastic and the highest-priced, fine-gauge yarn was $***. The difference in unit value in Malaysian material, in 1998, between the lowest priced narrow elastic and the highest-priced, fine-gauge yarn was $***. In addition, heat-

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[1] Seventy-one purchaser questionnaires were sent out; not all of the 28 firms responding to the questionnaire responded in full. The 28 responding firms, however, represented producers of knit, woven, and braided narrow elastic fabric that included gauges ranging in size from 22 to greater than 115, as well as users of heat-resistant extruded rubber thread. There were also producers of covered yarn, medical bandages, diaper elastic, food-grade netting, and sport (bungee cord) material. In some cases, a firm would produce more than one category of finished good. These responding firms' purchases of U.S.-produced extruded rubber thread accounted for *** percent of U.S. commercial shipments in 1998.

[2] Information supplied by producers, importers, and purchasers consistently noted that producers of knitted elastic products generally use talcless extruded rubber thread. Similarly, braiders generally use talced extruded rubber thread. Manufacturers of woven narrow fabric may use either talced or talcless extruded rubber thread. Globe reported that ***. Globe's pricing data (tables V-1 and V-2) show ***. North American ***.

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resistant material ***. On average, however, U.S. prices ***, for comparable products. Indonesian and Malaysian prices *** for the lower-priced woven elastic, but the Malaysian fine-gauge elastic yarn *** than the Indonesian product.[3]

Table II-1
Extruded rubber thread: U.S. producers' estimates of the share of the total U.S. extruded rubber thread market accounted for by end use and the types of extruded rubber thread (by gauge) used in these products during 1996-98

* * * * * * *

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Factors contributing to the industry's ability to react to price changes with adjustments in the quantity shipped to the U.S. market are its unused capacity, production alternatives for extruded rubber thread, inventory levels, and the existence of alternative markets. The primary factor contributing to the industry's ability to respond to price changes is the increased level of unused capacity (the domestic industry was operating at *** percent of capacity in 1998); other contributing factors include moderate inventory levels and the existence of alternative markets. Limited production alternatives for extruded rubber thread, however, may reduce U.S. producers' ability to respond to price changes. Globe reported in its questionnaire response that ***. North American reported ***. These factors are discussed in more detail in Part III of this report.

U.S. Demand

U.S. demand for extruded rubber thread is a derived demand, depending primarily on the level of demand for the downstream products in which it is used (*e.g.*, narrow elastic fabric used in different types of apparel and home furnishings, various medical products, and in food-grade netting used by meat packers). North American reported that ***. Globe stated in its import questionnaire, that ***. Globe further reported that ***. Hickory stated that ***. Furthermore, in the preliminary phase of the investigation, the firm reported that ***. ***, an importer of *** extruded rubber thread, stated that ***.

Thirteen purchasers of extruded rubber thread noted that there were substitutes for the particular products they manufacture.[4] Among these same purchasers, there was a fairly even split concerning changes in demand for their products. Eight of the purchasing firms reported no change in demand for their products since 1996, seven companies reported an increase in demand for their products (with a corresponding increase in demand for extruded rubber thread), and 9 companies reported a decrease in demand for their products (with a corresponding decrease in demand for extruded rubber thread). Many of the firms related the decline in demand for their products to increased supplies of competitive foreign products. In particular, five companies reported in their questionnaires, and several reported in telephone conversations, the increased presence of low-priced products (competitive with their products) from Canada and Mexico, due to the NAFTA.

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[3] No attempt was made to account for volume discounts associated with buying "by the container."

[4] In some instances, there may be an advantage or a requirement for the end products to be "latex-free."

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Substitute Products

Substitutability between extruded rubber thread and other materials in manufacturing an elastic thread is generally limited. North American stated that ***. Hickory also indicated that ***. Globe reported in its questionnaire response that ***.

Cut rubber thread can be made from either natural rubber like extruded rubber thread or synthetic rubber. A key difference between cut rubber thread and extruded rubber thread is the cross-sectional shape of the thread--the extruded product has a round cross-section, whereas cut rubber thread is rectangular or square in cross-section. Consequently, cut rubber thread cannot easily be placed on much of the machinery (specifically knitting and weaving machinery) used by extruded rubber thread purchasers. Cut rubber thread made from synthetic latex compounds (which will not degrade as easily as natural rubber) often is used in elastics that must withstand dry-cleaning processes.

Globe reported that ***.[5] Although ***, Globe noted that ***.

When asked whether there are other products that could be substituted for extruded rubber thread in making their particular finished good, 16 purchasers reported the existence of synthetic elastic products such as neoprene and spandex that could be technically substituted for extruded rubber thread. Most purchasers that discussed substitutability in their questionnaires noted that these synthetic products were significantly more expensive and were used to accommodate special customer demands.

A few firms reported that synthetics are beginning to replace latex in extruded rubber thread in certain end uses (*e.g.*, disposable diapers and products used in various medical applications). Moreover, one purchaser mentioned that it was substituting spandex for extruded rubber thread in response to changes in fashion. The biggest deterrent to substituting synthetic for natural rubber appears to be the relative cost of these substitutes in certain applications. Some purchasers and producers, however, noted a drop in the price of spandex from overseas that could make substitution with extruded rubber thread more affordable.

Cost Share

The relative cost share of extruded rubber thread varies significantly depending on the product in which it is being used. Purchasers were asked to provide estimates of the percent of the total cost of their end product accounted for by extruded rubber thread. Twenty-seven firms reported estimates ranging from 2 to 70 percent of their production cost, with most firms (21) reporting extruded rubber thread accounting for between 10 and 40 percent of their costs.

SUBSTITUTABILITY ISSUES

Product Interchangeability

As noted above, the type of extruded rubber thread used by purchasers frequently varies depending on the product being manufactured. Producers and importers were asked whether different

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[5] For example, spandex has good resistance to abrasion, ultra-violet light, oxidation, and chlorine. Moreover, it is easily dyed, has better stretch recovery, is lighter in weight, and can be made into finer threads than extruded rubber thread. Spandex usually does not require a covering unless it is to be used in the manufacture of garments, where skin contact could cause irritation or skin reaction. Spandex, however, is not suitable for dry-cleaned material, as the dry-cleaning chemicals can react with the spandex.

II-3

types of extruded rubber thread could be used interchangeably. All three firms indicated that their customers use different gauge sizes for specific end uses and that the products (*e.g.*, fine gauge versus medium gauge) are not interchangeable. Similarly, the firms indicated that extruded rubber thread made with special compounds (*e.g.*, heat-resistant and food-grade) is not interchangeable with standard extruded rubber thread for specific end uses. Firms that produce netting for the food industry are required to use food-grade extruded rubber thread. Similarly, many of the firms that produce underwear require the narrow elastic fabric used for waistbands to be manufactured with heat-resistant extruded rubber thread. All three firms noted that although their customers could technically use food-grade and heat-resistant extruded rubber thread for various end uses, the customers generally choose not to do so because the specialty compounds may be more costly and exhibit differences in color. The firms also indicated that although talced and talcless extruded rubber thread are technically interchangeable, end users do not use the two types interchangeably in practice. In particular, knitters use talcless extruded rubber thread and braiders use talced extruded rubber thread.[6]

Factors Affecting Purchasing Decisions

Purchasers were asked to report the top three factors that affect their selection of a particular supplier of extruded rubber thread. As shown in table II-2, quality, price, and general product availability were the most important factors identified by these firms. Quality generally refers to the ability of the extruded rubber thread to work well in the purchaser's machinery.

Table II-2
Extruded rubber thread: Factors affecting purchasing decisions

Order of importance	Factors					
	Quality	Price	Availability/ delivery	Service	Other[1]	Total[2]
	Percent					
First	62	19	19	0	0	100
Second	30	26	41	0	4	100
Third	7	30	19	22	22	100

[1] "Other" includes long-term supplier relationships, range of products in stock provided by supplier, reliability of supply, and extension of credit.
[2] Totals may not add to 100 due to rounding.

Source: Compiled from data submitted in response to Commission questionnaires.

[6] As North American noted, ***. Hickory stated that ***."

II-4

Comparison of Domestic Products and Subject Imports

Producers and importers were asked whether U.S.-produced and Indonesian extruded rubber thread are used interchangeably (*i.e.*, can physically be used in the same applications). *** reported that the products were interchangeable. Globe noted that ***. Hickory stated ***.

Producers and importers were also asked whether differences other than price between U.S.-produced extruded rubber thread and Indonesian extruded rubber thread have a significant effect on their sales of the product. All three firms indicated that factors such as better quality, delivery, and technical sales support facilitated sales of U.S.-produced extruded rubber thread. North American stated, however, that ***. Similarly, Globe noted that ***. Hickory pointed out that ***. The firm stated that ***. Hickory also noted that ***.

Purchasers were asked whether domestic and foreign extruded rubber thread could be used in the same applications and whether certain grades/types/sizes were only available from one source. Seventeen of 28 purchasers thought that imported and domestic products were suitable for their applications; 22 out of 28 stated that specific grades were available from more than one source. When asked to compare the price of domestic extruded rubber thread with the price of Indonesian extruded rubber thread, only one purchaser stated that the U.S. product was lower-priced than the Indonesian product;[7] nine purchasers stated domestic price was higher, and three stated the prices were comparable. The purchasers were then asked to assess 14 factors that could influence a company's decision to purchase U.S. versus Indonesian product. The results are presented in table II-3. In general, most purchasers found the U.S. and Indonesian product comparable with respect to most of the specified factors.

Comparison of Domestic Products and Nonsubject Imports

Producers and importers were also asked whether there were differences in price between the U.S.-produced and Malaysian extruded rubber thread and whether differences other than price between U.S.-produced extruded rubber thread and Malaysian extruded rubber thread have a significant effect on their sales of the product. The three firms purchasing both[8] indicated that factors such as better quality, delivery, and technical sales support facilitated sales of U.S.-produced extruded rubber thread.

As with the Indonesian product, purchasers were asked to compare the price of domestic and Malaysian extruded rubber thread. Ten purchasers stated that the price of the U.S. product was higher than the Malaysian product; no company stated that the U.S. product was lower-priced and four companies thought the products were comparably priced. The purchasers were then asked to assess 14 factors that could influence a company's decision to purchase U.S. versus Malaysian product. The results are presented in table II-4. While the domestic and Malaysian suppliers were comparable in many factors, the domestic suppliers were considered by many to be superior in offering technical support and in offering small quantities on a reliable basis.

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[7] Six companies purchased only U.S.-produced extruded rubber thread; one company purchased only Indonesian product. Twelve companies reported that the domestic prices were either higher or comparable. Some companies did not respond, presumably because they purchased from only one supplier.

[8] Six companies bought only U.S. product and five companies bought only Malaysian product.

II-5

Table II-3 Extruded rubber thread: Comparison of U.S. to Indonesian product			
Factor	Number of firms reporting[1]		
	U.S. superior	Comparable	U.S. inferior
Availability	4	10	2
Delivery terms	1	13	2
Delivery time	4	10	2
Discounts offered	2	12	2
Lowest price	1	8	7
Minimum quantity required	2	10	4
Packaging	0	13	3
Product consistency	1	11	4
Product quality	2	10	4
Product range	3	9	4
Reliability of supply	2	11	3
Technical support/service	5	10	1
Transportation network	4	10	2
U.S. transportation costs	2	13	1
[1] 16 firms provided responses to these questions.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Comparisons of Domestic Products and Subject Imports to Nonsubject Imports

Globe, North American, and Hickory reported that ***. *** also reported that the subject and nonsubject imports are generally interchangeable.

Both U.S. producers indicated that ***. Globe noted that ***. North American expressed the concern that ***.

With respect to competition between subject and nonsubject imports of extruded rubber thread, Globe indicated that ***. Hickory also reported that ***. Hickory stated in its questionnaire that ***. In particular, the company thought ***.[9]

[9] Questionnaire response of Hickory. In this context, ***.

II-6

Table II-4
Extruded rubber thread: Comparison of U.S. to Malaysian product

Factor	Number of firms responding[1]		
	U.S. superior	Comparable	U.S. inferior
Availability	3	7	1
Delivery terms	2	8	1
Delivery time	2	7	2
Discounts offered	2	7	2
Lowest price	1	4	6
Minimum quantity required	4	5	2
Packaging	1	9	1
Product consistency	2	7	2
Product quality	2	7	2
Product range	2	8	1
Reliability of supply	3	7	1
Technical support/ service	5	5	1
Transportation network	2	7	2
U.S. transportation costs	1	8	2

[1] 11 firms provided responses to these questions.

Source: Compiled from data submitted in response to Commission questionnaires.

There were 11 purchasers that bought either Malaysian and Indonesian product exclusively, or Malaysian, Indonesian, and domestic product. All stated that the domestic product was higher priced than either the Malaysian or Indonesian product. Only three companies, however, compared Indonesian and Malaysian extruded rubber thread, and the comparisons were mixed. *** thought that the Malaysian product had better availability, pricing, and product quality (other factors were comparable). *** stated that the Malaysian product had better product characteristics such as availability, quality, range, and technical support but that prices were comparable. Finally, *** thought that the Malaysian product offered a better negotiated price and technical support but that all other aspects were similar.

II-7

ELASTICITY ESTIMATES[10]

U.S. Supply Elasticity[11]

The domestic supply elasticity for extruded rubber thread measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of extruded rubber thread. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift among production of other products, the existence of inventories, and the availability of other markets for U.S.-produced extruded rubber thread. Analysis of these factors indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market significantly within a one year period. The staff estimates the elasticity to be in the range of 3 to 5.

U.S. Demand Elasticity

The U.S. demand elasticity for extruded rubber thread measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of extruded rubber thread. This estimate depends on the factors discussed earlier such as the existence, availability, and commercial viability of substitute products. As noted above, while there are technically feasible substitutes for extruded rubber thread, those substitutes currently on the market (such as spandex) are more expensive, and therefore they are likely to be used in a subset of extruded rubber thread end-use markets. The staff estimates the elasticity to be in the range of 0.8 to 1.5.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[12] Product differentiation, in turn, depends upon such factors as quality (in this market, quality often refers to how effectively extruded rubber thread works in a purchaser's machinery) and conditions of sale (availability of products, delivery time, size of delivery, technical assistance, etc.). Based on available information, the staff estimates the elasticity of substitution between U.S.-produced and Indonesian extruded rubber thread to be in the range of 2 to 4.

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[10] See app. E for the results of the COMPAS analysis.

[11] A supply function is only defined for competitive markets.

[12] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the U.S. like products to changes in their relative prices. This reflects how readily purchasers switch from the U.S. product to the subject product (or vice versa) when relative prices change.

II-8

PART III: CONDITION OF THE U.S. INDUSTRY

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of Globe and North American, the two firms that accounted for 100 percent of U.S. production of extruded rubber thread during 1998.

U.S. PRODUCERS

The Commission received completed questionnaire responses from Globe and North American, the only two firms that have produced rubber thread in the United States since 1996. As shown in table III-1, both firms are located in Fall River, MA. The firms are ***, with ***.

North American, the petitioner in this investigation, began producing extruded rubber thread in March 1987 when it purchased the thread production facilities of Pilgrim Latex Thread Co. It sells a wide variety of colors and gauges of extruded rubber thread, but ***.[1] North American ***. The firm ***.[2]

Globe, which ***.[3] Globe, which was established in 1945, also manufactures spandex ***, but does not produce food-grade extruded rubber thread.[4] Globe reports that it ***.

Table III-1
Extruded rubber thread: U.S. producers, their plant locations, total 1998 production by firm, and shares of total U.S. production in 1998

* * * * * * *

Data on the importing operations of Globe and North American are presented in table III-2. As shown, Globe imported increasing amounts of extruded rubber thread from Indonesia during the period examined. Such imports, which began in 1994, ***.[5] Although North American ***.[6]

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[1] Notwithstanding the fact that the scope of the investigation covers gauges up to 140 gauge, North American ***. According to North American, ***. Field visit with North American, Jan. 13, 1999. With regard to food-grade extruded rubber thread, North American alleged in its questionnaire response that, ***.

[2] Supplies of latex ***. Field visit with North American, Jan. 13, 1999.

[3] Globe noted in its questionnaire response that ***.

[4] In 1996 and 1997, Globe ***. It did not include this thread in production data reported in its questionnaire response.

[5] Globe states that ***. Globe letter of May 1, 1998.

[6] Neither firm ***.

III-1

Table III-2
Extruded rubber thread: U.S. producers' imports/purchases of imports and U.S. production, by firm, 1996-98

* * * * * * *

The relative composition of imports, in terms of types of extruded rubber thread, by Globe differs substantially from that of its U.S. production. During 1996 and 1997, Globe imported a talcless, commodity-type thread, and did not import "specialty" threads such as heat-resistant, fine-gauge, or food-grade rubber thread. By contrast, during those two years, the majority of Globe's U.S. production consisted of fine-gauge and heat-resistant rubber thread.[7]

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-3 lists production, capacity, and capacity utilization separately for Globe and North American. Production ***. Capacity ***.

North American ***. Both Globe and North American reported that, during the period examined, ***.[8] North American noted, however, that ***.[9] According to North American, prices of other key materials, such as titanium dioxide, have recently increased.[10] Neither producer reported any problems in procuring supply of any raw materials.[11]

North American ***. In contrast, Globe ***.

Table III-3
Extruded rubber thread: U.S. producers' capacity, production, and capacity utilization, by firm, 1996-98

* * * * * * *

U.S. PRODUCERS' SHIPMENTS

Table III-4 presents data on U.S. producer's shipments, by firm. Neither Globe nor North American ***. Reported export shipments were limited to those ***. North American ***.

Table III-4
Extruded rubber thread: U.S. producers' shipments, by type, 1996-98

* * * * * * *

---

[7] Specifically, in 1996, *** percent of Globe's U.S. production was of fine-gauge and heat-resistant extruded rubber thread; in 1997, the figure was *** percent. USITC Pub. 3106, p. III-3, table III-2 (May 1998). The Commission does not have comparable data for calendar year 1998; Globe officials indicated, however, that ***. Conversation with ***, Globe, Apr. 9, 1999.

[8] Field visit with North American, Jan. 13, 1999; Globe questionnaire response; transcript, p. 19.

[9] ***.

[10] Transcript, p. 19.

[11] Transcript, p. 29.

III-2

Reported unit values for commercial shipments by Globe *** during the period examined, *** from $*** per pound in 1996 to $*** in 1998. Unit values of product shipped by North American followed the same general pattern, ***. Aggregate unit values for the two firms ***.

U.S. PRODUCERS' INVENTORIES

Table III-5 provides data for U.S. producers' end-of-period inventories for the period 1996-98. Led by Globe, total end-of-period inventories ***. North American ***. As a ratio to preceding-period shipments, ***.

Table III-5
Extruded rubber thread: U.S. producers' end-of-period inventories, by firm, 1996-98

* * * * * * *

North American asserted that, compared to importers, ***. It estimated that it can supply most items within one to two days; this reduces its need to carry inventory.[12] For its part, Globe ***.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-6 presents employment data for operations at both Globe and North American. Employment at Globe and hours worked by its extruded rubber thread production and related workers fluctuated between 1996 and 1998, exhibiting ***, reflecting Globe's *** in domestic production. Hourly wages paid to those workers, however, *** from 1996 to 1998, while productivity ***. In contrast, all reported indicators for North American ***. North American commented that workers engaged in extruded rubber thread production are relatively highly-skilled, and that turnover during the period examined was low.[13]

Table III-6
Average number of PRWs producing extruded rubber thread, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1996-98

* * * * * * *

[12] Transcript, p. 29; field visit with North American, Jan. 13, 1999.

[13] Transcript, p. 33.

III-3

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent questionnaires to 16 importers which accounted for virtually all imports of rubber thread from Indonesia, Malaysia, and other sources.[1] Nine firms responded to the Commission's request for information.[2] The *** importers of Indonesian thread are Globe and Hickory, Hickory, NC.[3] Both U.S. producers imported extruded rubber thread during the period examined. Globe is the *** importer of Indonesian thread, and North American ***.

The Commission received questionnaire responses from all known importers of extruded rubber thread from Indonesia, excepting ***. It also received questionnaire responses from the three importers of the subject product from Malaysia. Consequently, in this report, the Commission is using import data from questionnaires for all countries. Data for imports of food-grade extruded rubber thread are also based on responses to Commission questionnaires, and are presented in appendix D, table D-1.

U.S. IMPORTS

Table IV-1 provides data on imports of extruded rubber thread into the United States for the period 1996 to 1998. The level of Indonesian imports doubled from *** in 1996 to *** in 1998. The quantity of total imports of extruded rubber thread from all sources into the United States also increased overall over the 3-year period, with the increase occurring exclusively between 1996 and 1997. By year-end 1997, Indonesia had overtaken Malaysia as the largest supplier of imported extruded rubber thread to the United States. Together, these two countries accounted for *** percent of the quantity of total U.S. imports in 1998. Responding importers also reported imports from India and Thailand.

Table IV-1
Extruded rubber thread: U.S. imports, by sources, 1996-98

* * * * * * *

MARKET PENETRATION OF IMPORTS

Shares of apparent U.S. consumption are presented in table IV-2. In 1998, U.S. producers held *** percent (by quantity) of the U.S. market for extruded rubber thread, a ***-percentage point drop from the *** percent share held in 1996. In 1996, the share of consumption (by quantity) of imports from Indonesia and Malaysia together was *** percent; in 1998 the combined figure was *** percent.

[1] Extruded rubber thread is provided for in a basket HTS category that covers all types of vulcanized rubber thread (HTS subheading No. 4007.00.00). Based on the CNIF, the Commission sent questionnaires to firms that made significant imports under this category. Imports were considered significant if they amounted to $100,000 or more in any calendar year. The Commission also sent importers' questionnaires to all firms receiving a producer's questionnaire, for a total of 16 firms.

[2] Four firms responded that they did not import extruded rubber thread during 1996-98, and one questionnaire was undeliverable. Accordingly, six firms did not respond to the Commission's request for information.

[3] Until late 1997 Globe ***. Hickory imports from ***. During 1996, a third U.S. firm imported thread from Indonesia: ***. Subsequently, ***.

IV-1

During the period examined, Indonesia and Malaysia switched positions in terms of which country had the largest share of imports, with Malaysia having the largest import market share at the start of the period, and Indonesia supplanting it by the end. Overall, Malaysia lost *** points of market share based on quantity, whereas imports from Indonesia gained *** points. Market shares by value generally follow the same trend as those by quantity, but are substantially higher for U.S. producers.

Table IV-2
Extruded rubber thread: Apparent U.S. consumption and market shares, 1996-98

* * * * * * *

IV-2

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING[1]

Raw Material Costs

The price of natural rubber, which is the primary raw material used in the manufacture of extruded rubber thread, declined substantially over the period of investigation. The International Rubber Study Group publishes monthly data on the Daily Market Indicator Price, which is a composite of the prices for various grades of natural rubber. The Daily Market Indicator Price in December 1998 was 46.7 percent below the January 1996 price.[2]

U.S. and foreign producers were asked to report quarterly cost data for their purchases of the rubber latex used in their production of extruded rubber thread. The quarterly unit values calculated from their responses are shown in figure V-1. Domestic producers were asked to report the percent of total cost accounted for by rubber latex. North American reported that rubber latex accounted for *** percent of total COGS. Globe reported that rubber latex accounts for roughly *** percent of the total cost of producing extruded rubber thread and more than *** percent of raw material costs, but that these values change with fluctuations in the cost of latex. Both firms reported that average unit values decreased steadily from 1996 through 1998, with both companies reporting similar unit values.[3]

Figure V-1
Average quarterly latex prices, 1996-98

* * * * * * *

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Indonesian rupiah gradually depreciated relative to the U.S. dollar from January 1996 to June 1997 (figure V-2). From the second half of 1997 through the first half of 1998, the nominal value of the rupiah dropped 70 percent relative to the U.S. dollar as a result of the ongoing Asian financial crisis. During all of 1996 and through the first quarter of 1997, the real value of the Indonesian rupiah was relatively stable. From the second quarter of 1997 through the second quarter of 1998, the real value depreciated approximately 50 percent.

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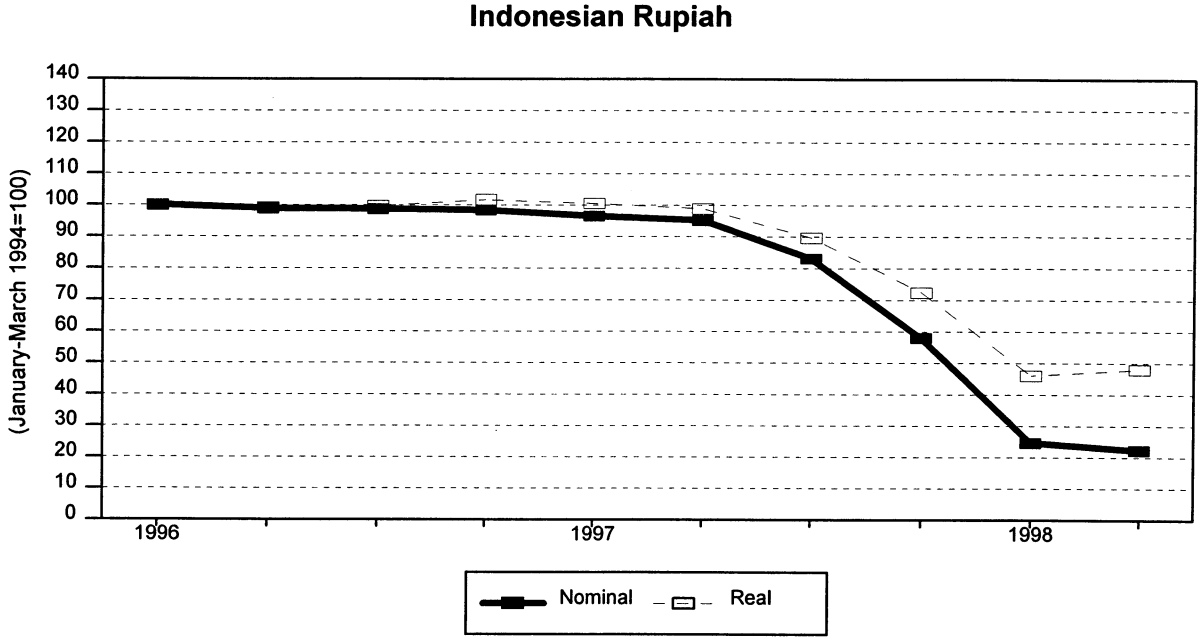
[1] As noted in Part I, the NTR tariff applied to U.S. imports of extruded rubber thread from Indonesia declined from 2.5 percent in 1996 to 0.8 percent in 1998, and is zero in 1999.

[2] International Rubber Study Group, *Rubber Statistical Bulletin*, Vol 53, No. 4, Jan. 1999. Further, latex (wet rubber) prices ***. Phone conversation with ***, Mar. 31, 1999.

[3] ***, reported similar trends over the three-year period. According to ***, however, ***. Phone conversation with ***, Feb. 23, 1999. Globe stated that ***. Phone conversation with ***, May 7, 1998.

V-1

Figure V-2
Exchange rates: Indices of the nominal and real exchange rates of the Indonesian rupiah relative to the U.S. dollar, by quarter, Jan. 1996 - June 1998



Source: International Monetary Fund, *International Financial Statistics*, Jan. 1999.

Transportation Costs to the U.S. Market

Estimated transportation costs for extruded rubber thread shipped from all countries to the U.S. market accounted for approximately 6.2 percent of the cost of extruded rubber thread (excluding U.S. inland freight) in 1998.[4] This percentage decreased irregularly from 6.5 percent in 1996 to 6.0 percent in 1997 and to 6.2 percent in 1998.

U.S. Inland Transportation Costs

U.S. producers reported that U.S. inland transportation costs account for approximately 3 to 6 percent of the total delivered price of extruded rubber thread. U.S. importers reported that these costs account for around 1 to 7 percent of the delivered price.[5] U.S. purchasers reported inland transportation costs that ranged from 1 to 5.5 percent.[6]

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[4] This estimate was calculated as the percentage difference between the customs value and the c.i.f. value reported for 1998 U.S. imports classified under subheading 4007.00.00 of the HTS.

[5] Specifically, Globe indicated that ***.

[6] In many cases, prices were based on a delivered basis; 17 of the 28 respondents did not answer this question, or indicated that they were not sure.

V-2

PRICING PRACTICES

As noted above, the cost of producing extruded rubber thread varies, depending on the cost of the latex and other material inputs (*e.g.,* various chemical additives). Moreover, extruded rubber thread unit production costs depend on gauge size and production volumes. As the gauge increases (thickness decreases), the number of hours required to produce a given amount of extruded rubber thread increases.[7] Moreover, production of fine-gauge extruded rubber thread requires greater quality control and more exacting tolerances.[8]

Domestic producers and importers stated that U.S.-produced and Indonesian extruded rubber thread are sold on a delivered basis. Globe reported in its questionnaires that ***. North American and Hickory reported ***. North American indicated that ***, while Globe and Hickory ***.

All three firms sell extruded rubber thread to customers located primarily in the Eastern United States.[9] Both Globe and North American reported ***. Globe indicated ***. Hickory requires ***.

Of the purchasers that responded to similar questions, virtually all reported that prices were set on a delivered basis, yet many purchasers (13 of the 28) reported some price negotiation. The majority of purchasers (22 out of 28) stated that prices changed "rarely," "not very often," " not in over a year," or statements to that effect. Fifteen purchasers identified Indonesian and Malaysian importers as price leaders.[10]

PRICES

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and total value (net of all discounts, allowances, and promotions) of three types of extruded rubber thread that were shipped to unrelated U.S. customers during the period January 1996-December 1998. Importers were also requested to report sales of these products to unrelated customers.[11] Products for which pricing data were requested are listed as follows:

Product 1: Standard launderable talced extruded rubber thread with a yield of around 650-1,150 yards per pound (in the gauge range of 24-34) (does not include heat-resistant or food-grade extruded rubber thread)

Product 2: Standard launderable talcless extruded rubber thread with a yield of around 650-1,150 yards per pound (in the gauge range of 24-34) (does not include heat-resistant or food-grade extruded rubber thread)

Product 3: Heat-resistant extruded rubber thread with a yield of around 650-1,150 yards per pound (in the gauge range of 34-37)

---

[7] North American noted that ***. Conversation with ***, North American, Feb. 12, 1999.

[8] Conference transcript, p. 18.

[9] A fourth importer, ***, which imports from ***, also ***.

[10] North American was ***. In one instance it was ***. ***, an importer of Malaysian extruded rubber thread, stated in its questionnaire response that ***.

[11] U.S. producers and importers were requested to report their prices on both an f.o.b. (U.S. point of shipment) basis and a delivered basis (*i.e.*, including the cost of U.S. inland transportation).

Both U.S. producers (Globe and North American) and two importers (Globe and Hickory) provided usable pricing data for sales of these products.[12] North American and Globe reported sales of U.S.-produced products 1, 2, and 3. Globe also reported sales of Indonesian product 2. Hickory reported sales of product 1. In terms of volume, these data accounted for approximately *** percent of open-market shipments of the U.S. product and *** percent of U.S. imports from Indonesia in 1998.

U.S. Producer and Importer Price Trends

Weighted-average unit values for sales of U.S.-produced and imported Indonesian extruded rubber thread (products 1, 2, and 3) are shown in figures V-3 and V-4 and in tables V-1 through V-3. In general, the average unit values reported for the three products remained fairly steady during the three-year period, with a slight increase in the first three quarters of 1997. On average, prices were most stable in 1998 for all three products. There was, however, variation in pricing among the reporting companies. For both product 1 (talced) and product 2 (talcless), North American ***. For product 1, Globe *** while Hickory, which ***. Hickory noted in its questionnaire that ***. Hickory also noted that ***.[13]

Figure V-3
Extruded rubber thread: Weighted-average prices for products 1 and 2, by sources and by quarters, Jan. 1996-Dec. 1998

* * * * * * *

Figure V-4
Extruded rubber thread: Weighted-average prices for product 3, by sources and by quarters, Jan. 1996-Dec. 1998

* * * * * * *

Table V-1
Extruded rubber thread--product 1: Average delivered unit values and quantities reported by U.S. producers and importers, by quarters, Jan. 1996-Dec. 1998

* * * * * * *

[12] ***, an importer of Malaysian extruded rubber thread, reported no sales of Indonesian or U.S. thread.

[13] In its questionnaire, Hickory submitted a copy of a letter ***.

V-4

Table V-2
Extruded rubber thread--product 2: Average delivered unit values and quantities reported by U.S. producers and importers, by quarters, Jan. 1996-Dec. 1998

* * * * * * *

Table V-3
Extruded rubber thread--product 3: Average delivered unit values and quantities reported by U.S. producers, by quarters, Jan. 1996-Dec. 1998

* * * * * * *

For product 2, Globe's domestic price was ***. At one point Globe's price ***. Globe's Indonesian product ***. In 1998, the price of Globe's domestic product ***.

Product 3 (heat-resistant extruded rubber thread) had the highest prices and no Indonesian imports during the period. Globe ***, while North American ***. Price increases during 1995 corresponded to reported increases in the unit cost of latex, but average unit values for extruded rubber thread did not track the decline in latex prices that occurred during 1997.[14] There appeared to be a slight decline in average prices in 1998, perhaps reflecting the decline in latex prices.[15]

In response to a question at the end of the hearing, North American submitted a list of annual prices for its two largest selling extruded rubber thread products from 1995 through 1998. For each product, North American listed the price that was charged to its largest customer, and the price that was charged to its smallest customer. The information is presented in table V-4.

Table V-4
Extruded rubber thread: North American's annual sales of its two largest selling products to its largest and its smallest customers, 1995-98

* * * * * * *

U.S. Producer and Importer Price Comparisons

Margins of under/overselling are shown in table V-5. Price comparisons between the U.S. products and importers' sales of the Indonesian products were possible in 42 instances. In all but four of these, the Indonesian product was priced below the U.S. product, with margins ranging from 4.6 to 32.8 percent. Twelve of the comparisons represent ***.

Table V-5
Extruded rubber thread: Percentage margins of under/(over)selling by importers, by quarters, Jan. 1996 - Dec. 1998

* * * * * * *

[14] 1995 data reported in the preliminary report.

[15] Some purchasing companies noted the removal of a latex surcharge from their purchases in 1998.

V-5

LOST SALES AND LOST REVENUES

The Commission received lost sales allegations from both Globe and North American. North American ***. Globe ***.

In its petition, North American provided limited information regarding ***. Table V-6 presents estimates of lost sales calculated by North American, with the column heading entitled "accepted delivered price for Indonesian product" being North American's estimates of the price at which Globe sold its imported extruded rubber thread.[16]

Table V-6
Extruded rubber thread: North American's annual lost sales allegations, 1996-98

* * * * * * *

*** also submitted three new instances (beginning in 1999) in which North American had to lower its prices to customers in order to meet Globe's competitive price offers and not lose its customers. In particular, North American *** to maintain sales to ***, with an estimated annual revenue loss of $***. North American also lowered a contract price to another customer, ***, ***, resulting in an estimated annual revenue loss of $***. Finally, North American *** with a third customer, ***, by ***, thereby losing an estimated $***.

Purchasers were asked to report annual purchase volumes of extruded rubber thread by country of origin (United States, Indonesia, Malaysia, and other countries). The Commission has information submitted by two of these companies in response to its purchaser questionnaire, plus information obtained in a phone conversation with ***. In the preliminary phase of this investigation, *** stated that prior to 1995 his firm had purchased most of its extruded rubber thread from Globe. *** began purchasing extruded rubber thread from North American in 1995 in order to establish another source of supply. *** stated that although ***. He indicated that *** reduced its purchases from North American because of quality problems.[17] *** also noted that the Indonesian product supplied by Globe ***.

*** indicated in its questionnaire response that it switched to Indonesian-produced extruded rubber thread when Globe began to import the product. Louis Lavoie, President of Northeast Knitting, testified at the Commission's conference that the quality of Globe's heavy gauge products exceeded that of similar types of extruded rubber thread supplied by North American. Moreover, he stated that Globe's Indonesian extruded rubber thread was "selling at the market price, a price that is the same or even higher (than) the prices charged by North American."[18] In a post-conference submission, counsel for Globe submitted copies of invoices from February 1998 that show the prices of North American's extruded rubber thread (***) versus Globe's Indonesian extruded rubber thread (***).[19] On February 24, 1999, Mr. Lavoie submitted another North American invoice (dated April 17, 1998), indicating that North

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[16] North American requested that ***. Phone conversation of Feb. 23, 1999.

[17] The amount of silicone on the extruded rubber thread varied and thus created different degrees of drag ***.

[18] Conference transcript, p. 29.

[19] The price per pound for the North American product was *** latex surcharge (net 60 days). The price per pound charged by Globe, $***, is ***. Subsequent to this submission, Mr. Lavoie provided the Commission with additional invoices for both firms that covered transactions during 1995-97. These invoices suggest that the North American product generally was *** than similar Indonesian extruded rubber thread sold by Globe.

American had ***. Mr. Lavoie also reiterated his contention that the quality of Globe product was superior to the North American product.[20]

The Commission also contacted *** regarding North American's lost sales allegations. *** indicated that his firm used to purchase approximately 15 to 20 percent of its extruded rubber thread from North American.[21] He stated that the primary reason *** discontinued purchasing from the firm was because of inconsistent quality. The extruded rubber thread was gummy and would not separate from the ribbons.[22] His firm has traditionally maintained multiple suppliers. During the mid-1990s, *** purchased from ***. During 1997-98, the company purchased from ***.[23] *** noted that he currently was ***.

In its questionnaire, Globe reported it had lost sales to four companies *** in fine gauge (100-110) extruded rubber thread to imports from Indonesia during the 1996-98 period.[24] Globe attached sales printouts for each company for the period June 1996 to December 1998, with no discussion of the amount of lost sales.

The Commission has information submitted by one of these purchasers (***) in response to the purchaser's questionnaire. ***'s questionnaire showed that the company's purchases of U.S.-produced extruded rubber thread ***. Purchases of Indonesian extruded rubber thread ***. Its purchases from Malaysia ***. In its questionnaire, *** stated that ***. The company also ***.

The Commission also contacted *** regarding Globe's allegation of lost sales. *** stated that the company had switched suppliers of 100 gauge extruded rubber thread from Globe to Hickory because it produced the better product.[25] *** also noted that his company has recently been buying less extruded rubber thread, and buying more lycra and spandex. They still buy heat-resistant material from the United States because it is certified.

With regard to lost sales, quantity, value, and unit value data obtained from purchasers' questionnaires are presented in table V-7.

Table V-7
Extruded rubber thread: Purchases, by country, of companies involved in alleged lost sales

* * * * * * *

[20] Conversation (and subsequent fax) on Feb. 24, 1999, with Louis Lavoie.

[21] Telephone conversation with ***, Apr. 24, 1998.

[22] He specifically stated that ***.

[23] Approximately *** percent of the firm's total purchases from Globe are of the Indonesian product. The remainder is accounted for by ***.

[24] *** was originally not on the purchaser mailing list.

[25] *** specifically stated that in a 12-week trial, ***.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

Globe and North American, the only U.S. producers of extruded rubber thread since late 1990, both provided financial data on their extruded rubber thread operations.[1] Globe, however, did not provide complete financial data. The companies, which have fiscal years ending December 31, ***.

OPERATIONS ON EXTRUDED RUBBER THREAD

The results of the U.S. producers' extruded rubber thread operations are presented in table VI-1. The results of the producers' extruded rubber thread operations ***.

Table VI-1
Results of U.S. producers on their operations producing extruded rubber thread, fiscal years 1996-98

* * * * * * *

Table VI-2 presents selected financial data on a company-by-company basis. Globe's net sales values were ***. Globe's costs were ***, as shown in table VI-3. ***.

Table VI-2
Selected financial data of U.S. producers on their operations producing extruded rubber thread, on a company-by-company basis, fiscal years 1996-98

* * * * * * *

Table VI-3
Selected unit cost data for U.S. producers on their operations producing extruded rubber thread, on a company-by-company basis, fiscal years 1996-98

* * * * * * *

The variance analysis showing the effects of prices and volume on the producers' net sales of extruded rubber thread, and of costs and volume on their total expenses, is shown in table VI-4. The analysis is summarized at the bottom of the table. ***.

Table VI-4
Variance analysis of U.S. producers' operations producing extruded rubber thread between the fiscal years 1996-98

* * * * * * *

[1] No verification was conducted in this investigation as North American's extruded rubber thread data was verified in May 1998 in investigation No. 753-TA-34.

CAPITAL EXPENDITURES, R&D EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

Globe's and North American's capital expenditures and R&D expenditures, together with the value of their fixed assets, are shown in table VI-5. Globe did not provide original cost and book value of fixed assets. ***.

Table VI-5
Capital expenditures, R&D expenditures, and assets utilized by U.S. producers in their operations producing extruded rubber thread, fiscal years 1996-98

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects of imports of extruded rubber thread from Indonesia on their return on investment or their employment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments, and any anticipated negative effects of the subject imports. Their responses are as follows:

Actual Negative Effects

Globe

***.

North American

***.

Anticipated Negative Effects

Globe

***.

North American

***.

VI-2

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V of this report, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN INDONESIA

The Commission received information from three Indonesian firms that are believed to account for all of the production of extruded rubber thread in that country: Bakrie, Persero, and Swasthi. None of the three firms is currently represented by counsel; accordingly, the Commission requested each firm directly to provide data on the industry's capacity, production, shipments, and inventories of extruded rubber thread. The data obtained are presented in table VII-1.[1]

As seen from the table, Indonesian production of extruded rubber thread grew sharply from 1996 to 1997, but then declined slightly in 1998. Such production is expected to resume its increase in calendar years 1999 and 2000, however. Capacity remained constant over the period examined, resulting in trends in capacity utilization that were identical to those in production.[2] Shipments to the home market showed an overall decline over the 3-year period, as opposed to export shipments, both to the United States and to other markets, which increased sharply. Both home market and U.S. shipments are expected to grow slightly in 1999 and 2000. Exports to the United States were consistently smaller than exports to markets other than the United States throughout the period examined.[3] Such export patterns are not expected to change substantially from 1999 to 2000, although capacity utilization is predicted to rise. Further, all three firms reported sharply falling costs of latex during the period examined.[4]

Bakrie was *** of the three producers of extruded rubber thread in Indonesia during 1998. Its capacity and production accounted for *** percent of total Indonesian capacity and production, respectively, during 1998.[5] Despite its relative size in Indonesia, Bakrie is currently the ***. During some of the period examined, Bakrie's ***.

Persero was *** producer of extruded rubber thread in Indonesia during 1997 and 1998, although it had the *** production capacity throughout the period examined. Persero's sales of extruded rubber thread accounted for *** percent of its total sales during 1998. Persero's capacity to produce extruded

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[1] Data on food-grade extruded rubber thread, limited to data provided by Swasthi, are presented in app. D. None of the firms reported any data on extruded rubber thread under 18 gauge in diameter.

[2] North American alleged that ***. Fax of Feb. 26, 1999; transcript, p. 12; prehearing brief of North American, p. 12.

[3] Export markets other than the United States are extremely diverse; for example, ***.

[4] The cost of latex accounted for between 25 and 51 percent of total cost of production for the three firms during the 3-year period.

[5] Bakrie attributed ***.

VII-1

Table VII-1
Extruded rubber thread: Indonesian capacity, production, inventories, capacity utilization, and shipments, 1996-98, and projected 1999 and 2000

Item	Calendar year			Projected	
	1996	1997	1998	1999	2000
	Quantity (*1,000 pounds*)				
Capacity	36,777	36,777	36,777	36,777	36,777
Production	22,630	28,764	26,826	27,685	29,288
End-of-period inventories	2,036	1,860	1,888	1,215	1,115
Shipments:					
Home market	9,645	11,290	5,301	5,085	5,449
Exports to:					
The United States	***	***	***	***	***
All other markets	***	***	***	***	***
Total exports	16,697	17,696	21,635	23,273	23,939
Total shipments	26,342	28,987	26,935	28,358	29,388
	Ratios and shares (*percent*)				
Capacity utilization	61.5	78.2	72.9	75.3	79.6
Inventories to production	9.0	6.5	7.0	4.4	3.8
Inventories to all shipments	7.7	6.4	7.0	4.3	3.8
Share of total shipments					
Home market	36.6	39.0	19.7	17.9	18.5
Exports to:					
The United States	***	***	***	***	***
All other markets	***	***	***	***	***
Total exports	63.4	61.0	80.3	82.1	81.5

Source: Compiled from data submitted in response to Commission questionnaires.

rubber thread in Indonesia in 1998 accounted for *** percent of total Indonesian capacity. Its exports of the subject product to the United States during the period examined are ***.[6]

[6] Accordingly, the Commission did not send a questionnaire to ***. North American alleged, however, that ***.

VII-2

Swasthi was *** producer of extruded rubber thread in Indonesia during 1998, accounting for *** percent of production.[7] Its capacity, which *** during the period examined, accounted for *** percent of total Indonesian extruded rubber thread capacity during 1998. Swasthi indicated that its extruded rubber thread production equipment and machinery are ***. Like the other two Indonesian producers, Swasthi ***. During 1998, its U.S. exports of extruded rubber thread accounted for *** percent of all Indonesian exports to the United States.

There is no indication that extruded rubber thread from Indonesia has been the subject of any other import relief investigations, including antidumping findings or remedies, in the United States or in any other countries.

U.S. INVENTORIES OF INDONESIAN EXTRUDED RUBBER THREAD

Both U.S. importers of the subject product from Indonesia (Globe and Hickory) reported keeping inventories of extruded rubber thread in the United States during the period examined. These U.S. importers' inventories of Indonesian extruded rubber thread that were held in the United States are reported in table VII-2.

End-of-period inventories held by the two firms *** from *** in 1996 to *** in 1998. The ratio of inventories to imports ***, while the ratio of inventories to U.S. shipments of such imports ***.

Table VII-2
Extruded rubber thread: U.S. importers' end-of-period inventories of imports from Indonesia, 1996-98

* * * * * * *

[7] During 1997, *** of Swasthi's exports to the United States were of fine-gauge extruded rubber thread and *** were of food-grade extruded rubber thread.

APPENDIX A

FEDERAL REGISTER NOTICES

A-1

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-787 (Final)]

Extruded Rubber Thread From Indonesia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-787 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Indonesia of extruded rubber thread, provided for in subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202-205-3183), Office of Investigations, U.S. International Trade Commission, 500 E Street S.W., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of extruded rubber thread from Indonesia are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 31, 1998, by North American Rubber Thread Co., Ltd., Fall River, MA.

The petition also alleged that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Indonesia of extruded rubber thread that were being subsidized by the Government of Indonesia. The Commission made an affirmative preliminary injury determination with regard to those imports. Subsequently, however, Commerce made a negative preliminary determination concerning whether manufacturers, producers, or exporters

[1] For purposes of this investigation, Commerce has defined the subject merchandise 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."

of extruded rubber thread in Indonesia received subsidies. In the event Commerce makes an affirmative final determination regarding the issue of subsidies, the Commission will activate the final phase of its countervailing duty investigation on extruded rubber thread from Indonesia (inv. No. 701-TA-375). The briefing schedule, hearing, and other deadlines applicable to the final phase of inv. No. 731-TA-787, as outlined below, will also apply to inv. No. 701-TA-375.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on March 12, 1999, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on March 25, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 16, 1999. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 18, 1999, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 19, 1999. Parties may also file written testimony in connection with 4 their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 31, 1999; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 31, 1999. On April 19, 1999, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 21, 1999, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: November 16, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98-30978 Filed 11-18-98; 8:45 am]

BILLING CODE 7020-02-P

A-4

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–803]

Notice of Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Indonesia

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

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Eric B. Greynolds, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1775 or (202) 482–6071, respectively.

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 of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351 (April 1998).

Final Determination

We determine that extruded rubber thread ("ERT") from Indonesia is being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of our preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Extruded Rubber Thread from Indonesia;* 63 FR 59279, (October 27, 1998), ("Preliminary Determination")), the following events have occurred:

In December 1998, we verified the sales questionnaire response from Globe Manufacturing Company ("Globe"), an affiliated selling agent of P.T. Bakrie Rubber Industries ("Bakrie"), a foreign respondent. Between January 7 through January 31, 1999, we verified the sales and cost questionnaire responses of the foreign respondents, Bakrie and P.T. Swasthi Parama Mulya ("Swasthi").

Petitioner, North American Rubber Thread Co., Ltd., and respondents, Bakrie and Globe, submitted case briefs on February 26, 1999, and rebuttal briefs on March 2, 1999. Swasthi submitted a case brief on February 26, 1999, and a rebuttal brief on March 3, 1999. No party requested a public hearing for this investigation.

Scope of the Investigation

For purposes of this investigation, the product covered is ERT from Indonesia. ERT 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.

ERT is currently classified under subheading 4007.00.00 of the *Harmonized Tariff Schedule* ("HTS"). Although the HTS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is January 1, 1997, through December 31, 1997.

Fair Value Comparisons

To determine whether sales of ERT from Indonesia to the United States were made at less than fair value, we compared the export price ("EP") or the constructed export price ("CEP") to the normal value ("NV"), as described below in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the description in the "Scope of Investigation" section of this notice, produced in Indonesia by the respondents and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): gauge and color. In our preliminary determination we also made product comparisons using ends in our model match. At verification we learned that ends are not relevant to the product price of ERT. We also verified that there are no costs associated with the ends. Therefore, for purposes of the final determination, we have eliminated ends as a model match characteristic.

Level of Trade

In the preliminary determination, we determined that all comparisons are at the same level of trade for both respondents and an adjustment pursuant to section 773(a)(7)(A) of the Act is not warranted. We find no basis to change this determination for the final determination.

Export Price

As in the preliminary determination, for Swasthi we used EP methodology, in accordance with section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated.

We based EP on the packed prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, from the starting price for foreign inland freight, international freight, marine insurance, U.S. customs duty, and brokerage and handling. We also made a deduction, where appropriate, for rebates.

In the course of preparing for verification, Swasthi discovered minor errors in its questionnaire responses. Swasthi reported these corrections to its questionnaire responses on the first day of verification. Upon examination of these minor corrections, we made the following revisions to Swasthi's U.S. sales database: (1) accepted a revised sales database which amended various fields (*see* Comment 4 in the "Analysis of Comments Received" section for further discussion); (2) revised the brokerage expenses (*see* Swasthi's Sales Verification Report); (3) revised the rebate calculation, where appropriate (*see* Swasthi's Sales Verification Report); and (4) recalculated imputed credit costs in the home and U.S. market in order to account for changes in the interest rates (*see* Swasthi's Sales Verification Report).

Constructed Export Price

For all sales by Bakrie, we used the CEP methodology, in accordance with section 772(b) of the Act, because the first sale of subject merchandise to an unaffiliated purchaser took place after importation into the United States. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for discounts. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, containerization expenses (expenses for loading the merchandise into the container), foreign brokerage and handling, international freight (including marine insurance, U.S. inland insurance, U.S. freight to the affiliated reseller), U.S. customs duties, and freight to U.S. customer. In accordance with section 772(d)(1) of the Act, we deducted selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit cost) (*see* Comment 7), inventory carrying costs (*see* Comment 7), other indirect selling expenses.

Finally, during our verification of Globe, we learned that Globe incorrectly based its inventory carrying costs and indirect selling expenses on a nine-month period rather than on the entire POI. Thus, based on our verification findings, we revised the inventory carrying costs and indirect selling expenses in Bakrie's U.S. sales database in order to account for the entire POI. In addition, we revised the international freight expenses incurred in the United States and the inland freight expenses from the warehouse and created a new field in order to account for marine insurance expenses that were omitted from Bakrie's original section C response. For further discussion on the above-mentioned revisions, *see* Globe's Verification Report. In addition, we recalculated Bakrie's imputed credit expenses in the home and U.S. market in order to account for changes in the interest rates that we discovered at verification (*see* Bakrie and Globe's Sales Verification Report).

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the POI.

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Consequently, we based NV on home market sales.

As discussed in the preliminary determination, the Department found reasonable grounds to believe or suspect that both Bakrie's and Swasthi's sales in the home market were made at prices below the cost of producing the subject merchandise. As a result, the Department initiated an investigation to determine whether Bakrie and Swasthi had made home market sales during the POI at prices below their respective cost of production within the meaning of section 773(b) of the Act. Section 782(c)(2) of the Act provides that the Department must attempt to provide guidance to small responding companies. Because both respondents are small companies in Indonesia, acting on their own behalf, the Department has attempted to provide guidance in the course of responding to antidumping questionnaires. This, in turn, necessitated granting time to respond to the questionnaires. Due to these extensions, the Department was unable to include a cost of production ("COP") analysis of either respondent's home market sales in the preliminary determination. However, we are including a COP analysis of Bakrie's and Swasthi's home market sales in this final determination.

Before making any fair value comparisons, we conducted the COP analysis described below for each company:

1. Bakrie

A. *Calculation of COP.* We calculated the COP based on the sum of Bakrie's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses ("SG&A") and packing costs in accordance with section 773(b)(3) of the Act.

B. *Test of Home Market Prices.* We used the respondent's weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether the below-cost prices would permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We did not deduct indirect selling expenses from the home market price because these expenses were included in COP.

C. *Results of COP Test.* Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to weighted-average COPs for the POI, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

Based on our COP test, we found that Bakrie had no above-cost home market sales for matching purposes. (For further discussion, see the Calculation Memorandum to the File, dated March 18, 1999). Therefore, NV was based upon constructed value, pursuant to section 773(b)(1).

D. *Calculation of CV.* In accordance with section 773(e) of the Act, we calculated CV based on the sum of Bakrie's cost of materials, fabrication costs, SG&A, profit, and U.S. packing costs. We used Bakrie's actual selling expenses incurred in Indonesia on home market sales. Because Bakrie had no above-cost home market sales and, hence, no actual company-specific profit data available for its home market sales, we calculated profit in accordance with section 773(e)(2)(B) of the Act. Specifically, section 773(e)(2)(B)(iii) of the Act permits the Department to use any other reasonable method to determine profit. Therefore, we used Swasthi's profit rate as facts available under section 773(e)(2)(B)(iii) of the Act (*see* Comment 2).

E. *Price to CV Comparisons.* For price to CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses, in accordance with section 773(a)(6)(C)(iii) of the Act.

2. Swasthi

A. *Calculation of COP.* We calculated the COP based on the sum of Swasthi's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A and packing costs in accordance with section 773(b)(3) of the Act.

B. *Test of Home Market Prices.* On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We did not deduct indirect selling expenses from the home market price because these expenses were included in the G&A portion of COP.

C. *Results of COP Test.* Based on our COP test and the methodology for disregarding below-cost sales described above for Bakrie, we found that Swasthi had sufficient above-cost home market sales for matching purposes. (For further discussion, *see* the Calculation Memorandum to the File, dated March 18, 1999). Therefore, for matching purposes, U.S. sales were compared to home market prices for all comparisons and CV was not required.

D. *Price to Price Comparisons.* We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where the sales were made at arm's length. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale ("COS") for credit expenses, in accordance with section 773(a)(6)(C). We made COS adjustments by deducting from the starting price credit expenses. In addition, in accordance with section 773(a)(6)(A) and (B) of the Act, we deducted home market packing costs and added U.S. packing costs. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Currency Conversion

As in the preliminary determination, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, ignoring fluctuations, in accordance with section 773A of the Act.

Section 773A of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate is a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we

substitute the benchmark for the daily rate.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents. Our verification results are outlined in detail in the public versions and are on file in Room B-099, the Central Records Unit, of the Department of Commerce.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, and the two respondents, Bakrie and Swasthi. We also received rebuttal comments from the petitioner, Bakrie, Swasthi, and Globe.

Comment 1: Averaging Periods to Account for the Effect of Time on Price Comparability. Petitioner requests that the Department depart from its standard use of a single weighted-average price and use two six-month averaging periods to calculate the dumping margin in this investigation to ensure that the currency conversion methodology does not distort the Department's calculations of the dumping margins. Petitioner, in this case, cites the identical arguments for applying two six-month averaging periods discussed in the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia*, 63 FR 72268, 72272 (December 31, 1998) ("*Preserved Mushrooms*"). *See Preserved Mushrooms* at Comment 1.

According to Globe, the petitioner has misinterpreted the Department's decision regarding the application of two six-month averaging periods to calculate the dumping margin in this investigation. Globe argues that in the *Preserved Mushrooms* case, the Department chose not to use shorter averaging periods because they were of no consequence in that case. Accordingly, because the POI in this investigation is identical to the POI in *Preserved Mushrooms*, Globe contends that the Department should also not alter the averaging period and continue to average prices over the entire POI.

Swasthi also disagrees with the Petitioner's assertion that the Department should use two-averaging periods. Swasthi argues that dividing the POI into two parts would require the use of two sets of costs and sales data for each of the periods. Swasthi notes that the Department has only the costs and sales information regarding calendar year 1997, and does not have the information available to consider the Petitioner's proposed two-six month averaging period. On this basis, Swasthi contends that the Department should follow the practice as applied in *Preserved Mushrooms* by basing the price comparison on a single averaging period for all of calendar year 1997.

DOC Position. We agree with petitioners that separate averaging periods should be used. Under section 777A(d)(1)(A) of the Act , the Department has wide latitude in calculating the average prices used to determine whether sales at less than fair value exist. More specifically, under 19 C.F.R. 351.414(d)(3), the Department may use shorter averaging periods where normal value varies significantly over the POI. In this case, such a change is evidenced by the steady, significant decline in the rupiah's value that began about August 1997 and continued through the end of the POI. From August through December, the end of the POI, the rupiah's value decreased by more than 50 percent in relation to the dollar. Consequently, it is appropriate to use two averaging periods to avoid the possibility of a distortion in the dumping calculation. We disagree with Globe's claim that the use of averaging periods is not warranted because the POI is the same as the POI in *Preserved Mushrooms*. Whereas we declined to use two averaging periods in that case because doing so would have had no effect, thus rendering the issue moot, in this case the use of two averaging periods would affect our determination. As noted above, in our view, using a single averaging period would result in a distortion of the dumping calculation. We also disagree with Swasthi's assertion that we would need additional information in order to use two averaging periods. In accordance with our normal requirements, respondents reported individual sales transactions, and we simply segregated sales by period. Further, no additional or different cost information is required. The use of two averaging periods for margin calculation purposes does not affect whether the reported cost data are appropriate.

Comment 2: Calculated Profit. Petitioner argues that, should the Department find in its COP analysis that respondents made no sales above the cost of production, the Department should resort to the use of constructed value as NV, and apply, as the profit rate, a rate of 22.69 percent as used in the *Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Indonesia*, 62 FR 1719, (January 13, 1997) ("*Melamine Dinnerware*").

Swasthi argues that its home market sales are profitable, and therefore the Department should use, if necessary, Swasthi's actual profit rate and not the rate of a plastic tableware manufacturer. Swasthi continues to state that a profit rate of another industry is irrelevant for an analysis involving the extruded rubber thread industry.

Bakrie did not comment on this issue.

DOC Position. We disagree with Petitioner. According to section 773(e)(2)(B) of the Act, the Department has various methodologies for calculating profit where profit does not exist. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2nd Sess. (1994) (SAA) at 841, states that if a company has no home market profit on sales of the foreign like product or has incurred losses in the home market, the Department is directed to find an alternative home market profit. The statute also infers that a positive profit amount must be included in the calculation of constructed value by mandating the use of profit from any sales above the costs of production (even one sale) and provides alternative methods for determining profit when no sales are found to be above the cost of production.

Because Bakrie had no above-cost home market sales and, hence, no actual company-specific profit data available for its home market sales of the foreign like product, we calculated profit in accordance with section 773(e)(2)(B) of the Act. Specifically, section 773(e)(2)(B)(iii) of the Act permits the Department to use any other reasonable method to determine profit. We note that Bakrie's audited 1997 financial statement indicated no profit during the POI. However, because Swasthi is another producer/exporter of the subject merchandise in Indonesia and did report a profit for the POI, we are applying, as facts available, its profit rate under section 773(e)(2)(B)(iii) of the Act. Therefore, we do not need to resort to other alternatives for a surrogate profit ratio.

Comment 3: Treatment of Bakrie's Audited Financial Statement as Public. Petitioner contends that the Department should treat Bakrie's 1997 audited financial statement as public information, as opposed to business proprietary information, based on the fact that Bakrie had to report such information to the Indonesian government..

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Bakrie did not comment on this issue.

DOC Position. We disagree with Petitioner. Pursuant to section 351.105 of the Department's regulations, the Secretary normally will consider as business proprietary, at the request of the submitter, specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter. At the time of Bakrie's questionnaire submission, Bakrie requested that its financial statement be treated as proprietary. Bakrie's financial statement is not a public document. Petitioner's argument that the financial statement should be a public document because Bakrie has acknowledged that it must provide a copy of its financial statement to the government of Indonesia is not pertinent to Bakrie's request for proprietary treatment of the document. The fact that Bakrie's financial statement might be disclosed to a government entity does not in and of itself demonstrate that such information is public. For example, companies must file a tax return with the government, but this fact does not mean that company tax returns are public documents. Therefore, we continue to treat Bakrie's financial statement as a business proprietary document.

Comment 4: Use of Facts Available in Swasthi's Sales Responses. Petitioner argues that, at the beginning of the verification process, Swasthi provided updated information regarding returns, discounts, commissions, payment dates, packing expenses, product codes, sales dates and inland freight costs for both U.S. and Indonesian sales, which essentially constituted a new questionnaire response. Petitioner asserts that, because such data constitutes untimely new information which should have been provided in the questionnaire responses, the Department should disregard this new data and adjust Swasthi's sales data using facts available.

Swasthi states that the revisions should be included in the Department's final determination because the Department was able to reconcile the revisions during verification.

DOC Position. The revisions Swasthi provided to the Department at verification amount to corrections of certain errors Swasthi made in its questionnaire responses. The errors in question were neither significant nor pervasive. On the first day of verification, Swasthi presented a revised Section B and C database. The revisions were the direct result of errors discovered in the course of preparing for the Department's verification. Furthermore, the revised sales databases were reconciled and formed the basis of the Department's verification report. Because it is the Department's practice to accept minor corrections at verification, we have accepted these corrections for purposes of this final determination.

Comment 5: Conversion of Correct Units of Measure of Imputed Credit Cost in the United States. Swasthi alleges that its imputed credit cost for sales incurred in the United States at the preliminary determination was reported in U.S. dollars per kilogram instead of U.S. dollars per pound. Swasthi contends that this resulted in an overstatement of imputed credit cost to be deducted from the gross sales prices. Swasthi requests that the Department recalculate its imputed credit cost in the United States based on the fact that the Department verified that the imputed credit was reported in U.S. dollars per pound.

Petitioner did not comment on this issue.

DOC Position. In both the preliminary determination and in this final determination, we calculated imputed credit costs for Swasthi's U.S. sales based on a cost per-pound basis. This was done because the U.S. sales price is made on a per-pound basis. Therefore, the proper credit costs were used in both the preliminary and final determinations.

Comment 6: Loan from Shareholders. Petitioner argues that the Department should impute an interest expense on loans received from related parties and that this is consistent both with related party transaction provisions in the statute and with the Department's normal practice. Specifically, petitioner states that Swasthi received loans from shareholders bearing a non-arm's length interest rate. Petitioner notes that it is the Department's practice to calculate the interest cost for loans from affiliated parties, *e.g.*, shareholders, based on the interest rate the loan recipient is paying unaffiliated parties. *See Final Results of Antidumping Duty Administrative Review: Industrial Phosphoric Acid from Belgium*, 63 FR 55087, 55089, (October 18, 1998). According to petitioner, the COP the Department uses in its margin calculations should reflect the fair market cost of this type of loan.

Swasthi refutes petitioner's allegations by stating that its shareholders do indeed charge market interest rates on the loans; and that the cost of such loans were included as reported costs in its COP and CV databases. Swasthi notes that the Department stated in its verification report that there were no discrepancies in Swasthi's COP and/or CV databases. Thus, Swasthi contends, petitioner's comment on this issue should be disregarded.

DOC Position. We agree with Petitioner. It is the Department's practice to include imputed interest expenses in the computation of CV and COP on loans received from affiliated parties, if not included in the interest expense calculation. *See Final Results of Antidumping Duty Administrative Review: Shop Towels from Bangladesh*, 60 FR 48966, (September 21, 1995). The Department will normally impute an interest expense on transactions when the rate charged by a related party lender does not reflect a fair market rate. In this case, we do not consider the respondent's shareholder loans to be reflective of the fair market borrowing rate since such loans typically involve some cost to the borrower. The Department determined that Swasthi received loans from its shareholders, but the interest on those loans was not included in the calculation of Swasthi's COP and CV. Therefore, we calculated an annual imputed interest expense for the loan by multiplying the outstanding loan balance by the annual borrowing rate in rupiah as shown in the 1997 audited financial statement. The resulting per annum, annual imputed interest expense of the loan was added to Swasthi's reported interest expense, and the revised interest expense was then divided by the cost of goods sold to obtain a revised interest expense ratio which was used in the calculation of the COP (*see*, the Calculation Memorandum to the File dated March 18, 1999).

Comment 7: Imputed Credit and Inventory Carrying Costs. Bakrie argues that its U.S. and home market prices should not be adjusted for imputed credit costs and inventory carrying costs incurred in the home and United States because imputed credit costs are included in its interest expense for purposes of its COP calculation. Thus, Bakrie contends that the Department double-counted its interest expense because these expenses are included in COP and are also deducted from the home market sales price.

DOC Position. We did not double-count Bakrie's expenses. When conducting the COP test for Bakrie's home market sales, the COP includes the company's actual financial expenses. In conducting the COP test, we do not deduct imputed inventory carrying costs and home market credit costs from HM prices because the COP already includes the company's actual financial expenses. Thus, there is no double-counting of Bakrie's interest expenses. We do not perform the cost

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test for U.S. sales. Therefore Bakrie's comment with respected to U.S. costs is moot.

Comment 8: Exclusion of Globe's Assistance in Bakrie's Reported COP. Petitioner contends that the Department should adjust Bakrie's reported COP to account for Globe's contribution to the joint venture which Petitioner asserts was not reflected in Bakrie's reported COP.

DOC Position. We disagree with Petitioner. Globe's contribution to the joint venture was already included in Bakrie's reported COP and CV databases. For further discussion, *see* the Calculation Memorandum to the File dated, March 18, 1999.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to begin suspension of liquidation for Swasthi of all entries of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final determination in the **Federal Register**. We are also directing the Customs Service to continue to suspend liquidation for Bakrie of all entries of subject merchandise from Indonesia, that are entered, or withdrawn from warehouse, for consumption on or after November 3, 1998 (the date of publication of the preliminary determination in the **Federal Register**). The "All Others" rate applies to all exporters of extruded rubber thread not specifically listed below. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
P.T. Bakrie Rubber Industry	28.29
P.T. Swasthi Parama Mulya	44.86
All Others	31.54

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 18, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99-7371 Filed 3-25-99; 8:45 am]

BILLING CODE 3510-DS-P

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APPENDIX B

HEARING WITNESSES

B-1

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: EXTRUDED RUBBER THREAD FROM INDONESIA

Inv. Nos.: 731-TA-787 (F)

Date and Time: March 25, 1999 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, S.W., Washington, DC.

In support of the imposition of antidumping duties:

Ablondi, Foster, Sobin & Davidow, P.C.
Washington, DC
on behalf of

North American Rubber Thread ("North American")

David Sullivan, President
John Friar, Treasurer

Peter Koenig–OF COUNSEL

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APPENDIX C

SUMMARY TABLES

C-1

Table C-1
Extruded rubber thread: Summary data concerning the U.S. market, 1996-98

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Table C-2
Extruded rubber thread: Summary data concerning the U.S. market (excluding Globe), 1996-98

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APPENDIX D

DATA ON FOOD-GRADE EXTRUDED RUBBER THREAD

D-1

Table D-1
Food-grade extruded rubber thread: Summary data concerning the U.S. market, 1996-98

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Table D-2
Food-grade extruded rubber thread: Indonesian capacity, production, inventories, capacity utilization, and shipments, 1996-98, and projected 1999 and 2000

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APPENDIX E

COMPAS PRESENTATION

E-1

ASSUMPTIONS

The COMPAS model is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied policy analysis and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the discussion contained in Part II of this report, the staff selects a range of estimates that represent price-supply, price-demand, and product-substitution relationships (*i.e.,* supply elasticity, demand elasticity and substitution elasticity) in the U.S. extruded rubber thread market.[1] The model uses these estimates with data on market shares, Commerce's margins of dumping, transportation costs, and current tariffs to analyze the likely effect of unfair pricing of subject imports on the U.S. domestic like product industry.[2]

FINDINGS[3]

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Table E-1
COMPAS ver. 1.4 (DUMPING) -- THE EFFECTS OF LTFV PRICING OF IMPORTS

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[1] The estimate of elasticity of substitution used in the modeling which follows is based on a weighted average of the elasticity of substitution for U.S. commercial market extruded rubber thread and imported extruded rubber thread.

[2] Commerce's final antidumping determination (received by the Commission on Mar. 23, 1999) increased the "margin percentage" applied to imports from Swasthi from *de minimis* to 44.86 percent. Subsequently, Commerce proposed changes in these rates resulting from its correction of ministerial errors. These changes decreased the rate for Swasthi to 5.13 percent, and the rate for all other exporters to 24.00 percent. See Commerce memorandum of Apr. 19, 1999. The COMPAS presentation using the proposed rates is contained in OINV memorandum INV-W-076.

[3] Estimates are based on 1997 data. Commerce's period of investigation for the antidumping investigations was Jan. 1997 - Dec. 1997.

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