

TA-201-63

EXTRUDED RUBBER THREAD

Report to the President on
Investigation No. TA-201-63
Under Section 202 of the
Trade Act of 1974



USITC PUBLICATION 2563

DECEMBER 1992

United States International Trade Commission
Washington, DC 20436

EXTRUDED RUBBER THREAD

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

REPORT TO THE PRESIDENT ON INVESTIGATION NO. TA-201-63

EXTRUDED RUBBER THREAD

Determination

On the basis of the information developed in the subject investigation, the Commission was equally divided on the question of whether extruded rubber thread¹ is 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 the imported article.^{2 3} The Commission did not find that critical circumstances exist.⁴

Finding and Recommendation on Remedy⁵

Chairman Newquist and Commissioners Rohr and Nuzum recommend that the President proclaim a tariff-rate quota on imports of such extruded rubber

¹ The imported article covered by this investigation is extruded rubber thread of natural rubber latex, classified under heading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTS).

² Chairman Newquist and Commissioners Rohr and Nuzum voted in the affirmative. Vice Chairman Watson and Commissioners Brunsdale and Crawford voted in the negative.

³ Section 330(d)(1) of the Tariff Act of 1930 provides that when the Commission is equally divided on the question of injury under section 201 of the Trade Act of 1974, "then the determination agreed upon by either group of Commissioners may be considered by the President as the determination of the Commission."

⁴ Chairman Newquist and Commissioners Rohr and Nuzum made a negative determination with respect to the issue of critical circumstances. Vice Chairman Watson and Commissioners Brunsdale and Crawford did not reach the issue.

⁵ Section 202(b)(6) of the Trade Act of 1974 provides that "Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the recommendation to be made" on remedy. The provision further states that "Members of the Commission who did not agree to the affirmative determination may submit, in the [Commission's] report . . . separate views regarding what action, if any, should be taken under section 203" by the President.

thread for a 5-year period:

(1) with the quota to be set at 17 million pounds for the first 2 years of the relief period and thereafter adjusted annually so as to be set at a level equal to 50 percent of domestic consumption for the prior calendar year, and

(2) with existing rates of duty to apply to within-quota imports, and with the following rates of duty, in addition to any other duties, to apply to over-quota imports: 25 percent ad valorem in the first 3 years, 15 percent ad valorem in the fourth year, and 10 percent ad valorem in the fifth year.⁶

They find that this action will address the serious injury found to exist and does not exceed the amount necessary to remedy such injury, and that such action will be the most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition. They further recommend that the continuation of this relief beyond the first 2 years be conditioned on the domestic industry's making reasonable progress in implementing the proposed adjustment plan and that such relief and industry adjustment be the subject of annual Commission review investigations under section 204 of the Trade Act of 1974 after the second year of relief for such period that relief remains in effect.

Vice Chairman Watson and Commissioners Brunsdale and Crawford, having made a negative determination, did not participate in the vote on a remedy

⁶ Imports from Israel, Canada, and beneficiary countries under the Caribbean Basin Economic Recovery Act and the Andean Trade Preference Act are de minimis or nil. Accordingly, this recommendation does not apply to imports from Israel under the U.S.-Israel Free Trade Agreement or from beneficiary countries under the Caribbean Basin Economic Recovery Act or the Andean Trade Preference Act. With respect to imports from Canada, Chairman Newquist and Commissioners Rohr and Nuzum find that imports of extruded rubber thread from Canada are not substantial and are not contributing importantly to the serious injury to the domestic industry within the meaning of section 302(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, and therefore recommend that any relief action not apply to such imports from Canada. Accordingly, they recommend that imports from Israel, Canada, and the CBERA and Andean Preference countries not be counted within the quota amounts.

recommendation. However, as provided for in the statute, they are submitting views, which are included within this report, stating why they believe that the taking of a remedy action in this instance would be inappropriate.

Background

Following receipt of a petition filed on June 18, 1992,⁷ by North American Rubber Thread Co., Inc., Fall River, MA, the United States International Trade Commission, effective June 23, 1992, instituted investigation No. TA-201-63 under section 202 of the Trade Act of 1974 to determine whether extruded rubber thread is 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 the imported article. The petitioner alleged that critical circumstances exist within the meaning of section 203(b)(3)(B) of the Trade Act and sought provisional relief.

Notice of the institution of the Commission's investigation and of public hearings 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 July 15, 1992 (57 F.R. 31387). The hearing in connection with the injury phase of the investigation was held on September 11, 1992, and the hearing on the question of remedy was held on November 3, 1992. Both hearings were held in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

⁷ The petition was amended on June 23, 1992.

VIEWS OF CHAIRMAN NEWQUIST AND COMMISSIONERS ROHR AND NUZUM

We determine that extruded rubber thread¹ is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with imported extruded rubber thread.² To remedy the serious injury to the domestic industry and to be most effective in facilitating its efforts to make a positive adjustment to import competition, we recommend that the President impose a tariff-rate quota on imports of extruded rubber thread.

To render an affirmative determination, section 202 of the Trade Act of 1974 (the Act)³ requires that the Commission find that:

- (1) the imported article subject to the investigation is being imported into the United States in increased quantities;
- (2) the domestic industry producing an article like or directly competitive with the imported article is seriously injured, or is threatened with serious injury; and
- (3) the increased imports are a substantial cause of serious injury, or the threat thereof, to the domestic industry.⁴

¹ The imported article subject to this investigation is extruded rubber thread of natural rubber latex, classified under heading 4007.00.00 of the U.S. Harmonized Tariff Schedule. 57 Fed. Reg. 31387 (July 15, 1992).

² We further determine that critical circumstances warranting provisional relief do not exist.

³ 19 U.S.C. § 2252. Throughout this determination, our references to "section 201" of the Trade Act of 1974 incorporate all authority under sections 201 through 204 of that Act. As of 1988, section 201 contains the general authority for action and section 202 contains most of the relevant statutory provisions concerning the Commission's authority and responsibilities.

⁴ See id. § 2252(b)(1)(A).

I. The Domestic Industry

Before addressing the three statutory criteria, we shall define the domestic industry producing an "article like or directly competitive with the imported article."⁵ The statute does not define the phrase "like or directly competitive"; however, the legislative history of the Trade Act of 1974 defines it as follows:

The words "like" and "directly competitive," as used previously and in this bill, are not to be regarded as synonymous or explanatory of each other, but rather to distinguish between "like" articles and articles which, although not "like," are nevertheless "directly competitive." In such context, "like" articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.), and "directly competitive" articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor.⁶

The legislative history further indicates that the Commission is to consider "the question of serious injury to the productive resources (e.g., employees, physical facilities, and capital) employed in the divisions or plants in which the article in question is produced."⁷ Thus, in defining the like or directly competitive product, the Commission generally considers such factors as production facilities, manufacturing processes and employees, product characteristics and uses, marketing and distribution channels, and,

⁵ Id.

⁶ H.R. Rep. No. 571, 93d Cong., 1st Sess. 45 (1973); see also S. Rep. No. 1298, 93d Cong., 2d Sess. 121-122 (1974).

⁷ H.R. Rep. No. 571, 93d Cong., 1st Sess. 46 (1973).

occasionally, price.⁸

The imported article subject to this investigation is extruded rubber thread of natural rubber latex, classified under heading 4007.00.00 of the U.S. Harmonized Tariff Schedule.⁹ Such thread is imported and produced domestically in a number of different grades and gauges. It may be talced or talcless, may have heat resistant properties, may be fine or heavy gauge, and may be suitable for wrapping food (i.e., food grade).¹⁰

Analysis

We find that there is one domestic product, extruded rubber thread, that is like or directly competitive with the imported article. Accordingly, we find that the domestic industry consists of domestic manufacturers that produced extruded rubber thread during the period of investigation, January 1987 through June 1992. These manufacturers currently are North American Rubber Thread Company, Inc. ("North American") and Globe Manufacturing Company ("Globe"). Another domestic producer, Qualitex, Inc. ("Qualitex"), ceased production and exited this industry in October 1990.

In determining that there is a single product that is like or directly competitive with the subject imports, we do not distinguish among extruded

⁸ See Certain Cameras, Inv. No. TA-201-62, USITC Pub. 2315 at 6-13 and n. 29 (Sept. 1990); Certain Knives, Inv. No. TA-201-61, USITC Pub. 2107 at 6-8 (Sept. 1988); Certain Metal Castings, TA-201-58, USITC Pub. 1849 at 7-8 (June 1986); Electric Shavers and Parts Thereof, Inv. No. TA-201-57, USITC Pub. 1819 at 5 (Mar. 1986); Wood Shakes and Shingles, Inv. No. TA-201-56, USITC Pub. 1826 at 5-7 (Mar. 1986); Stainless Steel and Alloy Tool Steel, Inv. No. TA-201-48, USITC Pub. 1377 at 16 and n. 21 (May 1983).

⁹ 57 Fed. Reg. 31387 (July 15, 1992).

¹⁰ Report at I-5-8.

rubber thread of different gauges.¹¹ The diameters of extruded rubber thread within the 18 to 140 gauge range obviously differ from those of products outside that range. Extruded rubber thread of all gauges, however, exhibit many of the same characteristics (e.g., similar elastic properties and the same appearance and texture), and is made of virtually the same combination of chemicals, additives, and raw materials (e.g., natural rubber latex comprises 80 percent to 85 percent by weight of the input).¹² Moreover, one of the two producers that manufactures extruded rubber thread within the 18 to 140 gauge range also manufactures heavier gauge thread in the same plant, using a similar production process, the same machinery (with minor adjustments), and similar employee skills.¹³ Although the customers and end uses for the heavier gauge product are different from those for other products, all gauges of extruded rubber thread are marketed through the same basic marketing channels. The adjustments that are made to shift production from thread in the 18 to 140 gauge range to thread outside this range are the same as the

¹¹ Because the imported article ranges in diameter from 18 to 140 gauge (0.056 inch to 0.007 inch), the petitioner requested that the like or directly competitive domestic product be defined similarly. The domestic industry, however, produces some heavier gauge thread. Petition at Exhibit 1.

¹² See Report at I-9 and nn. 22 and 23.

¹³ See id. at I-9-12. Petitioner states that the production process for this heavier thread differs from that for the 18 to 140 gauge thread in "significant respects" and is priced higher. Petition at Exhibit 1 at 3-4. They point to the following differences: raw material used; process ("Machine conditions far outside of normal must be used"); equipment used ("Mechanical drives must be changed to perform under extreme conditions"); operators ("Supervisors and operators require special training because of the extreme conditions under which production occurs"). Id. However, these adjustments appear to be mere alterations and adjustments on the same equipment and using the same production workers.

adjustments that are made when shifting production among gauges within the range.¹⁴ Thus, we find the like or directly competitive article produced domestically to include extruded rubber thread of all gauges.

We also do not distinguish food-grade extruded rubber thread, as respondents request.¹⁵ Despite the differences in physical characteristics between food-grade extruded rubber thread and other varieties of extruded rubber thread highlighted by respondents,¹⁶ most physical characteristics of food-grade extruded rubber thread are the same as those of other varieties of extruded rubber thread (e.g., size, stretch consistency, elasticity strength, etc.). All varieties of extruded rubber thread possess special traits which cause them to differ slightly in their physical characteristics, depending on end use.¹⁷ For example, thread used in dry cleaning applications is heat resistant and thread used in textile knitting machinery is silicon based or talced.¹⁸

¹⁴ See Report at I-11 and n. 26.

¹⁵ Although the domestic industry does not currently produce food-grade rubber thread for commercial sale, the product was commercially produced during the period of investigation and the domestic industry continues to produce samples in efforts to secure contracts with customers to produce it commercially. See Report at I-6, 8 and n. 18; Transcript of Injury Hearing at 136-40, 170-71; Petitioner's and Globe's Post-Hearing Brief at 7.

¹⁶ See Respondents' Post-Hearing Brief at Exhibit 1; Transcript of Injury Hearing at 136-40.

¹⁷ See Report at I-5-12.

¹⁸ See id. at I-5 and nn. 11 and 12.

In the past, the same manufacturers that produced other varieties of extruded rubber thread also produced food-grade extruded rubber thread.¹⁹ In addition, the manufacturing process and machinery used for all extruded rubber thread is generally the same, employing the basic latex extrusion process. The basic formulation (or recipe) for all varieties of extruded rubber thread, including food grade, is similar.²⁰ Although there are differences in the formulation of, and additives used in, food-grade extruded rubber thread, other specialty rubber threads, such as heat resistant extruded rubber thread, also must be differently formulated to impart special qualities.²¹ In addition, food-grade extruded rubber thread prices vary only slightly from those of other varieties of extruded rubber thread.²²

We recognize that the Food and Drug Administration ("FDA") has recently placed restrictions on the use of extruded rubber thread as a food netting. These restrictions require food-grade extruded rubber thread producers to receive prior approval of their product formulation from the FDA before their extruded rubber thread may be used for food netting.²³ Thus, these restrictions currently act as a legitimate business cost consideration affecting the decision to produce or purchase food-grade extruded rubber thread. However, the bulk of U.S. commercial production of food-grade

¹⁹ See id. at I-8 n.18.

²⁰ See id. at I-9-12.

²¹ See id. at I-6 and nn. 11 and 12.

²² See id.

²³ See id. at I-6 and n. 12; see also Respondents' Post-Hearing Brief at Exhibit 1; Transcript of Injury Hearing at 135-42, 163-65.

extruded rubber thread during the period of investigation preceded the enforcement of these FDA restrictions;²⁴ hence, the restrictions have only recently become a consideration affecting production and purchase of the product. Moreover, as noted above, the domestic industry is continuing its efforts to reenter the market for food-grade extruded rubber thread.

We find that the similarities between food-grade and non-food-grade extruded rubber thread dominate. While the differences between food-grade extruded rubber thread and other types of rubber thread may create certain market segments, they do not, in our view, create a separate domestic industry producing a distinct like or directly competitive product.

Furthermore, we see no basis for expanding the definition of the like or directly competitive article to include spandex. Although both spandex and rubber thread are "thread-like" elastomeric fibers,²⁵ spandex is made from entirely different materials and chemical compositions on different equipment, has different uses,²⁶ and is marketed and viewed as a separate product.²⁷ There are only two domestic producers of spandex, the larger of which does not make extruded rubber thread and did not seek relief or participate in this

²⁴ See, e.g., Report at I-8 and n. 18; Transcript of Injury Hearing at 170-73; Petitioner's and Globe's Post-Hearing Brief at 7.

²⁵ Respondents' Pre-Hearing Brief at Exhibit 1.

²⁶ See Report at I-9-13; Staff Memorandum EC-P-071 at 9 (Oct. 9, 1992).

²⁷ See Report at I-5-15. Even respondents recognized that customers perceive the products as separate, due to price differences and specific applications. Respondents' Pre-Hearing Brief at Exhibit 1. They also indicated that spandex and extruded rubber thread are produced in different manufacturing facilities and that spandex prices are much higher than extruded rubber thread prices. Id.

investigation.²⁸

II. Increased Quantities of Imports

The first of the three statutory criteria which must be satisfied for an affirmative determination is that imports must enter in "increased quantities." This increase may be "either actual or relative to domestic production."²⁹

Imports of extruded rubber thread increased both in actual terms and relative to domestic production. The volume of imports increased steadily and substantially each year from 1987 to 1991, rising 20 fold over the period.³⁰ The value of imports also increased steadily and substantially each year during the period of investigation, although less dramatically, rising 15 fold overall.³¹ As a percentage of domestic production, imports also increased each year during the period of investigation, from considerably less than 10 percent of domestic production in 1987 to greater than 100 percent of domestic production in 1991.³² Imports from Malaysia accounted for virtually all of this increase.³³

²⁸ See Report at I-13 and n. 31.

²⁹ 19 U.S.C. § 2252(c)(1)(C).

³⁰ Report Table 4. Imports also increased in volume from interim period (January-June) 1991 to interim period 1992. Id.

³¹ Id. Imports also increased in value from interim period 1991 to interim period 1992. Id.

³² Id. at I-24. We note, however, that from interim period 1991 to interim period 1992, imports comprised a smaller percentage of domestic production. Id. Despite this slight decrease between the interim periods, imports still demonstrated a dramatic increase over the period of investigation.

³³ Id. Table 4.

III. Serious Injury and Threat of Serious Injury

The second statutory criterion that must be met for an affirmative determination involves a finding of serious injury or threat thereof. The statute does not define the terms "serious injury" or "threat" of serious injury, but instead includes a list of economic factors that the Commission must consider. The statute instructs the Commission to examine all economic factors which it considers relevant, including (but not limited to) the enumerated factors. The statute expressly provides that the presence or absence of any enumerated factor is not necessarily dispositive.³⁴

With respect to serious injury, the Commission is instructed to examine:

- (i) the significant idling of productive facilities in the domestic industry,
- (ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and
- (iii) significant unemployment or underemployment within the domestic industry.³⁵

The phrase "significant idling of productive facilities" is defined to include "the closing of plants or the underutilization of production capacity."³⁶ The legislative history of the Act indicates that the Commission is to consider "the question of serious injury to the productive resources (e.g., employees, physical facilities, and capital) employed in the divisions or plants in which

³⁴ See 19 U.S.C. § 2252(c)(3). Because we have found that the domestic industry is seriously injured, we do not address the issue of threat of serious injury.

³⁵ Id. § 2252(c)(1)(A).

³⁶ Id. § 2252(c)(6)(B).

the article in question is produced."³⁷

A. Significant idling of productive facilities

Three firms produced extruded rubber thread from 1987 to 1989; however, one firm, Qualitex, exited the industry in October 1990. Qualitex's closure and the consequent removal of a large percentage of U.S. extruded rubber thread production capacity constitutes a significant idling of productive facilities. The remainder of the industry temporarily benefitted from increased sales to former Qualitex customers.³⁸ Even after Qualitex's closure, however, the remaining two domestic producers continued to operate at extremely low levels of capacity utilization.³⁹

B. Inability to operate at a reasonable level of profit

Financial data for the industry reveal that the industry has been in a severe state of distress. The domestic industry's net sales increased from 1987 to 1988, decreased slightly in 1989, and then dropped dramatically in 1990 and 1991.⁴⁰ Gross profits increased from 1987 to 1988, then decreased from 1988 to 1990.⁴¹ Although they increased again in 1991, they remained

³⁷ H.R. Rep. No. 571, 93d Cong., 1st Sess. 46 (1973).

³⁸ See Report at I-35 and Table 10; see also Petitioner's and Globe's Pre-Hearing Brief at 6; Petitioner's and Globe's Post-Hearing Brief at 20.

³⁹ Report at I-28 and Table 5. Although capacity utilization levels were higher in interim period 1992 than in the same period of 1991, these levels were much lower than levels during the beginning of the investigation period and were still at low levels in absolute terms. Id.

⁴⁰ Id. at I-35-36, Tables 9-10.

⁴¹ Id. Table 9.

considerably below their 1987-89 levels.⁴² As a share of net sales, gross profits decreased from 1987 to 1990, then rose in 1991 but not to 1987-89 levels.⁴³

Profitability, as measured by operating income, both in absolute terms and as a ratio to net sales, worsened during the investigation period, falling from 1987 to 1990. Although profitability improved slightly in 1991, we find that it remained below a "reasonable level" for purposes of the Act.⁴⁴ The return on book value of fixed assets and return on total assets followed similar patterns, decreasing annually from 1987 to 1990, then turning up slightly in 1991.⁴⁵ These financial data are consistent with other evidence that demonstrates the difficulties of the domestic industry in generating adequate capital for modernization and research and development.⁴⁶

Although the entire industry's financial performance was affected significantly by Qualitex's decline and closure,⁴⁷ the remaining producers also experienced depressed net sales after 1989 and unsatisfactory operating

⁴² Id.

⁴³ Id. Gross profit per pound of goods sold remained constant from 1987 to 1988, then decreased in both 1989 and 1990, and increased in 1991, but not to the 1987-89 levels. Id.

⁴⁴ Id. Tables 9-10. Operating income was higher in interim period 1992 than in interim period 1991. Id.

⁴⁵ Id.

⁴⁶ See Transcript of Hearing at 48-49, 73-77; Petition at 22-26; Petitioner's and Globe's Pre-Hearing Brief at 19-20; Petitioner's and Globe's Post-Hearing Brief at 12-13.

⁴⁷ See Report at I-31-36 and Tables 10 and 11.

income throughout the period of investigation.⁴⁸ These two firms also have experienced certain difficulties in servicing debt and in obtaining operating capital.⁴⁹

In sum, the domestic industry has been unable to carry out domestic production operations at a reasonable level of profit or to generate adequate capital for modernization and research and development.

C. Unemployment and underemployment in the industry

Employment indicators also reflect the distressed state of the domestic industry. Although some employment indicators showed slight upturns, we find it significant that fully one-third of production and related workers in 1987 had lost their jobs by 1991.⁵⁰ We note again the substantial impact of Qualitex's closure on domestic employment.

D. Other relevant economic factors

Domestic shipments by quantity followed a pattern similar to that of production, increasing from 1987 to 1988, then decreasing consistently to levels at the end of the investigation period which were much lower than levels at the beginning of the investigation period.⁵¹ On a value basis,

⁴⁸ See id.

⁴⁹ See id. at I-35-42, F-3, Tables 12-15; Transcript of Injury Hearing at 73-77; Petitioner's and Globe's Post-Hearing Brief at 12-13.

⁵⁰ See Report at I-31, Table 8.

⁵¹ Id. at I-28, Table 6. Unlike production, however, the quantity of shipments in interim 1992 was lower than interim 1991. Id.

Declines in domestic shipments do not appear to be tied to the recession, because domestic consumption significantly increased overall from 1987 to 1991. Specifically, consumption on a quantity basis increased from 1987 to 1988, dipped slightly in 1989, and then increased considerably from

(continued...)

shipments followed a similar trend, increasing from 1987 to 1988, then decreasing slightly from 1988 to 1989, and falling more dramatically thereafter to levels at the end of the investigation period which were much lower than levels at the beginning of the investigation period.⁵²

U.S. producers' inventory levels varied from year to year, with an overall decline from yearend 1987 to yearend 1991.⁵³ Conversely, as a ratio to both total production and total shipments, inventories fell from 1987 to 1988, then increased each year thereafter.⁵⁴

Virtually every statutory and other relevant indicator demonstrates that the condition of the domestic industry deteriorated significantly during the period of investigation. Based upon these data, we find that the domestic industry producing extruded rubber thread is seriously injured.

⁵¹ (...continued)

1989 to 1991. Id. Table 3. Moreover, consumption was higher in interim period 1992 than in interim period 1991. Id.

Changes in the value of domestic consumption did not correspond directly to the changes in quantity, due to fluctuations in price caused by changes in input costs. The value of domestic consumption increased dramatically from 1987 to 1989, then decreased significantly in 1990, and rose slightly in 1991. Id. Again, consumption on a value basis was higher in interim period 1992 than in interim period 1991. Id.

⁵² Id. Table 6. Total shipment values, unlike quantity, were higher in interim 1992 than in interim 1991. Id.

Unit values were mixed during the period of investigation, increasing each year from 1987 to 1989, when the price spike of natural latex occurred, then decreasing in 1990 to a level below their 1988 level. Id. In 1991, unit values rose again, and interim period 1992 unit values were higher than interim period 1991 unit values. Id.

⁵³ Id. at I-30, Table 7. Midyear 1992 inventory levels were higher than midyear 1991 levels. Id.

⁵⁴ Id. These levels were higher in interim period 1992 than in interim period 1991. Id.

IV. Substantial Cause

The third statutory criterion that must be met for an affirmative determination is the finding that increased imports are a substantial cause of serious injury or threat of serious injury to the industry. A substantial cause is "a cause which is important and not less than any other cause."⁵⁵ The statute states that the Commission's causation analysis should include an examination of "an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers."⁵⁶ The Commission also is to "examine factors other than imports which may be a cause of serious injury, or threat of serious injury" and to consider the condition of the domestic industry over the course of the relevant business cycle.⁵⁷ The Commission may not, however, aggregate the causes of "declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat of injury."⁵⁸

In assessing the impact of imports of extruded rubber thread on the domestic industry, we have considered the economic characteristics of the market. Extruded rubber thread is a relatively fungible product. Similar gauges and varieties of extruded rubber thread are substitutable, and

⁵⁵ 19 U.S.C. § 2252(b)(1)(B).

⁵⁶ Id. § 2252(c)(1)(C).

⁵⁷ Id. § 2252(c)(2).

⁵⁸ Id. § 2252(c)(2)(A).

consumers have little preference for a particular supplier.⁵⁹ Demand for extruded rubber thread is inelastic, as possible substitutes (although existing for some uses) are either inappropriate for particular consumer demands or are much more expensive. The demand for downstream products which use rubber thread is also inelastic.⁶⁰ Therefore, any increase in the supply of extruded rubber thread will have a more than proportional effect on reducing the market price. The ability of the domestic industry to increase supply is relatively elastic, as export opportunities are limited and domestic production capacity is underutilized.⁶¹

On the basis of both quantity and value, the domestic industry lost considerable market share over the period of investigation. Whereas in 1987, the domestic industry held a market share of well over 90 percent (by quantity and value), in 1991 it held substantially less than 50 percent of the market by quantity and *** percent by value.⁶²

As already noted, subject imports increased steadily and substantially in absolute terms and relative to domestic production. This increase translated into a significant loss of market share by the domestic industry. As also noted above, imports rose from considerably less than 10 percent of domestic production in 1987 to well over 100 percent of domestic production

⁵⁹ Staff Memorandum EC-P-071 at 3, 17-19 (Oct. 9, 1992).

⁶⁰ Id. at 9-11.

⁶¹ Id. at 14-15.

⁶² Report at I-53, Table 19.

after 1990.⁶³

In a market characterized by a fungible product with no close substitutes and inelastic demand, significantly increasing imports directly caused deteriorating conditions in the domestic industry through a loss of market share and, despite increasing domestic consumption, suppressed prices. We therefore conclude that increased subject imports are an "important" cause of serious injury to the domestic industry.

Respondents argued that imports are not a substantial cause of the domestic industry's condition because the imports compete in a different market segment from the U.S. product. Specifically, they contend that imports serve separate market "niches" as demonstrated by consistent differences in respective prices.⁶⁴ They argue alternatively that any injury to domestic producers is caused by high cost structures, poor management decisions (such as purchasing an allegedly outmoded facility), ineffectual marketing by the domestic producers, and the inferior quality of North American's products.⁶⁵

⁶³ Id. at I-24.

⁶⁴ See Respondents' Pre-Hearing Brief at 1-2, 14-21, Exhibits 3 and 4; Respondents' Post-Hearing Brief at 13-20, Exhibit 2 (citing Transcript of Hearing at 18-19, 22, 29-30, 44-45, 58, 92-93, 120, 127-129, 132-33); see also Elastic Corporation of America's ("ECA's") Pre-Hearing Brief at 3-4.

⁶⁵ See Respondents' Pre-Hearing Brief at 2, 23-24, 26-36; Respondents' Post-Hearing Brief at 23-24, 29-38 (citing Transcript of Injury Hearing at 18-19, 30-32, 59-60, 76, 84-85, 96, 101, 127); see also ECA's Post-Hearing Brief at 6, 15-17; ECA's Post-Hearing Brief at 7-10.

Respondents state that poor management, marketing, quality, and limited product lines should be combined as one causation factor to weigh against the imports in evaluating which was less important. See Respondents' Post-Hearing Brief at 38.

Respondents claim additionally that competition from Qualitex in the United States, increased use of spandex, and the price spike of natural rubber latex in 1988-89 are each a more important cause of injury to the domestic industry than are imports of extruded rubber thread.⁶⁶ Finally, respondents allege that Malaysian producers have a natural and insurmountable cost advantage over domestic producers because the former have a ready source of latex, thereby making any form of relief under section 201 inappropriate.⁶⁷

The cost advantage arguments raised by respondents help explain why increasing imports are an important cause of serious injury to the domestic industry. Imports may enjoy a cost advantage which, particularly in the case of products that are relatively fungible, enables them to displace sales of competing domestically produced product. This advantage often is one of lower labor or raw material costs. These types of underlying factors, however, cannot constitute "alternative causes" under the Act. Rather, Congress directed the Commission to consider whether alternative causes in the U.S. market or among U.S. producers, such as changes in technology or in consumer tastes,⁶⁸ domestic competition from substitute products, plant obsolescence, or poor management were a more important cause of injury than increased

⁶⁶ See Respondents' Post-Hearing Brief at 25-29; see also ECA's Post-Hearing Brief at 6-8, 18-19 (claiming that the domestic industry abandoned production of certain products and that spandex has encroached on extruded rubber thread uses); ECA's Pre-Hearing Brief at 7, 10-13 (stating that North American and Globe made no effort to compete with Qualitex).

⁶⁷ See Respondents' Pre-Hearing Brief at 2, 21-23, 48-53; Respondents' Post-Hearing Brief at 21-24, 47-49 and Exhibit 4; ECA's Pre-Hearing Brief at 15.

⁶⁸ Having found that the imported and domestic articles are fungible, we determine that the injurious surge in the subject imports is not attributable to a change in consumer tastes.

imports.⁶⁹ Thus, it is the entry of these imports in increased quantities, irrespective of any competitive attributes of those imports derived from their home market, that the Commission must consider.⁷⁰

The reasons for Qualitex's exit from the market have been the subject of considerable debate in this investigation. Petitioner alleges that import competition was the cause of the company's closure,⁷¹ whereas respondents assert that imports were not a consideration.⁷² After having weighed all the evidence, we find that Qualitex's decision to shut down was primarily a result of increasing imports.⁷³ The evidence is clear that throughout 1989 and

⁶⁹ See Sen. Rep. No. 1298, 93d Cong., 2d Sess. 121 (1974) (addressing other causes that could exist in a threat analysis). See generally 19 U.S.C. § 2251(b).

⁷⁰ Special provisions, however, exist for investigations involving imports of foreign subsidized products or products imported into the United States at less-than-fair-value:

When ever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of subtitles A and B of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

19 U.S.C. § 2252(c)(5).

⁷¹ See Petition at 18-22 and Exhibits 9-12; Petitioner's and Globe's Pre-Hearing Brief at 3; Petitioner's and Globe's Post-Hearing Brief at Exhibit 1; see also Report Appendix D.

⁷² See Respondents' Post-Hearing Brief at 5-8 (citing Transcript of Injury Hearing at 129; Transcript of Hearing of Aug. 18, 1992, Inv. No. 731-TA-527 at 93-94); Respondents' Pre-Hearing Brief at 5-6 and Exhibit 2.

⁷³ An official of Qualitex stated in a letter dated October 30, 1990 that Qualitex ceased manufacturing "as a direct result of the arrival of foreign goods . . . [i]n the last two years . . . from the far east. . . [and that] price erosion . . . has occurred as a result of the introduction of these goods. This price erosion has reached the point that Qualitex Inc. can
(continued...)

continuing until its closure in October 1990, Qualitex suffered declining shipments, market share, net sales, prices, and profitability due to a surge in imports.⁷⁴ We fail to see how the ultimate decision by Qualitex to close its U.S. facilities, lay off U.S. workers, and thus cede the U.S. market to imports can possibly be construed as an "alternative cause" unrelated to these declines.

We find respondents' other arguments equally unpersuasive. For example, evidence shows that, contrary to respondents' market niche arguments, imports do directly compete with the U.S. product⁷⁵ and have had a negative impact on U.S. producers' extruded rubber thread prices.⁷⁶ Moreover, the domestic industry's condition does not appear in any significant way to be due to high cost structures, poor management decisions, or ineffectual marketing tactics,

⁷³ (...continued)

no longer be competitive." Report at Appendix D and I-19. Moreover, ***. See Report at I-19 n. 62. Further, ***. See Report at I-19-20 nn. 62 and 67; see also *id.* Tables 3-6, 10, 19, Appendix D (demonstrating Qualitex's poor financial condition before its closure). ***. Although there may have been other considerations involved in the decision to close Qualitex and ***, they certainly were not more important than the effects of increased subject imports.

⁷⁴ See Report Tables 3, 6, 9, 10.

⁷⁵ See Staff Memorandum EC-P-071 at 20 (Oct. 9, 1992).

⁷⁶ See Report at I-82-103.

whether considered separately or as a single cause. North American's decision to purchase an allegedly outmoded facility rather than build a new plant appears, in fact, to have benefitted the upstart company.⁷⁷ In any event, we do not think it is necessary to second-guess this decision by North American when evidence shows that the quality of its products is competitive in the market place.⁷⁸

Similarly, increased availability of spandex and the price spike of natural rubber latex in 1988-89 are not more important causes of injury to the domestic industry than imports of extruded rubber thread. Despite some similarities in end use between spandex and extruded rubber thread, the special physical characteristics of each product and the much higher price of spandex limit the use of spandex as a substitute for extruded rubber thread.⁷⁹ The price spike in natural rubber latex in 1988-89 should have had a similar impact on all world producers -- and, thus, should not have significantly affected the competitive position of the domestic industry relative to foreign producers. Finally, we note that domestic consumption increased dramatically over the investigation period, despite some limited substitutability of spandex and despite the price spike of latex.⁸⁰

In sum, we determine that increased imports are both an important cause of serious injury and not less important than any of the alternative causes we

⁷⁷ See Transcript of Injury Hearing at 50-53; Petitioner's and Globe's Post-Hearing Brief at Exhibit 10.

⁷⁸ Staff Memorandum EC-P-071 at 17-18, 19 (Oct. 9, 1992).

⁷⁹ See Report at I-13; Staff Memorandum EC-P-071 at 9.

⁸⁰ See Report Table 3.

have examined. Indeed, no other cause comes close in importance as a cause of serious injury to the domestic industry.

V. Critical Circumstances

In this investigation, petitioner alleged that critical circumstances exist and sought provisional relief. The statute states that critical circumstances exist "if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this part would cause harm that would significantly impair the effectiveness of such action."⁸¹ Thus, for critical circumstances to exist, two conditions must be present: (1) there must be a substantial increase in imports over a relatively short period of time; and (2) a delay in providing relief must be found to significantly impair the effectiveness of relief.

Imports have increased substantially in recent years, although the rate of increase has leveled off. As indicated above, imports in 1991 were nearly double the 1990 level, but imports during interim period 1992 were running just slightly above the level of the year earlier period.⁸² However, assuming *arguendo* that the first condition is present, we do not find that the second

⁸¹ 19 U.S.C. § 2252(b)(3)(B). The Conference Report to the 1988 amendments to the Act stated:

The ITC should seek to determine whether the substantial increase in imports is so disruptive as to undercut any import relief that may be provided and consequently that measures to prevent further damage to the domestic industry pending Presidential action are appropriate.

H.R. Rep. No. 576, 100th Cong., 2d Sess., Pt. 2 at 672 (1988).

⁸² Report at I-24-26 and Table 4.

is. Three actions in recent months--the removal from eligibility under the Generalized System of Preferences ("GSP") for extruded rubber thread imported from Malaysia,⁸³ and the issuance by the U.S. Department of Commerce of countervailing duty and antidumping duty orders with respect to such thread from Malaysia,⁸⁴ have served to stabilize import levels and increase import prices, at least temporarily, and make it unlikely that delay in providing relief will significantly impair the effectiveness of any relief that might ultimately be provided by the President under the section 201 provisions.⁸⁵

VI. Remedy Recommendation

We recommend that the President of the United States impose a tariff-rate quota on imports of extruded rubber thread.⁸⁶ In designing our remedy

⁸³ See 57 Fed. Reg. 9041 (Mar. 16, 1992) (Presidential Proclamation 6411 of March 12, 1992). Imports of extruded rubber thread from Malaysia are now subject to the column 1 general rate of duty of 4.2 percent.

⁸⁴ Commerce recently imposed countervailing duties of 4.21 percent on imports from Rubfil Sdn. Bhd. and 9.63 percent on all other imports from Malaysia. 57 Fed. Reg. 38472 (Aug. 25, 1992). Commerce similarly found final antidumping duty margins of 10.68 percent for Heveafil/Filmax Sdn. Bhd., 20.38 percent for Rubberflex Sdn. Bhd., and 14.52 percent for all other Malaysian firms. 57 Fed. Reg. 38465 (Aug. 25, 1992); 57 Fed. Reg. 46150 (Oct. 7, 1992); Commerce Instructions to Customs (Oct. 8, 1992).

⁸⁵ See Petitioner's and Globe's Post-Hearing Brief at 3-6 (citing Transcript of Injury Hearing at 95 101, 102); Petitioner's and Globe's Pre-Hearing Brief at 16-17. Petitioner has received calls from textile manufacturers who purchase predominantly imported extruded rubber thread. Id. at 17.

⁸⁶ The types of action that the Commission is authorized to recommend are set forth in section 202(e)(2) of the Act and include--

- (A) an increase in, or the imposition of, any duty on the imported article;
- (B) a tariff-rate quota on the article;
- (C) a modification or imposition of any quantitative restriction on the importation of the article into the United States;

(continued...)

recommendation, we have fully accounted for the import relief already granted this industry under other U.S. trade laws.⁸⁷ In our view, this tariff-rate quota will remedy the serious injury to the domestic industry and be most effective for facilitating its efforts to make a positive adjustment to import competition, without unduly burdening U.S. consumers or other U.S. industries.

Should the President consider our injury determination to be the determination of the Commission,⁸⁸ it will be the first affirmative section 201 determination since the Omnibus Trade and Competitiveness Act of 1988. The 1988 Act added requirements that any import relief under section 201 also be specifically designed to facilitate positive adjustment by the U.S.

⁸⁶ (...continued)

(D) one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2 [of the Trade Act of 1974];

(E) any combination of the actions described in subparagraphs (A) through (D).

Section 202(e)(4) provides that the Commission, in addition, may also recommend that the President initiate international negotiations or implement any other action authorized under law that is likely to facilitate positive adjustment.

⁸⁷ As noted supra, Commerce imposed countervailing duties of 4.21 percent on imports from Rubfil Sdn. Bhd. and 9.63 percent on all other imports from Malaysia. See 57 Fed. Reg. 38472 (Aug. 25, 1992). Commerce similarly found final antidumping duty margins of 10.68 percent for Heveafil/Filmex Sdn. Bhd., 20.38 percent for Rubberflex Sdn. Bhd., and 14.52 percent for all other Malaysian firms. See 57 Fed. Reg. 38465 (Aug. 25, 1992); 57 Fed. Reg. 46150 (Oct. 7, 1992); Commerce Instructions to Customs (Oct. 8, 1992). Imports of extruded rubber thread from Malaysia also lost their duty-free status under the GSP and are now subject to the column 1 general rate of duty of 4.2 percent. See 57 Fed. Reg. 9041 (Mar. 16, 1992) (Presidential Proclamation 6411 of March 12, 1992).

⁸⁸ See 19 U.S.C. § 1330(d)(1) (when the Commissioners voting under section 201 with respect to serious injury are equally divided, the determination of either group of Commissioners may be considered by the President to be the determination of the Commission).

industry to import competition. The Commission's responsibility with respect to remedy recommendations is set forth in section 202(e) of the Trade Act of 1974. Section 202(e)(1) states that the Commission is to "recommend the action that would address the serious injury, or threat thereof, to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition."⁸⁹

As noted earlier, during the pendency of this investigation, the Commission separately made affirmative determinations affecting this industry in investigations conducted under Title VII of the Trade Act of 1930.⁹⁰ Those determinations led to the issuance of countervailing and antidumping duty orders on extruded rubber thread from Malaysia.⁹¹ In addition, the President took action removing GSP duty-free treatment for imports from Malaysia.⁹² Thus, subsequent to August, 1992, there was an effective average increase in tariffs of 28.4 percent ad valorem⁹³ on extruded rubber thread from Malaysia -- by far the largest source of these imports. In light of the significant import relief already provided to this domestic industry, we carefully

⁸⁹ 19 U.S.C. § 2252(e)(1).

⁹⁰ E.g., Extruded Rubber Thread from Malaysia, Inv. Nos. 303-TA-22, 731-TA-527 (Preliminary), USITC Pub. 2441 (Oct. 1992); Extruded Rubber Thread from Malaysia, Inv. No. 731-TA-527 (Final), USITC Pub. 2559 (Sept. 1992).

⁹¹ See supra n. 87.

⁹² Id.

⁹³ This figure represents the total for the "all other" category, which is a weighted-average for all Malaysian producers. The actual combinations of antidumping and countervailing duties calculated by Commerce, plus the removal of GSP status vary somewhat for the different Malaysian rubber thread producers.

considered whether any additional remedy was necessary to address serious injury and to facilitate positive adjustment to import competition.⁹⁴

We conclude that additional relief under section 201 is both necessary and appropriate.⁹⁵ Although we are generally optimistic that the recent duty increases will both restore fair and stable price competition, and substantially enhance the ability of the domestic industry to compete successfully, we note the apparent ease with which production can, and has, shifted internationally.⁹⁶ We believe that the magnitude of the countervailing and antidumping duties imposed may provide an economic incentive for Malaysian producers to relocate in other countries in order to continue to supply the U.S. market. Our recommendation is designed, in part, to counteract any such economic incentive.

⁹⁴ This assessment of the impact of Title VII orders is based on the current administration of such orders. Given the nature of that administrative process, which includes annual reviews and adjustments of duties levied, future Commission review under section 204 of any relief provided as the result of this investigation would also include an updated assessment of the impact of such antidumping and countervailing duty orders on the effectiveness of import relief.

The investigations which resulted in the imposition of antidumping and countervailing duties are under appeal. Any section 201 relief afforded may merit review in view of the outcome of that litigation.

⁹⁵ In making this recommendation, we have taken into account the factors set forth in section 202(e)(5)(B) of the Act including the following: the form and amount of action that would prevent or remedy the injury; the objectives specified in the adjustment plans; commitments that firms or workers could take to make a positive adjustment to import competition (no such commitments were received); information concerning the conditions of competition or likely developments affecting such conditions during the relief period; and whether international negotiations would be constructive to address the injury or to facilitate adjustment.

⁹⁶ The record contains evidence of several instances of the physical relocation of production facilities across international borders. See Report, at I-16-20.

In addition to possible relocation by Malaysian producers, existing third-country suppliers also could quickly expand capacity and/or increase shipments of extruded rubber thread to the U.S. market.⁹⁷ In this connection, we note that recent price increases in the United States for extruded rubber thread are likely to make this a more desirable market for foreign producers.⁹⁸ Either development, if of a sufficient magnitude, would deny U.S. producers the opportunity to make positive adjustments to import competition.⁹⁹

We are, of course, charged with recommending a remedy that both addresses the serious injury and is "most effective" in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.¹⁰⁰ We are also mindful of the President's obligation to take action that "provide[s] greater economic and social benefits than costs."¹⁰¹ As a legal matter, these statutory obligations of the Commission and the

⁹⁷ See Staff Memorandum EC-P-084 at 32 (Nov. 23, 1992).

⁹⁸ See North American's and Globe's Pre-Hearing Remedy Brief, at 5; North American's and Globe's Post-Hearing Remedy Brief, at 5 & n. 3, Exhibit 1 at 2 (Nov. 10, 1992); Transcript of Remedy Hearing at 13-15, 20, 27-29, 111; see also Responses to Further Questions of Commission by North American Rubber Thread and Globe Manufacturing Co., at 16-17 (Nov. 16, 1992).

⁹⁹ We are also mindful of other limitations applicable to the Commission's recommendation. Section 202(e)(3) provides that limitations on Presidential action in section 203(e) of the Act are applicable to Commission recommendations (e.g., maximum 8-year period of relief, maximum 50 percent ad valorem tariff increase, minimum "representative" period amount of quota, requirement that the action "does not exceed the amount necessary" to prevent or remedy injury, and so forth).

¹⁰⁰ 19 U.S.C. § 2252(e)(1) (emphasis added).

¹⁰¹ Id. § 2253(a)(1)(A).

President are separate and distinct. As a conceptual and practical matter, however, there is some overlap. A remedy that imposes more costs than it provides economic and social benefits may not be the most effective remedy, particularly for an industry that, as here, produces an article that is consumed by downstream industries which in turn also face import competition. A remedy that overly restricts imports may drive those downstream industries offshore, thereby depriving the domestic industry of its domestic market. Accordingly, we have taken into account the concerns of U.S. industries that rely on extruded rubber thread as an input in their production of downstream products. We have designed our import relief recommendations so as not to unduly restrict imports.

We recommend that the President impose a tariff-rate quota for up to five years. Imports of extruded rubber thread up to 17 million pounds annually in 1993 and 1994 would enter the United States at existing duty rates. Imports that exceed 17 million pounds annually in 1993 and 1994 would be subject to an additional tariff of 25 percent ad valorem. Seventeen million pounds is approximately 50 percent of projected 1993 and 1994 U.S. annual consumption of extruded rubber thread. We arrived at this base quota by adjusting the base quota requested by the domestic producers¹⁰² to account

¹⁰² The two surviving domestic producers requested relief in the form of a tariff-rate quota system for a six-year period, plus elimination of GSP eligibility for extruded rubber thread. North American's and Globe's Pre-Hearing Remedy brief of at 3-6. At the Commission's remedy hearing John Friar, President of North American, stated that Government negotiations to eliminate the Malaysian subsidies on natural rubber latex and initiation of a section 301 investigation also could be added to the list of Commission section 201 remedy recommendations. See Transcript of Remedy Hearing at 11-12.

Under North American's and Globe's proposal, a tariff of between 25

(continued...)

for the increase in domestic consumption of extruded rubber thread during the period of investigation. We believe the upper tier tariff rate of 25 percent is necessary to prevent a surge in imports.

Pursuant to section 204 of the statute, at the end of the first two years of import relief, the Commission will report to the President on the progress of workers and firms in the domestic industry toward making a positive adjustment to import competition.¹⁰³ If the industry has made serious efforts toward implementing their adjustment plans, we recommend the tariff-rate quota be continued for an additional year. In 1995, the 25 percent upper tier tariff should be levied on imports exceeding the level of 50 percent of U.S. annual consumption. U.S. consumption would be measured by the most recent data available when the ITC reports to the President.

In keeping with section 203(e) of the statute, we recommend that after 3 years the upper tier tariff be phased down to 15 percent ad valorem in 1996, and to 10 percent ad valorem in 1997.¹⁰⁴ In both 1996 and 1997, the upper tier tariff would again be levied on imports exceeding the level of 50 percent of U.S. annual consumption. At the end of the third and fourth years of import

¹⁰² (...continued)

percent to 50 percent ad valorem would apply to imports that exceed, by quantity, an amount greater than that entered in 1987 plus the level of production of Qualitex Manufacturing Co. in 1987, which is well under 17 million pounds as in our recommendation. See North American's and Globe's Pre-Hearing Remedy Brief of at 4; Report at I-27, Table 5, I-24; Staff Memorandum EC-P-084 at 1 (Nov. 23, 1992).

¹⁰³ See 19 U.S.C. § 2254(a).

¹⁰⁴ The President is directed, when providing relief for a period that is to exceed three years, to begin phasing down such relief after the third year "to the extent feasible." 19 U.S.C. § 2253(e)(5).

relief, the Commission would again report to the President on the progress of the U.S. industry in adjusting to import relief and on the appropriate modification of the tariff-rate quota level at 50 percent of U.S. annual consumption.

If at the end of the second, third, or fourth year of import relief, the domestic producers have not made serious efforts toward implementing their plans to adjust to import competition, the ITC in our view should recommend that the President terminate the import relief. The U.S. producers of extruded rubber thread, North American Rubber Thread Co., Inc. and Globe Manufacturing Co., have submitted credible plans to adjust to import competition. Their plans include investment in equipment and technology to increase their capacity and decrease their costs.¹⁰⁵ Consistent with the statute, ITC monitoring will hold these producers accountable for the implementation of those plans during the period of temporary relief.¹⁰⁶

Absent a large shift in production facilities out of Malaysia, we do not expect imports to exceed the level at which we recommend higher duties. Thus, we do not expect that there will be any significant economic or social cost

¹⁰⁵ See Section 201 Adjustment Plans of North American Rubber Thread and Globe Manufacturing Co. (Oct. 21, 1992).

¹⁰⁶ We encourage the domestic producers to avail themselves of adjustment assistance through the U.S. Department of Commerce. We note that workers laid off due to import competition were certified as eligible to receive worker adjustment assistance by the U.S. Department of Labor in January 1991. Staff Memorandum EC-P-071, at 28 (Oct. 9, 1992). We therefore make no recommendation regarding worker adjustment assistance. We also note that the implementation of the relief we recommend today would temporarily remove extruded rubber thread from eligibility for duty-free treatment under the Generalized System of Preferences. See 19 U.S.C. § 2463(c)(2).

associated with our recommended relief.¹⁰⁷ If a surge in imports were to occur, however, and the health of the industry were again to be threatened, the cost of the remedial action we are recommending would be offset to some degree by the benefits accruing to the industry. Finally, our recommendation includes the stipulation that the domestic producers make reasonable progress in implementing their adjustment plans. Thus, relief should not be maintained if the industry is found not to have made serious efforts toward adjustment.

Respondents commented that section 201 relief was inapplicable because the U.S. extruded rubber thread industry has an enormous and permanent comparative cost disadvantage. They claim that because the U.S. industry does not produce near a source of the primary raw material (natural rubber latex) it suffers from higher costs in the form of higher transportation costs, small, high-cost quantity purchases, substantial storage costs, inability to take advantage of price fluctuations, and delays in delivery.¹⁰⁸ Respondents' contention that domestic producers face inherent cost disadvantages is not supported by the record. Being close to the rubber plantations gives non-U.S. producers no inherent advantage in the production of rubber thread for sale in the United States. One pound of latex is manufactured with other chemicals and additives into more than one pound of extruded rubber thread, so it is actually cheaper to transport the latex rather than the finished rubber

¹⁰⁷ Similarly, it is unlikely that the United States will be required to grant compensation to any GATT party as a result of action consistent with this remedy recommendation.

¹⁰⁸ Respondents' Post-Hearing Remedy Brief at 2-5 & Attachment 2; Respondents' Pre-Hearing Remedy Brief at 2-9.

thread.¹⁰⁹ Moreover, U.S. producers are located closer to U.S. customers and are therefore better able to service them. Any other cost disadvantages of the domestic producers will be overcome by successful implementation of their adjustment plans.

Section 203(f)(2)(G) of the statute requires us to provide the President with a description of "the short- and long-term effects that implementation of the action recommended . . . is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers."¹¹⁰ We believe that the tariff-rate quota we are recommending will enable U.S. producers to implement their adjustment plans without the risk of another rapid and unexpected surge in imports of extruded rubber thread. Our recommended relief would not impose excessive costs on domestic consuming industries that use extruded rubber thread.¹¹¹ The volume of imports that we propose be permitted

¹⁰⁹ Report at I-9-12; see also North American's and Globe's Post-Hearing Remedy Brief Exhibits 4 & 5; North American's and Globe's Further Responses at 3-4; North American's and Globe's Further Responses at 9-11 (detailing the difference in prices paid for natural rubber latex by Malaysian and U.S. companies).

¹¹⁰ 19 U.S.C. § 2252(f)(2)(G)(i).

¹¹¹ Extruded rubber thread constitutes between 20 and 45 percent of the total cost of production of the immediate downstream product into which extruded rubber thread is incorporated, namely, narrow elastic fabrics. See Report at I-9 and n. 19, Table 1; Staff Memorandum EC-P-084 at 27. Narrow elastic fabric, in turn, constitutes an even smaller portion of the cost of many of finished articles in which it is used, such as underwear and foundation garments.

To the extent that our recommended remedy may impose some costs on downstream producers, we anticipate those costs will be felt primarily by narrow elastic fabric producers. We do not anticipate, however, that our recommended remedy will impose excessive costs on downstream producers because the import level we have recommended for the tariff-rate quota to take effect is relatively high compared to the actual and projected levels of imports. Of

(continued...)

to enter free of section 201 duties safely exceeds projected import levels, given the current duties on imports from Malaysia that were found to be unfairly traded.¹¹² In short, the remedy would enable the domestic industry to regain its viability over a five-year period without imposing significant adverse effects on other industries and consumers.

Section 203(f)(2)(G) also requires us to provide a description of "the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry are located, and on other domestic industries."¹¹³ As the petitioner has indicated in its briefs and adjustment plan, a critical factor to the petitioner's recovery is the ability to obtain

¹¹¹ (...continued)

course, the economic impact of the recommended remedy on fabric and garment manufacturers who use narrow elastic fabric and on the consumers who purchase the finished articles is likely to be greatly attenuated.

¹¹² See Staff Memorandum EC-P-084, Tables 1-2 (Nov. 23, 1992); Transcript of Commission Meeting, at 15 (Dec. 3, 1992).

¹¹³ 19 U.S.C. § 2252(f)(2)(G)(ii). The Commission sought information concerning the prospective impact of not taking the recommended action on workers and the community in which these producers are located. The Commission did not receive any information specifically on these issues. We note, however, that both producers are located in the same community, Fall River, Massachusetts. Fall River had an unemployment rate of 11 percent as of October 1992, significantly higher than the national average. Telephone conversation with staff at Department of Employment and Training, Fall River, Massachusetts. Hence, the area in which these producers are located is experiencing particularly difficult economic times.

As noted above, we believe that, unless these companies are otherwise able to finance the investments they require to make a positive adjustment to import competition, the long-term effect of not taking the recommended action is the eventual departure by these companies from the extruded rubber thread industry. Two producers located in the same community deciding to leave an industry would have a concentrated adverse impact on that community when the community is already experiencing relatively high levels of unemployment.

financing for investment. Absent some assurance of price stability in the market, it would be difficult for the petitioner to qualify for the financing it needs.¹¹⁴ Likewise, absent some price stability, it would not be cost-beneficial for Globe Manufacturing to make the investments it needs to upgrade its extruded rubber thread production facilities.¹¹⁵ We believe the recommended remedy will provide the price stability these companies seek by providing a relatively short-term safeguard against renewed surges in imports. If the remedy is not implemented we would expect these companies not to make all the necessary investments and for the industry eventually to disappear. This development would also have a short-term adverse impact on those downstream companies that require the specialty products which the domestic industry has supplied up to now.

In sum, we believe that the relief we are recommending to the President will remedy the serious injury suffered by the domestic extruded rubber thread industry and will be most effective in facilitating efforts by the last two domestic manufacturers to make a positive adjustment to import competition. Furthermore, our recommended relief will not unduly burden the U.S. industries that utilize extruded rubber thread.

¹¹⁴ See Report at I-36-37, Table 13; Petition at 22-26; North American's and Globe's Post-Hearing Injury Brief at 5, 12-13, Exhibit 7; North American's and Globe's Pre-Hearing Remedy Brief at 1; North American's and Globe's Response to Further Questions, at 5-8, Exhibits 1, 2, 6; Section 201 Adjustment Plans of North American Rubber Thread and Globe Manufacturing Co., at 2-15 (Oct. 21, 1992).

¹¹⁵ See Report at I-40-41, Tables 14-15; North American's and Globe's Post-Hearing Injury Brief at 13; North American's and Globe's Pre-Hearing Remedy Brief at 1; North American's and Globe's Response to Further Questions, at 8, Exhibit 6; Section 201 Adjustment Plans of North American Rubber Thread and Globe Manufacturing Co., at 16-20 (Oct. 21, 1992).

VIEWS OF VICE CHAIRMAN WATSON AND COMMISSIONERS BRUNSDALE AND CRAWFORD

We determine that extruded rubber thread¹ is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat thereof to the domestic industry producing an article like or directly competitive with imported extruded rubber thread.

To render an affirmative determination, section 202 of the Trade Act of 1974 (the Act)² requires that the Commission find that "an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article."³ In this investigation, although the subject imports have increased and the domestic industry has suffered some injury, we do not find that these increased imports are a substantial cause of serious injury or threat thereof to the domestic industry.⁴

¹ The imported article covered by this investigation is extruded rubber thread of natural rubber latex, classified under heading 4007.00.00 of the U.S. Harmonized Tariff Schedule. 57 Fed. Reg. 31387 (July 15, 1992).

² 19 U.S.C. § 2252.

³ Id. § 2252(b)(1)(A).

⁴ The statute requires the Commission, in addition, to address the issue of critical circumstances when such circumstances are alleged by the petitioner and the Commission has made an affirmative injury determination under section 202(b). The petitioner alleged the existence of such circumstances and requested provisional relief. However, because the Commission was equally divided on the question of injury and thus did not make an affirmative determination, the condition precedent for reaching the issue of critical circumstances does not
(continued...)

The Domestic Industry.

Before addressing the three statutory criteria, it is necessary to define the domestic industry that is at issue in this investigation. The statute defines the domestic industry in terms of the domestic producers of an "article like or directly competitive with the imported article."⁵ The statute does not define the terms "like or directly competitive"; however, the legislative history of the Trade Act of 1974 defines them as follows:

The words "like" and "directly competitive," as used previously and in this bill, are not to be regarded as synonymous or explanatory of each other, but rather to distinguish between "like" articles and articles which, although not "like," are nevertheless "directly competitive." In such context, "like" articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.), and "directly competitive" articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor.⁶

The legislative history further indicates that the Commission is to consider "the question of serious injury to the productive resources (e.g., employees, physical facilities, and capital) employed in the divisions or plants in which the article in question is produced."⁷

In determining what producers constitute the appropriate domestic

⁴ (...continued)
exist and we do not address the issue. See 19 U.S.C. §§ 2252(b)(3)(A)-(B), 2252(d).

⁵ Id. § 2252(b)(1)(A).

⁶ H.R. Rep. No. 571, 93d Cong., 1st Sess. 45 (1973); see also S. Rep. No. 1298, 93d Cong., 2d Sess. 121-122 (1974).

⁷ H.R. Rep. No. 571, 93d Cong., 1st Sess. 46 (1973).

industry, the Commission generally has followed a "product-line" approach, finding the industry to consist of the producers of articles like or directly competitive with an imported article.⁸ When the Commission concludes that the scope of an investigation involves several products, it often finds there to be several domestic industries, each producing an article or articles like or directly competitive with certain of the imported articles.⁹

In the present investigation, petitioners argued that the Commission should not distinguish between imports of food-grade and non-food-grade rubber thread, and should limit the industry to the domestic facilities producing only certain gauges of thread. Certain respondents, on the other hand, argued that the Commission should distinguish between imports of food-grade and non-food-grade thread, and should, in addition, include domestic facilities producing spandex as part of the industry.

After carefully considering the arguments of the parties and the relevant facts, we have concluded, for reasons set forth below, (1) that the scope of investigation includes two distinct imported articles, food-grade extruded rubber thread and non-food-grade extruded rubber thread; (2) that the domestic industry producing non-food grade extruded rubber thread includes facilities

⁸ See, e.g., Certain Cameras, Inv. No. TA-201-62, USITC Pub. 2315 at 8-16 (Sept. 1990); Apple Juice, Inv. No. TA-201-59, USITC Pub. 1861 at 5 (June 1986) (Views of Chairman Stern and Commissioners Eckes, Lodwick, and Brunsdale); Certain Canned Tuna Fish, Inv. No. TA-201-53, USITC Pub. 1558 at 4-5 (Views of Commissioners Eckes, Lodwick, and Rohr).

⁹ See, e.g., Certain Cameras, Inv. No. TA-201-62, USITC Pub. 2315 at 7-16 (Sept. 1990); Certain Metal Castings, Inv. No. TA-201-58, USITC Pub. 1849 at 6-9 (June 1986); Carbon and Certain Alloy Steel Products, Inv. No. TA-201-51, USITC Pub. 1553 at 12-18 (July 1984); Stainless Steel and Alloy Tool Steel, Inv. No. TA-201-48, USITC Pub. 1377 at 15 (May 1983).

producing thread of all gauges that are produced domestically, but does not include facilities producing spandex;¹⁰ and (3) that there is no domestic industry producing food-grade extruded rubber thread because there is no domestic production of an article like or directly competitive with such thread.¹¹

Food-grade extruded rubber thread. Food-grade extruded rubber thread is a formulated product containing special additives that impart unique qualities that allow it to be used as a netting for food items, particularly meats. The special formulation ensures that the rubber thread wrapping does not impart an unpleasant taste to the meats and other food items. Unlike food-grade extruded rubber thread, the non-food-grade variety contains nitrosamines, which are carcinogen producing agents.¹² Only extruded rubber thread formulated in a

¹⁰ Had we agreed entirely with the industry analysis recommended by petitioner, our determination in this investigation would be no different. Imports of food-grade thread are small -- less than 5 percent of rubber thread imports in 1991 -- and domestic production of the one gauge of thread that petitioner would have had us exclude from the industry is also small.

¹¹ Our finding with respect to industry here should be distinguished from that in the recent antidumping (title VII) investigation with respect to extruded rubber thread from Malaysia. E.g., Extruded Rubber Thread from Malaysia, Inv. No. 731-TA-527 (Final), USITC Pub. 2559 (Sept. 1992). In the antidumping investigation we found food-grade extruded rubber thread was not "like" non-food-grade extruded rubber thread and that two domestic industries existed: a food-grade extruded rubber thread industry and a non-food-grade extruded rubber thread industry. See id. at 34. However, the statutory concept of industry under title VII is different. There, the industry is defined in terms of producers of the "like product," which in turn is defined in terms of producers of a product that is "like, or in the absence of like, most similar in characteristics and uses." 19 U.S.C. § 16677(10). Because section 201 lacks the equivalent of the "in the absence of like, most similar" language of title VII, the Commission may find that no domestic product is "like or directly competitive" with certain imports and thus that there is no domestic industry.

¹² Report at I-6 & n. 12.

manner approved by the Food and Drug Administration ("FDA") may be used as a food wrap.¹³

The two domestic firms, North American Rubber Thread Co. ("North American") and Globe Manufacturing Co. ("Globe"), produce non-food-grade extruded rubber thread but do not produce food-grade thread. Thus, there is currently no domestic commercial production of food-grade extruded rubber thread.¹⁴ A third firm, Qualitex, Inc., ceased production of the food-grade variety in October 1990. Furthermore, neither North American nor Globe (nor any other domestic firm) appears poised to begin commercial manufacturing and distribution of the product, has received FDA approval of a food-grade formulation,¹⁵ or has sought to use one of the two currently approved formulas.¹⁶

In the absence of domestic production of food-grade rubber thread, we conclude that there is no domestic industry producing an article that is like or directly competitive with imported food-grade thread.¹⁷ Accordingly, we make

¹³ Id.

¹⁴ See Report at I-8 n. 18; see also Transcript of Injury Hearing at 136-41, 170-71; Petitioner's and Globe's Post-Hearing Brief at 7.

¹⁵ Report at I-8 n. 18; Transcript of Injury Hearing at 137-38, 141-43.

¹⁶ Report at I-8 n. 18; Transcript of Injury Hearing at 137-38, 141-43.

¹⁷ Moreover, no party has presented any credible arguments alleging that non-food-grade extruded rubber thread, which appears to be the closest alternative and is presently produced domestically, is directly competitive with food-grade extruded rubber thread. Indeed, evidence shows that these two products are not directly competitive. Although the manufacturing process and machinery used for all thread is generally the same (basic extrusion process), there are differences in the additives and other special formulations used to make food grade extruded rubber thread so that it does not impart an unpleasant taste to meats or contain carcinogen-producing agents. Report at I-6 & n. 12. More important, as noted above, food-grade extruded rubber thread must satisfy FDA requirements for use
(continued...)

a negative determination with respect to imports of such thread.

Non-food-grade extruded rubber thread. We now turn to the question of what domestic facilities constitute the domestic industry producing an article like or directly competitive with imports of non-food-grade thread. In answering this question, the Commission has traditionally taken into account a wide array of information about the article and its manufacture, including information about the product itself (such as distinguishing physical characteristics, end uses, marketing and distribution channels, and selling price),¹⁸ about whether closely related articles are also produced in the same plant, on the same equipment, and by the same employees using the same or similar skills, and concerning what article or articles producing firms consider as profit centers.¹⁹

Based on our review of the record, we would not find different industries based on particular gauges of thread (e.g., a separate industry producing thread that is *** or larger).²⁰ The particular gauge in question is produced by

¹⁷ (...continued)

as a food wrap; thus, buyers and end users of food-grade extruded rubber thread are prohibited by law from using other extruded rubber thread to wrap meats. See id.

¹⁸ See supra, note 17.

¹⁹ See, e.g., Certain Cameras, Inv. No. TA-201-62, USITC Pub. 2315 at 6-13 & n. 29 (Sept. 1990); Certain Knives, Inv. No. TA-201-61, USITC Pub. 2107 at 6-8 (Sept. 1988); Certain Metal Castings, TA-201-58, USITC Pub. 1849 at 7-8 (June 1986); Electric Shavers and Parts Thereof, Inv. No. TA-201-57, USITC Pub. 1819 at 5 (Mar. 1986); Wood Shakes and Shingles, Inv. No. TA-201-56, USITC Pub. 1826 at 5 (Mar. 1986); Stainless Steel and Alloy Tool Steel, Inv. No. TA-201-48, USITC Pub. 1377 at 16 & n. 21 (May 1983).

²⁰ Petitioner argued that the Commission could exclude the production of *** extruded rubber thread from its definition of the domestic industry because it
(continued...)

one of the two domestic producers of extruded rubber thread. This gauge is produced in the same plant, on the same equipment (which, as in the case of the other gauges, must be adjusted to make this particular gauge), from the same basic materials, and by the same workers using the same basic skills the firm uses to produce other gauges of rubber thread.²¹ Although the customers and end uses for the *** thread and thread in the 18 to 140 gauge range are different, all such thread is marketed through the same basic marketing channels.

Respondent argued that spandex production should be included in the domestic industry. Based on evidence in the record and arguments of the parties, we disagree.²² Spandex is made from different materials (synthetics),

²⁰ (...continued)

is used only to make novelty toys, is produced by a different production process, and is sold at a relatively higher price. See Petition Exhibit 1. Respondents argued that the production of all gauges of extruded rubber thread should be included in the definition of the domestic industry. See Respondents' Post-Hearing Injury Brief at 4.

²¹ See Report at I-9-10 & n. 22. Petitioner stated that the production process for this heavier gauge thread differs from the 18 to 140 gauge thread in "significant respects" and is priced higher. Petition Exhibit 1 at 3-4. Petitioner points to the following differences: raw material used; process ("Machine conditions far outside of normal must be used"); equipment used ("Mechanical drives must be changed to perform under extreme conditions"); operators ("Supervisors and operators require special training because of the extreme conditions under which production occurs"). Id. Exhibit 1 at 3-4. However, these adjustments appear to be mere alterations and adjustments on the same equipment by similar production workers.

²² Respondents asserted that, while the chemical composition of extruded rubber thread (natural latex rubber) is different from that of spandex (a synthetic material), these products have the essential physical characteristic of being "thread like" elastomeric fibers. Respondents' Pre-Hearing Injury Brief Exhibit 1. Respondents also alleged some similar end uses in the textile and garment industry, limited to a certain extent by price and special features inherent to each. Id. They noted that Globe produces both spandex and extruded rubber thread. Id.

on different equipment, and generally by different workers using different skills. It also has different uses, is marketed (and perceived by customers and producers) as a separate product, and is priced considerably higher.²³ Globe produces spandex in addition to extruded rubber thread, but ***.²⁴

Increased Quantities of Imports.

The first of the three statutory criteria that must be satisfied for an affirmative determination is that imports must enter the United States in "increased quantities." This increase may be "either actual or relative to domestic production."²⁵

Imports of extruded rubber thread²⁶ increased both in actual terms and relative to domestic production.²⁷ Imports not only increased from *** pounds

²³ See Report at I-5-15; Injury Hearing Transcript at 55, 106-08; Elastic Corporation of America's ("ECA's") Prehearing Injury Brief at 12. Even respondents recognized that customers perceive the products as separate, due to price differences and specific applications. See Respondents' Pre-Hearing Injury Brief Exhibit 1. They also indicated that spandex and extruded rubber thread are likely to be produced in different manufacturing facilities and that spandex prices are much higher than extruded rubber thread prices. See id.

²⁴ North American does not produce spandex. The only other domestic producer of spandex is DuPont, which is the larger of the two and does not make extruded rubber thread and did not seek relief or even participate in the investigation. See Report at I-13 & n. 31.

²⁵ 19 U.S.C. § 2252(c)(1)(C).

²⁶ Data presented here include imports of both food-grade and non-food-grade extruded rubber thread. However, non-food-grade thread has always represented over 95 percent of extruded rubber thread imports during the period. See Report at I-8, 15, 23, Table 4.

²⁷ We note that the Commission has traditionally examined 5 years of data in section 201 investigations, although the statute has no prescribed period of investigation.

in 1987 to *** pounds in 1991,²⁸ but their value also increased each year during the period of investigation, rising from \$*** in 1987 to \$*** in 1991.²⁹ As a percentage of domestic production, imports also increased from *** percent of domestic production in 1987 to almost *** percent of domestic production in 1991.³⁰ Imports from Malaysia accounted for virtually all of this increase.³¹

Serious Injury and Threat of Serious Injury.

The statute next requires a finding of serious injury or threat thereof, but does not define these terms. Instead, it sets forth a list of economic factors that the Commission must consider. It also instructs the Commission to examine all economic factors that it considers relevant, and expressly provides that the presence or absence of any enumerated factor is not necessarily dispositive.³²

Consideration of Serious Injury.

In considering serious injury, the Commission must take into account the following economic factors:

²⁸ Report Table 4. Imports in comparison of interim period 1991 to interim period 1992 also increased from *** pounds to *** pounds. Id.

²⁹ Id. Imports in comparison of interim period 1991 to interim period 1992 also increased in value from \$*** to \$***. Id.

³⁰ Id. at I-24. We note, however, that in interim period 1992, imports comprised roughly *** percent of domestic production, which is down from almost *** percent in interim period 1991. Id. Despite this slight decrease between the interim periods, these levels still satisfy the statutory criteria for an increase in imports over the period of investigation.

³¹ Id. Table 4.

³² 19 U.S.C. § 2252(c)(3).

(i) the significant idling of productive facilities in the domestic industry,

(ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and

(iii) significant unemployment or underemployment within the domestic industry.³³

The term "significant idling of productive facilities" is defined to include "the closing of plants or the underutilization of productive capacity."³⁴ The legislative history of the Act states that the Commission is to consider "the question of serious injury to the productive resources (e.g., employees, physical facilities, and capital) employed in the divisions or plants in which the article in question is produced."³⁵

The evidence with respect to the question of serious injury is mixed.³⁶ By far the most important influence on aggregate industry data during the five-year period under review was the closing of the Qualitex plant in October 1990. This event significantly affected aggregate industry data, including production,

³³ Id. § 2252(c)(1)(A).

³⁴ Id. § 2252(c)(6)(B).

³⁵ H.R. Rep. No. 571, 93d Cong., 1st Sess. 46 (1973).

³⁶ Although we found "material injury" by reason of the subject imports in the recent title VII investigation on extruded rubber thread from Malaysia, that finding differs from our determination in this section 201 investigation as here we are required to make a separate finding of "serious injury." "Material injury" is intended to require a lesser degree of injury than "serious injury." See 19 U.S.C. §§ 1673b(a)(1)(A), 1671b(a)(1)(A), 1677(7)(A), 2251(a), 2252(b)(1)(A); accord Carbon and Certain Alloy Steel Products, Inv. No. TA-201-51 at 34 n. 105, USITC Pub. 1553 (July 1984) (Views of Commissioners Stern, Eckes, Lodwick, and Rohr); S. Rep. 1298, 93d Cong., 2d Sess. 212 (1974) (noting that the "material injury" standard of section 406 requires a lesser degree of injury than the "serious injury" standard employed in section 201).

shipments, capacity, and employment levels, and the costs associated with it significantly affected aggregate industry profitability in the year of the closure. Most of the economic indicators were relatively stable up to the time of the closing of the Qualitex plant, and have been relatively stable since then, at levels that reflect the reduced production base.

a. Idling of productive facilities. While aggregate average production capacity for the industry as a whole (including Qualitex through 1990) declined during the period from *** pounds in 1987 to *** pounds in 1991, aggregate average-of-period capacity for the two current domestic producers actually rose in each of the five years, from *** pounds in 1987 to *** pounds in 1991, or by more than *** percent.³⁷ Domestic production capacity for the two firms was higher in interim period (January-to-June) 1992 (*** pounds) than interim period (January-to-June) 1991 (*** pounds).³⁸

Domestic production followed a similar pattern, peaking in 1988 at *** pounds, but declining over the period from *** pounds in 1987 to almost *** pounds in 1991.³⁹ However, domestic production of the two current producers was *** in 1990 and 1991 than at the beginning of the period and was running at *** levels in interim 1992 (*** pounds);⁴⁰ interim 1992 production was ***

³⁷ Report at I-26-28 & Table 5.

³⁸ Id.

³⁹ Id. Table 5.

⁴⁰ Id.

percent higher in interim 1992 than in interim 1991.⁴¹ Domestic shipments largely paralleled production, peaking in 1988 and showing an overall decline during the period.⁴² However, shipment data for the remaining two domestic producers was higher in 1991 than in both 1989 and 1990.⁴³ Interim 1992 shipments remained strong, but were at a level slightly below that of interim 1991.⁴⁴

Capacity utilization levels in the domestic industry peaked in 1988 and declined each year thereafter.⁴⁵ This decline was partly due to the fact that capacity at the two remaining domestic producers *** and the fact that Qualitex had operated at a *** level of capacity utilization.⁴⁶ Capacity utilization levels were higher in interim 1992 than the same period in 1991.⁴⁷

⁴¹ Id. Production for these two producers increased from slightly under *** pounds in 1987 to almost *** pounds in 1988, then decreased slightly to *** pounds in 1989, almost *** pounds in 1990, and *** pounds in 1991. Id. Also, production for North American and Globe was higher in interim period 1992 (*** pounds) than the same period in 1991 (*** pounds). Id.

⁴² Id. Table 6.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id. Table 5.

⁴⁶ Capacity utilization data tend to be most useful when the universe of reporting firms and facilities remains the same over the period examined. Even though all firms reporting capacity information to the Commission are asked to report in the same way, differences in equipment and methods of operation among firms can result in the reporting of data that translates into widely varying capacity utilization rates. The exit of a major producer whose rate is considerably above or below the average will skew any weighted average and reduce the value of any trendline.

⁴⁷ Report Table 5.

b. Level of profit (or loss). *** the domestic producers *** reported data showing that the overall establishments making rubber thread operated at what we regard as ***, the industry as a whole reported operating *** on rubber thread operations in all but one year.⁴⁸ Industry operating *** peaked in ***.⁴⁹ On an aggregate basis, North American and Globe reported *** on their extruded rubber operations in each of the years under review; these *** were highest in 1988, but *** each year after that.⁵⁰ The two firms on a combined basis operated *** in interim 1992.

Company-by-company data tell a ***. North American reported a *** on extruded rubber thread operations and on its overall establishment operations in ***.⁵¹ ⁵² Globe *** on its extruded rubber thread operations for all periods covered, *** for its overall establishment operations for ***.⁵³ Qualitex's extruded rubber thread operations and overall establishment operations were

⁴⁸ Id. Tables 9-11.

⁴⁹ Id. Table 9-10.

⁵⁰ Id.

⁵¹ Id. Table 10.

⁵² Id. Table 11.

⁵³ Id. Tables 9-11.

***, with an operating *** ratio to net sales of about *** percent in 1987 and *** percent in 1988. Qualitex reported a *** on extruded rubber thread operations in ***--which, as noted above, had a very *** effect on overall industry data that year.⁵⁴

c. Unemployment and underemployment. The number of production and related workers employed by the domestic industry fell from *** to *** employees from 1987 to 1991, and rose by *** between interim period 1991 and interim 1992.⁵⁵ Both total hours worked by production and related workers and total compensation paid in the domestic industry fell over the period of investigation, after increasing slightly from 1987 to 1988.⁵⁶ Hours worked and compensation paid rose between interim 1991 and 1992.⁵⁷ Hourly wages paid to production related workers and productivity in the domestic industry decreased from 1987 to 1991, but increased in interim period 1992 in relation to interim period 1991.⁵⁸

However, employment data for North American and Globe are quite different from those for the industry as a whole with Qualitex included. Although the number of production and related workers for the two firms combined decreased from *** in 1987 to *** in 1991, the decrease is much more dramatic with

⁵⁴ See id. Table 9.

⁵⁵ Id. at I-31, Table 8.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

Qualitex data included.⁵⁹ The hours worked for these two firms combined remained relatively stable during 1987-91, and increased from interim period 1991 to interim period 1992.⁶⁰ Finally, total compensation, hourly wages, productivity, and unit labor costs all increased during 1987-91 for these two firms combined.⁶¹

Consideration of threat of serious injury.

With respect to "threat of serious injury," the Commission is required to take into account all economic factors that it considers relevant, including (but not limited to) the following:

(i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry,⁶²

(ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,

(iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.⁶³

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

⁶² Net sales, production, profits, wages, and employment are discussed supra. As discussed supra, all of these indicators were at improved levels in interim period 1992 compared with interim period 1991. As discussed supra, capacity utilization, operating income, return on book assets, and return on total assets also were higher in interim 1992 than in interim 1991.

⁶³ 19 U.S.C. § 2252(c)(1)(B).

The legislative history states that the threat of serious injury must be "clearly imminent" if import trends continue unabated.⁶⁴

In view of the information summarized below, we find no threat of serious injury. We conclude that the recent suspension of GSP eligibility⁶⁵ and issuance by Commerce of antidumping and countervailing duty orders covering imports of extruded rubber thread from Malaysia⁶⁶ make it very unlikely that import trends will "continue unabated."

a. Market share: On the basis of both quantity and value, the domestic industry lost market share. Whereas, in 1987, it held a market share of *** percent by quantity and *** percent by value, in 1991 it held *** percent of the market by quantity and *** percent by value.⁶⁷ And between interim periods 1991 and 1992 market share declined.⁶⁸ However, the evidence indicates that the increase in imports was largely attributable to Qualitex's filling its orders by imports from ***, as Qualitex phased out its own production operations.⁶⁹

⁶⁴ S. Rep. No. 1298, 93d Cong., 2d Sess. 121 (1974).

⁶⁵ See 57 Fed. Reg. 9041 (Mar. 16, 1992) (Presidential Proclamation 6411 of March 12, 1992). Imports of extruded rubber thread from Malaysia are now subject to the column 1 general rate of duty of 4.2 percent.

⁶⁶ Commerce recently imposed countervailing duties of 4.21 percent on imports from Rubfil Sdn. Bhd. and 9.63 percent on all other imports from Malaysia. 57 Fed. Reg. 38472 (Aug. 25, 1992). Commerce similarly found final antidumping duty margins of 10.68 percent for Heveafil/Filmax Sdn. Bhd., 20.38 percent for Rubberflex Sdn. Bhd., and 14.52 percent for all other Malaysian firms. 57 Fed. Reg. 38465 (Aug. 25, 1992); 57 Red. Reg. 46150 (Oct. 7, 1992); Commerce Instructions to Customs (Oct. 8, 1992).

⁶⁷ Report at I-53, Table 19.

⁶⁸ Id.

⁶⁹ Id. at I-19, 47.

b. Inventory levels: U.S. producers' inventory levels varied from year to year, with an overall decline from end-of-period 1987 to end-of-period 1991.⁷⁰ Interim period inventory levels were higher in 1992 than in 1991.⁷¹ Malaysian producers' ending inventories increased from *** pounds in 1987 to *** pounds in 1991 and were higher in interim period 1992 (*** pounds) than in interim period 1991 (*** pounds).⁷² U.S. importers' end-of-period inventories increased from *** pounds in 1987 to *** pounds in 1991, and were lower in interim period 1992 (*** pounds) than in interim period 1991 (*** pounds).⁷³ However, as a ratio to imports, importers' inventories were lower in 1991 (*** percent) than in 1987 (*** percent) and were virtually unchanged in interim period 1992 compared to interim period 1991.⁷⁴

c. Capital and financing: North American claimed to have experienced negative effects in the form of having to ***.⁷⁵ Moreover, both North American and Globe alleged certain difficulties in retooling efforts that they claim to

⁷⁰ Id. at I-30, Table 7.

⁷¹ Id.

⁷² Id. at I-46, Table 17.

⁷³ Id. at I-51-52, Table 18.

⁷⁴ Id.

⁷⁵ Id. at F-3.

have put off as a result of the competitive effects of subject imports.⁷⁶ However, in their questionnaire responses, they reported ***.⁷⁷

d. Diversion of exports to the United States: Total world-wide capacity to produce extruded rubber thread, although shifting to Asia, has declined in the last five years.⁷⁸ Foreign producers that export the bulk of extruded rubber thread to the United States operate at virtually full capacity and any projected increases in capacity to produce extruded rubber thread by these companies are small.⁷⁹ Moreover, the U.S. market for extruded rubber thread is relatively small in comparison to other foreign markets.⁸⁰ In addition, countries that maintain high import barriers on extruded rubber thread (or have announced plans to raise barriers in the near future) are not major importers of the product.⁸¹ Thus, it is unlikely that imports will be diverted to the United States from other importing countries.

Conclusions Regarding Serious Injury and Threat of Serious Injury.

Three U.S. government actions in recent months have made it highly

⁷⁶ Id. at I-36-41, Tables 12-15; Transcript of Injury Hearing at 73-77; Petitioner's and Globe's Post-Hearing Injury Brief at 12-13; Petitioner's and Globe's Pre-Hearing Injury Brief at 19-20. These comments are consistent with evidence showing some difficulties of the domestic industry in obtaining financing for R&D projects and investments to upgrade manufacturing facilities.

⁷⁷ Report at F-3.

⁷⁸ Id. at I-42-48.

⁷⁹ Id. at I-45 & Table 17.

⁸⁰ Id. at I-49 & n. 97.

⁸¹ Id. at I-47-50.

unlikely that the import trends of the last several years will "continue unabated." The removal of Malaysian extruded rubber thread from GSP eligibility,⁸² and the U.S. Department of Commerce's issuance of countervailing duty and antidumping duty orders on such thread from Malaysia,⁸³ are likely to raise import prices substantially, thus reducing import levels and decreasing any chance that imports will cause serious injury in the future.⁸⁴

A superficial review of the record in this investigation may suggest a finding of serious injury, particularly in view of the fact that a major plant closed (the Qualitex plant) during the period of investigation. However, a more careful analysis leads us to conclude that the statutory criteria have not been met. The major declines in the domestic industry's capacity, production, shipments, and employment reflect the decision of Qualitex's owners to cease domestic production operations and ***. Only if injury can be defined to include the withdrawal of Qualitex from the domestic industry is it possible

⁸² See 57 Fed. Reg. 9041 (Mar. 16, 1992) (Presidential Proclamation 6411 of March 12, 1992). Imports of extruded rubber thread from Malaysia are now subject to the column 1 general rate of duty of 4.2 percent.

⁸³ See 57 Fed. Reg. 38472 (Aug. 25, 1992); 57 Fed. Reg. 38465 (Aug. 25, 1992); 57 Fed. Reg. 46150 (Oct. 7, 1992); Commerce Instructions to Customs (Oct. 8, 1992); see also supra, note 66 (discussing the level of Commerce's estimated margins).

⁸⁴ See Petitioner's and Globe's Post-Hearing Injury Brief at 3-6 (citing Transcript of Injury Hearing at 95 & 102). ***. See Petitioner's and Globe's Pre-Hearing Injury Brief at 16-17; Petitioner's and Globe's Post-Hearing Injury Brief at 3-4 (quoting testimony of David Casty, Chairman, ECA from Transcript of Injury Hearing at 95, 101, 102). Petitioner also received calls from ***. Petitioner's and Globe's Pre-Hearing Injury Brief at 17.

to find the requisite injury. However, Qualitex's owners and board of directors decided to *** not in response to increased imports but rather ***.

Even were we to include Qualitex in the analysis of injury to the domestic industry and assume, arguendo, the existence of serious injury, the evidence in the record indicates that increased imports would not be a substantial cause of such injury. The decision of the owners of Qualitex to cease U.S. production operations and *** was, based on information in the record, a sound business decision, not a function of increased imports.

Substantial Cause.

The third statutory criterion requires a finding that the increased imports are a substantial cause of serious injury or threat of serious injury to the industry. The statute defines "substantial cause" as "a cause which is important and not less than any other cause."⁸⁵ The statute states that the Commission, in determining whether increased imports are a substantial cause of serious injury or threat thereof, is to take into account all economic factors that it considers relevant, including (but not limited to):

an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.⁸⁶

The Commission also is to "examine factors other than imports which may be a

⁸⁵ 19 U.S.C. § 2252(b)(1)(B).

⁸⁶ Id. § 2252(c)(1)(C).

cause of serious injury, or threat of serious injury" and to consider the condition of the domestic industry over the course of the relevant business cycle.⁸⁷

In this investigation, the industry data must be considered in the context of the circumstances surrounding the *** and other circumstances affecting the domestic industry. For reasons set forth in greater detail below, we conclude that increased imports were not a "cause which is important and not less than any other cause."⁸⁸ The decision of the owners of Qualitex to cease U.S. production and *** was a rational business decision related to increasing efficiency and competitiveness, and not a function of increased imports.

The reasons for Qualitex's exit from the market in October 1990 have been the subject of considerable debate in this investigation. Petitioner alleged that import competition caused the company's closure,⁸⁹ whereas respondents asserted that imports were not a consideration.⁹⁰

Much of the information and data gathered concerning the *** are

⁸⁷ Id. § 2252(c)(2).

⁸⁸ See id. § 2252(b)(1)(B).

⁸⁹ See Petition at 18-22 & Exhibits 9-12; Petitioner's and Globe's Pre-Hearing Injury Brief at 3; Petitioner's and Globe's Post-Hearing Injury Brief Exhibit 1; see also Report Appendix D.

⁹⁰ See Respondents' Post-Hearing Injury Brief at 5-8; Respondents' Pre-Hearing Injury Brief at 5-6 & Exhibit 2. They argue that the reasons for Qualitex's closure are well known, citing Transcript of Injury Hearing at 45-46, 129, Transcript of Hearing at 93-94 (Aug. 18, 1992) in Inv. No. 731-TA-527.

confidential. This evidence shows that Qualitex had *** long before it left the domestic industry.⁹¹ It imported substantial quantities of the subject product from *** in 1989 and 1990, and its business decisions were influenced by its ***.⁹² These *** were well known in the industry, and customers of Qualitex had the option of purchasing extruded rubber thread from either Qualitex or ***.⁹³ Indeed, Qualitex and ***. ***.⁹⁴

Some Qualitex officials alleged that the decision to close Qualitex was

⁹¹ Report at I-19.

⁹² Id.

⁹³ Transcript of Injury Hearing at 45-46, 129; see also Respondents' Post-Hearing Injury Brief at 7 (citing Testimony of Mr. Carroll, Transcript of Commission Hearing, at 93-94 (August 18, 1992), in Inv. No. 731-TA-527.

⁹⁴ See Transcript of Injury Hearing at 45-46, 129; see also Respondents' Post-Hearing Injury Brief at 7 (citing Testimony of Mr. Carroll, Transcript of Commission Hearing, at 93-94 (August 18, 1992), in Inv. No. 731-TA-527. ***. Report at I-19-20 & n. 61; see also Respondents' Pre-Hearing Injury Brief Exhibit 2.

a result of low priced imports from Malaysia.⁹⁵ We disagree. Other evidence shows that the decision ***.⁹⁶ Indeed, ***, underscoring their lack of participation in corporate decision making. Moreover, Qualitex's financial data demonstrate that ***.⁹⁷ ***⁹⁸. ***. We conclude that the evidence demonstrates that Qualitex ceased domestic production and ***, rather than as a result of increased imports.⁹⁹

Respondents identified other possible causes of the domestic industry's condition. They argued that the imports and the U.S. product compete in

⁹⁵ See Report at I-19 & n. 62.

⁹⁶ See id. at I-20 & n. 67.

⁹⁷ Id. Tables 10 & 11.

⁹⁸ Id.

⁹⁹ See Respondents' Pre-Hearing Injury Brief Exhibit 2.

different market segments, as shown by price patterns of the domestic products compared to the imports and by the concentration of domestic products in certain market segments or "niches."¹⁰⁰ They pointed to the high cost structures, poor management decisions, and improper marketing tactics of the domestic producers, as well as the inferior quality of North American's products.¹⁰¹ Respondents also contended that competition from Qualitex in the United States, the increased availability of spandex, and the price spike of natural rubber latex in 1988-89 were each a more important cause of injury to the domestic industry than imports of extruded rubber thread.¹⁰²

We find some merit in these arguments and note that the observed aggregate declines and financial situation in the industry have been exacerbated by these alternative causes. However, we need not discuss these alternative causes further because we find that increased imports were a less important cause of the injury experienced by the domestic industry than the ***. Accordingly, increased imports are not a substantial cause of serious injury to the domestic industry producing non-food-grade extruded rubber thread.

¹⁰⁰ Respondents' Pre-Hearing Injury Brief at 1-2, 14-21, Exhibits 3 & 4; Respondents' Post-Hearing Injury Brief at 13-20, Exhibit 2 (citing Transcript of Hearing at 18-19, 22, 29-30, 44-45, 58, 92-93, 120, 127-129, 132-33); see also ECA's Pre-Hearing Injury Brief at 3-4.

¹⁰¹ See Respondents' Pre-Hearing Injury Brief at 2, 23-24, 26-36; Respondents' Post-Hearing Injury Brief at 23-24, 29-38 (citing Transcript of Injury Hearing at 18-19, 30-32, 59-60, 76, 84-85, 96, 101, 127); see also ECA's Post-Hearing Injury Brief at 6, 15-17; ECA's Post-Hearing Injury Brief at 7-10.

¹⁰² See Respondents' Post-Hearing Injury Brief at 25-29; see also ECA's Post-Hearing Injury Brief at 6-8, 18-19 (claiming that the domestic industry abandoned certain production and that spandex has encroached on extruded rubber thread uses); ECA's Pre-Hearing Injury Brief at 7, 10-13 (stating that North American and Globe made no effort to compete with Qualitex).

ADDITIONAL VIEWS ON REMEDY

Section 202(e)(6) of the Trade Act of 1974 invites those members of the Commission who are not eligible to vote on the question of remedy to submit separate views regarding what action, if any, the President should take under section 203 of the Act. If the President agrees with the affirmative determination of our three colleagues and considers it to be the determination of the Commission, we recommend that he take no relief action.

We believe that duties imposed or likely to be imposed on imports of extruded rubber thread from Malaysia as a result of recent actions taken under other statutory authority make any additional relief inappropriate. The actions referred to are more than adequate to facilitate the domestic industry's efforts to make a positive adjustment to import competition. Any additional relief, including the tariff-rate quota proposed by our three colleagues, would "exceed the amount necessary to prevent or remedy the serious injury or threat thereof" within the meaning of the statute¹⁰³ and, therefore, would be contrary to the statute. Further, for the reasons discussed below, we believe that the implementation of such action could have substantial adverse short- and long-term effects on other domestic industries and on consumers¹⁰⁴ and would more than outweigh any possible short- or long-term benefits. Accordingly, we recommend

¹⁰³ Section 203(e)(2).

¹⁰⁴ Section 202(f)(2)(G).

that the President conclude that the goals of the statute with respect to remedy actions set out in section 201(a) of the Trade Act have already been met and that any further action would be unwarranted--that is, that all appropriate and feasible action necessary to facilitate efforts by the domestic industry to make a positive adjustment to import competition has already been taken, and that the taking of any additional action would provide greater economic and social costs than benefits.

I. Imposition of additional relief would exceed the amount necessary to prevent or remedy any injury experienced by the domestic industry.

Section 202(e) sets out the Commission's responsibilities in making a remedy recommendation, including the types of action that may be recommended and the information that should be considered. If the Commission's determination is affirmative (or, by implication, equally divided), the Commissioners eligible to vote on remedy must recommend to the President such actions that would "address" the serious injury or threat thereof and "be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition."¹⁰⁵ Section 203(e)(2) provides in pertinent part that "(a)ction may be taken...only to the extent the cumulative impact of such action does not exceed the amount necessary to prevent or remedy the serious injury or threat thereof." (emphasis added)

In our views above, we have explained our reasons for determining that extruded rubber thread is not being imported into the United States in such

¹⁰⁵ Section 202(e)(3) states that the limitations on Presidential action set forth in section 203(e) of the Act "are applicable to the action recommended by the Commission."

increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with imported extruded rubber thread. We are providing these additional views to the President with our recommendation that no remedial measures be adopted. With the removal of GSP eligibility in March 1992 and the issuance of antidumping and countervailing duty orders in August 1992, substantial additional duties, initially averaging close to 30 percent ad valorem, have already been placed on almost all U.S. imports of extruded rubber thread. Additional protective measures would exceed the amount necessary for the domestic industry to make a positive adjustment to competition from subject imports.

Removal of GSP status and imposition of duties already have had a substantial effect on the sales of petitioners, North American and Globe.¹⁰⁶ According to petitioners, sales increased significantly immediately after an announced 30 percent price increase for Malaysian imports resulting from the new duties.¹⁰⁷ Subsequently, almost two months later at the remedy hearing on November 3, 1992, Petitioners reported two levels of price increases since September 1992--worldwide price increases of 15 percent and announced price increases of the imported product in the domestic market of between 40 and 50 percent.¹⁰⁸ This evidence indicates that the relief already provided by the countervailing duty and antidumping duty orders and GSP removal on the subject imports will remedy any injury to the domestic industry.

¹⁰⁶ At the injury hearing on September 11, 1992.

¹⁰⁷ Transcript of injury hearing, at 73 (September 11, 1992).

¹⁰⁸ Transcript of remedy hearing, at 28, 32 (November 3, 1992).

In reaching our determination that further relief would be excessive, we have examined closely the condition of the domestic industry, excluding Qualitex, at the time of our colleagues' vote on the issue of remedy in this investigation. We note that the financial condition of Globe and North American *** is improving. Financial data indicate that operating income rose steadily over the period of investigation and aggregate cost of sales and SG&A expense declined. Moreover, capital expenditures and research and development expenses rose significantly in both 1991 and 1992.¹⁰⁹

The domestic extruded rubber thread producers have also taken several recent actions that are enabling them to compete successfully in the global marketplace. Most significantly, both Globe and North American have begun to explore joint ventures abroad. Globe, for example, has entered into a joint venture in Indonesia, and ***.¹¹⁰ Moreover, both Globe and North American have been successful in developing niche market products. North American, for example, has expanded its share of the specialty rubber thread market, which now accounts for about 20 percent of its sales,¹¹¹ and Globe has down-sized its rubber thread production in favor of other products such as spandex.¹¹² Based on the above, it is clear that the industry already has substantially made a

¹⁰⁹ Staff Report, at I-31-41.

¹¹⁰ Elastic Corporation of America's Post-Hearing Remedy Brief at 16.

¹¹¹ Transcript of injury hearing at 14.

¹¹² Transcript of remedy hearing at 38.

positive adjustment to import competition within the meaning of section 201(b)(1) of the Trade Act.

The adjustment plans submitted by North American and Globe are deficient in documenting the benefits of the investments sought and in factoring into the analysis price effects already occurring due to the actions already taken. North American's adjustment plan focusses on the need to enhance its creditworthiness to obtain investment funding from its banks. Yet, North American fails to explain why the recent increases in import prices and sales of domestic production are inadequate to meet this objective, and why further relief is necessary. We also note that several of the capital investments detailed in the adjustment plan, particularly those that are designed to enhance efficiency, are already underway and therefore do not appear to be dependent on further relief. Other projects seem to be the kind that would be undertaken in the normal course of maintenance. In all cases, the petitioners fail to present adequate documentation to substantiate the benefit and cost estimates presented in support of their plans.

As the Commission has previously noted, "(t)he purpose of section 201 is to permit an industry seriously injured by import competition to have a temporary period for adjustment to that competition. . . . When an industry has stabilized its competitive position vis-a-vis imports, and has taken measures to avoid additional dislocation of productive resources, it is questionable whether additional remedial measures would have further utility."¹¹³ Upon consideration of the above evidence, we determine that any further relief for

¹¹³ Stainless Steel Table Flatware, Inv. No. TA-201-49, USITC Pub. 1536, at 14-15 (June 1984).

the domestic extruded rubber thread industry would be unnecessary and premature at this time.

II. The implementation of a remedy may have substantial adverse short- and long-term effects on other domestic industries and the consumer.

While the Commission is not permitted to consider the public interest when making determinations under Title VII of the Tariff Act of 1930, section 201 expressly directs us to advise the President of the short- and long-term effects of the proposed remedy on both the petitioning industry and on other domestic industries and consumers.¹¹⁴ Moreover, section 201 also requires that Presidential action taken to facilitate industry efforts to adjust positively to import competition must provide greater economic and social benefits than costs.¹¹⁵

The evidence in the record indicates that any additional relief would injure U.S. producers of products using extruded rubber thread and serve only to weaken the international competitiveness of these producers. In this case, the largest user of extruded rubber thread is the textile industry, particularly coverers, weavers, braiders, and knitters. Compared to the small domestic rubber thread industry, which employs approximately 150 employees, the part of the textile industry that uses extruded rubber thread as a raw material employs thousands.^{116,117}

¹¹⁴ 19 U.S.C. §2252(f)(2)(G)(i).

¹¹⁵ 19 U.S.C. §2251(a).

¹¹⁶ See, Respondents' Pre-Hearing Remedy Brief, at 24-33,40; Elastic Corporation of America's Post-Hearing Remedy Brief, at 9.

In this investigation, the Commission received approximately 50 letters from independent U.S. producers in various sectors of the textile and apparel industries and from Members of Congress representing them. All of them vigorously opposed additional duties and most of them described intense competition in their respective downstream product areas. These letters reveal a serious concern that downstream purchasers of extruded rubber thread have already experienced some degree of injury from recent price increases. Indeed, some purchasers have indicated that they may move their operations offshore if additional relief is provided to the rubber thread industry.¹¹⁸ The Commission also received a substantial brief from the largest single purchaser of extruded rubber thread in the United States, the Elastic Corporation of America (ECA), which currently employs 650 persons and accounts for an estimated 15 to 20 percent of the domestic narrow elastic industry.¹¹⁹ ***. ***.¹²⁰

There is little doubt that further price increases as a result of any

¹¹⁷ (...continued)

¹¹⁷ Extruded rubber thread is found in such diverse consumer goods as panty hose and women's lingerie, underwear waistbands, sock tops, jogging suits, diapers, swimwear, furniture webbing, outerwear, and bungee cords.

¹¹⁸ See generally, Respondents' Post-Hearing Brief on Remedy, Attachment 6.

¹¹⁹ See generally, Post-Hearing Brief on Remedy of Elastic Corporation of America.

¹²⁰ Id., at 11.

additional relief provided to the domestic extruded rubber thread industry would further erode the tenuous competitiveness of producers that use a significant amount of rubber thread, such as elastic fabric and webbing manufacturers. It is estimated that domestic elastic fabric manufacturers alone employ over 1000 persons.¹²¹ We are concerned that granting additional relief would cause the loss of downstream industry jobs, the relocation of certain U.S. companies offshore, and the loss of both exports and domestic sales by the producers of downstream intermediate and finished goods to lower-priced imports.¹²² In addition, increased costs would be passed on, directly or indirectly, to the final consumers of the finished products containing extruded rubber thread.

III. The imposition of a tariff-rate quota as suggested by our colleagues would create greater social and economic costs than benefits.

Our colleagues agree that the duties already imposed or likely to be imposed on imports of extruded rubber thread "will both restore fair and stable price competition and substantially enhance the ability of the domestic industry to compete successfully."¹²³ However, they recommend a tariff-rate quota for up to five years. The tariff-rate quota would impose duties of 25 percent (with

¹²¹ See, Respondents' Pre-Hearing Remedy Brief, at 24033, 40; Elastic Corporation of America's Post-Hearing Remedy Brief, at 9; Letter of Somers Inc., December 10, 1991.

¹²² We note with concern that ITC economists' projections of the additional effects of a 25 percent duty (beyond the effects of the initial weighted-average 28.4 percent) on Malaysian rubber thread indicate that the yearly cost to domestic consumers would be many times the projected benefit to domestic producers. Staff memorandum, EC-P-084, Table 2 (November 23, 1992).

¹²³ Transcript of Commission Meeting, at 20 (December 2, 1992).

a phase down after the third year) for any imports of extruded rubber thread exceeding 17 million pounds in 1993 and 1994, and exceeding 50 percent of predicted U.S. consumption after that time. We find this particular remedy inappropriate for a number of reasons.¹²⁴

First, we note that, in 1991, the Malaysians exported almost *** pounds of extruded rubber thread to the United States. ITC staff projections made prior to the imposition of antidumping and countervailing duties indicate a slight rise in 1992 and 1993.¹²⁵ However, in November 1992, ITC staff projected a decline in imports from Malaysia to a level well below 17 million pounds in 1992 and 1993.¹²⁶ We also note that U.S. consumption in 1991 was equal to over 31,000 pounds and is projected to increase significantly in 1992. In 1991, Malaysian imports held *** percent of the U.S. market and the two domestic producers held *** percent.¹²⁷

Although our colleagues contend that their remedy is necessary to prevent a surge in imports, its immediate effect is likely to go well beyond that. If ITC staff economists are correct in regard to the extent of future declines in subject imports from Malaysia, then the safeguard against future surges of imports proposed by our colleagues is unnecessary. Regardless of the continuing effect of the duties now in place, a 25 percent tariff-rate quota is likely to cap the level of Malaysian imports at 17 million pounds or below. Assuming that

¹²⁴ Id., at 20-21.

¹²⁵ Staff Report, at I-46, Table 17.

¹²⁶ Staff Memorandum, EC-P-084, (November 23, 1992).

¹²⁷ Id., at E-2.

the domestic producers could fill the additional demand for lower-priced domestic product created by the tariff-rate quota, they would be free to raise prices substantially in a non-competitive market where they are almost guaranteed some significant amount of increased market share through 1994 and at least 50 percent of the domestic market thereafter.¹²⁸ Worse still for the downstream end-users of rubber thread is the possibility that the domestic industry would not be able to fill the gap left by the withdrawal of subject imports from the domestic market, nor meet any increased future demand.¹²⁹ In that event, downstream industries would be forced to turn primarily to the Malaysian imports, which would be priced even higher due to the imposition of the 25 percent tariff.

Second, the imposition of a tariff-rate quota would carry with it significant, unnecessary administrative costs--monitoring throughout the relief period and, at the end of the third, fourth, and fifth years of the tariff-rate quota, implementation of adjustment plans and appropriate modifications of the tariff-rate quota and rate levels. These requirements would unnecessarily burden both the Commission and the domestic industry. We do not believe that U.S. taxpayers should be forced to bear the cost of an "insurance policy" for a small domestic industry that has already been provided with more-than-sufficient relief and is making a significant adjustment to import competition

¹²⁸ The tariff-rate quota effectively eliminates competition between domestic producers and importers at a certain quota level, thereby creating a potentially non-competitive duopoly market consisting of North American and Globe.

¹²⁹ Letters from end-users of rubber thread received into evidence by the ITC indicate doubts from within the industry that the domestic producers would be able to supply industry needs. For example, see, Letter from Donald J. Blodgett, Purchasing Manager, South Carolina Elastic Co., August 10, 1992.

from Malaysian imports.

Third, the remedy proposed by our colleagues does not appear to take into account the current plight of domestic consumers of food-grade rubber thread. As we discussed in our negative determination on serious injury above, there is no domestic production of, and thus no domestic industry currently producing, food-grade rubber thread.¹³⁰ There is, however, a well-defined, though small, domestic market for food-grade rubber thread used to manufacture elastic netting for meats and fowl. The inclusion of food-grade rubber thread in a tariff-rate quota cannot provide any positive adjustment to the non-food-grade rubber thread industry since this industry cannot supply the food-grade product either now or in the near future. Furthermore, the imposition of any additional relief would only increase the cost to purchasers of food-grade rubber thread beyond the duties already imposed, since they have no alternative domestic source from which to purchase their input product.

In conclusion, based on the above we recommend to the President that no additional relief be granted to the domestic industry producing extruded rubber thread.

¹³⁰ See, Views of Vice Chairman Watson and Commissioners Brunsdale and Crawford, at 44-45. Moreover, we do not find that either of the two domestic producers is sufficiently poised to receive approval from the FDA or begin production of food-grade extruded rubber thread.

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

On June 18, 1992, a petition was filed with the U.S. International Trade Commission (the Commission) by North American Rubber Thread Co., Inc. (North American), Fall River, MA. The petition, as amended on June 23, 1992, alleges that extruded rubber thread of natural rubber latex classified in heading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTS) is 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 the imported article. The petition also alleges that critical circumstances exist, in that a substantial increase in imports, either actual or relative to domestic production, over a relatively short period of time has led to circumstances in which a delay in taking action would cause such harm that would significantly impair the effectiveness of final import relief.

Accordingly, effective June 23, 1992, the Commission instituted investigation No. TA-201-63 under section 202 of the Trade Act of 1974 to determine whether extruded rubber thread of natural latex is 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 the imported article.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register of July 15, 1992 (57 F.R. 31387).¹ The hearing in connection with the injury phase (including critical circumstances and provisional relief) was held in Washington, DC, on September 11, 1992.² The hearing on the question of remedy was held on November 3, 1992.³ The statutory deadline for the injury determination was October 21, 1992, and the deadline for transmittal of the final report to the President was December 21, 1992.

The Commission recently completed a final antidumping investigation (inv. No. 731-TA-527 (Final)) concerning imports of rubber thread, finding

¹ A copy of the cited Federal Register notice is presented in app. A.

² Lists of witnesses appearing at the Commission's hearings are presented in app. B.

³ Section 202(c)(4) of the Trade Act of 1974 provides that a petitioner may submit to the Commission and the United States Trade Representative (USTR) at any time within 120 days after the date of the filing of the petition a plan to facilitate positive adjustment to import competition. North American and Globe Manufacturing Co., the two current U.S. manufacturers, submitted adjustment plans on Oct. 21, 1992.

that an industry in the United States is materially injured by reason of imports from Malaysia of (18 to 140 gauge) extruded rubber thread.^{4 5 6}

⁴ The Commission's determination in that investigation was transmitted to the Department of Commerce (Commerce) on Sept. 30, 1992.

⁵ Vice Chairman Watson, Commissioner Brunsdale, and Commissioner Crawford dissented with respect to food grade extruded rubber thread.

⁶ Inv. No. 731-TA-527 (Final) resulted from a petition filed by North American on Aug. 29, 1991, with the Commission and Commerce. Commerce found final dumping margins of 10.68 percent for Heveafil/Filmax Sdn. Bhd., 20.38 percent for Rubberflex Sdn. Bhd., and 14.52 percent for all other firms. "Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia" (57 F.R. 38465, Aug. 25, 1992); "Notice of Antidumping Duty Order and Amendment of Final Determination ..." correcting the dumping margin for Rubberflex (57 F.R. 46150, Oct. 7, 1992); and Commerce liquidation instructions to Customs (Oct. 8, 1992) correcting the dumping margin for "all other firms."

In its concurrent countervailing duty investigation concerning imports of 18 to 140 gauge rubber thread from Malaysia, Commerce also determined that net ad valorem bounties or grants are being provided to Rubfil Sdn. Bhd. in the amount of 4.21 percent and to all other manufacturers or exporters in the amount of 9.63 percent (57 F.R. 38472, Aug. 25, 1992). (Malaysia was not entitled to an injury determination with regard to the countervailing duty investigation.) Subsidization of rubber latex (in the form of rebates) for use in rubber thread for export was included among the programs found by Commerce to be countervailable. Each of the countervailable programs involved export subsidies.

When merchandise is covered by both antidumping and countervailing duty orders (which involve export subsidies), Commerce normally "offsets" the United States price (USP) by the amount of the countervailing duty attributable to export subsidies. However, in this instance, Commerce has decided to make no such offset since the export subsidies did not affect the dumping margin calculations. Foreign market value (FMV) was based on sales for export to Hong Kong and on constructed value. On exports to Hong Kong, respondents received the same export subsidies as on exports to the United States. Therefore, because the export subsidies were reflected in both the USP and FMV, the subsidies did not affect margin calculations using third-country sales. For those sales for which constructed value was used for FMV, Commerce based constructed value on costs that reflected the export subsidies. Because the export subsidies were reflected in both USP and FMV, the subsidies did not affect the margin calculations using constructed value. "Notice of Antidumping Duty Order and Amendment of Final Determination of Sales at Less than Fair Value: Extruded Rubber Thread from Malaysia" (57 F.R. 46150, Oct. 7, 1992).

In addition, as described in the section of this report on "U.S. Tariff Treatment," rubber thread from Malaysia (the source of the great majority of imports into the United States) is now dutiable at 4.2 percent ad valorem. (Before Mar. 12, 1992, imports of rubber thread from Malaysia were afforded duty-free treatment under the Generalized System of Preferences.)

THE PRODUCT

Product Description

The imported product subject to this investigation is extruded rubber thread (rubber thread). This rubber thread (a monofilament elastic fiber, of any cross-sectional shape or gauge) is vulcanized and is produced by a low-pressure extrusion of compounded natural rubber latex.⁷ Rubber thread usually is manufactured and sold by both U.S. and foreign manufacturers in sizes ranging in diameter from 0.007 inch (140 or fine gauge) to 0.056 inch (18 or heavy gauge).^{8 9} (One U.S. producer also manufactures a heavier gauge thread (under 18 gauge) for limited uses.) Most rubber thread, however, is produced in sizes ranging from 26 gauge to 42 gauge.¹⁰

Rubber thread is typically black or white in color; however, it is also available in such colors as light blue, red, and cream. In addition to gauge and color, another important characteristic is the type of lubricant used to 'detackify' rubber thread (which otherwise would stick together). The traditional lubricant is talcum powder. In 1969 a silicone-based lubricant was developed as an alternative to talcum powder. (Thread coated with talcum powder is referred to as "talced;" "talclless" rubber thread uses the silicone-based lubricant.)¹¹ Both types of thread are produced domestically and in Malaysia (by far the largest supplier of imported rubber thread), although a high-quality talclless product did not become available from Malaysian producers until about 1990 or 1991. There are also a number of specialty

⁷ See app. C for definitions of technical terms.

⁸ The size of an individual thread is usually expressed in "gauge" or "count," terms that refer to the number of threads that would, if set down side-by-side, produce a ribbon 1 inch wide. For example, low counts are used for furniture webbing and high counts for socks and stockings.

⁹ In addition, the industry often identifies the product in terms of "yield." Yield refers to the number of yards of rubber thread drawn from a pound of natural rubber latex and varies according to the gauge of the thread. For example, a pound of natural rubber yields 1,150 yards of 34 gauge rubber thread or 1,800 yards of 40-gauge thread.

¹⁰ For ease of handling and shipment, manufacturers generally bond the rubber threads temporarily together in the form of a ribbon 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.

¹¹ Talced and talclless rubber thread usually can be used interchangeably. However, for a number of reasons, the talclless product gradually is replacing talced thread. The buildup of talcum powder (from using talced rubber thread) can cause excessive machine wear on purchasers' equipment, leading to increased production costs for replacement needles and machine downtime. Also, there are environmental problems with talced rubber thread. *** expects that because of such concerns, more, or perhaps all, rubber thread will be produced in the talclless form in the future. Staff conversation with ***, July 27, 1992.

rubber thread products, including fine gauge, heat-resistant, and food grade rubber thread.¹²

The following tabulation (based on data submitted in response to Commission questionnaires) lists the unit values in 1991 of the different types of extruded rubber thread (in dollars per pound):

<u>Type of thread</u>	<u>U.S. shipments of product produced by North American</u>	<u>U.S. shipments of the imported product</u>	<u>Weighted average</u>
Talced.....	\$***	\$***	\$1.20
Talcless.....	***	***	1.23
Fine gauge.....	***	***	2.07
Heat-resistant..	***	***	1.35
Food grade.....	***	***	<u>1.19</u>
Average.....	***	***	1.25

Note.--Qualitex, Inc., a U.S. producer until October 1990, did not produce rubber thread in 1991. The other domestic producer, Globe, ***.

With the exception of the higher valued fine gauge rubber thread, the unit values of the various thread types are comparable. (There is, however, a marked difference in the unit value of U.S. shipments of rubber thread produced by North American and that shipped by importers.¹³)

¹² Fine gauge thread is defined by the industry as thread with a gauge greater than 75 and is usually used for hosiery. Heat-resistant rubber thread has a different chemical formulation (often antioxidant and vulcanizing agent chemicals will be altered) that provides better tolerance to heat than does conventional thread.

Food grade rubber thread also is specially formulated and, at this time, must be approved by the Food and Drug Administration (FDA) for use as a meat-packing material. Food grade thread is manufactured into an elastic netting that then is used to pack (usually) boneless meats. The FDA and U.S. Department of Agriculture (USDA) currently are examining its use after the USDA found high levels of nitrosamines (a carcinogen) in meat packaged in rubber thread netting. Heveafil (a Malaysian producer and U.S. importer of rubber thread) and the American Meat Institute (AMI) have filed petitions with the FDA for approval to supply food grade thread to the U.S. meat-packing industry. The Heveafil petition was filed in July 1991, the AMI petition in January 1992. At present only rubber thread using the Heveafil or AMI formulations can be used. New market entrants cannot sell a food grade thread (unless it matches the Heveafil/AMI formulations). Staff conversation with ***, FDA, Aug. 13, 1992, and ***, FDA, Sept. 25, 1992.

¹³ As is discussed later in this report, the unit values of U.S. shipments of rubber thread from other domestic producers are *** than those reported by North American.

Malaysian respondents, noting the difference in prices, maintain that imported rubber thread is sold into different market segments than are domestically produced products.¹⁴ North American, in contrast, notes that the majority (about 80 percent) of its rubber thread sales are currently of generic rubber thread. Although the firm has attempted to emphasize sales of specialty rubber, there are "limits to that competitive response."¹⁵

U.S. manufacturers have reported attempts to create new markets for rubber thread not supplied by imported rubber thread. ***,¹⁶ In addition to the development of talcless thread, other innovations in rubber thread

¹⁴ Transcript of the hearing (transcript), pp. 146-148. However, as Malaysian respondents state, with the exception of food grade and heat-resistant rubber thread, it is difficult to precisely define the various market segments. Transcript, pp. 148-149 and 153.

¹⁵ John Friar, president of North American, transcript, pp. 13-14. Globe testified that almost 60 percent of its capacity was devoted to generic rubber thread in 1987 and 1988. Competition from imports from Malaysia then reportedly forced it to shift from producing "bread-and-butter" 30- to 40-gauge thread to producing more costly specialty items. In 1991 and 1992, production of generic rubber thread accounted for 25 percent of Globe's capacity. Transcript, p. 17.

¹⁶ ***, ***, ***,

***. The following tabulation (based on data submitted in response to Commission questionnaires) lists U.S. shipments of rubber thread in 1991 by gauge (in percent of quantity):

	<u>Product produced by--</u>		<u>Weighted average</u>	<u>Imported product</u>
	<u>North American</u>	<u>Globe</u>		
Under 18 gauge.....	***	***	***	***
18 gauge to 25 gauge....	***	***	***	***
26 gauge to 42 gauge....	***	***	***	***
43 gauge to 74 gauge....	***	***	***	***
75 gauge to 115 gauge...	***	***	***	***
116 gauge to 140 gauge..	***	***	***	***
Total.....	100.0	100.0	100.0	100.0

Note.--Qualitex did not produce rubber thread in 1991. Data reported by Globe ***,

As shown, although the majority of rubber thread produced in and imported into the United States is the standard, relatively heavy-gauge product, Globe supplies proportionately less of this thread (and proportionately more fine gauge thread) than do the other suppliers. Globe testified at the hearing that it increased its emphasis on producing a fine gauge product in response to import competition. Transcript, pp. 18-19.

production include the development of brightly colored rubber thread and the manufacture of thicker threads (below 18 gauge).¹⁷

The following tabulation (based on data submitted in response to Commission questionnaires) lists the shares of the different types of rubber thread shipped in 1991, by source (in percent of quantity):

<u>Type of thread</u>	<u>U.S. shipments of product produced by--</u>			<u>U.S. shipments of imported product</u>	<u>Overall weighted average</u>
	<u>North American</u>	<u>Globe</u>	<u>Weighted average</u>		
Talced.....	***	***	***	***	24.3
Talclass.....	***	***	***	***	54.2
Fine gauge.....	***	***	***	***	10.1
Heat-resistant..	***	***	***	***	8.0
Food grade.....	***	***	***	***	3.3
Total.....	100.0	100.0	100.0	100.0	100.0

Note.--Specialty threads (e.g., heat-resistant, food grade, and fine gauge rubber thread) also, as a general rule, are finished as a talced product. Such rubber thread is classified only in the appropriate specialty category in the above calculation and, thus, is not double counted.

As shown, U.S. producers (specifically ***) produced proportionally greater quantities of the fine gauge and heat-resistant rubber thread for the U.S. market than did the foreign producers. In 1991 all shipments of food grade thread were of the product manufactured in Malaysia.¹⁸

¹⁷ In its response to the Commission's questionnaire, North American stated that ***, ***, ***,

***. Antidumping petition, p. 23. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

¹⁸ ***. Globe also has produced and sold a food grade product. At the Commission's hearing, C & K Manufacturing, one of the principal U.S. users of food grade rubber thread, testified that product supplied by Globe imparted a bitter or metallic taste to meat packaged in it, leading to claims for damages. According to C & K, Globe discontinued production of food grade thread, stating that the amount it sold (to C & K) did not justify any possible liability. In addition, Globe reportedly declined to participate in an ad hoc committee formed to petition for U.S. Government approval to sell the product. Transcript, pp. 137-138 and 141.

End Uses

The largest user of extruded rubber thread is the textile industry (table 1). Nontextile applications include food processing (for meat netting), furniture webbing, toys (for Koosh balls and ***), and elastic power cord (for bungee cords and tie-downs).

Table 1
End-use applications for extruded rubber thread and estimated market shares and gauge ranges, 1989 and 1991

End-use application	Share of consumption--		Gauge range and yield by application
	1989	1991	
*	*	*	*

Source: North American.

Traditional customers for rubber thread in the textile industry include coverers, weavers, braiders, and knitters. Coverers wrap rubber thread with a fiber, such as nylon or cotton, to limit elongation and maintain the thread under constant tension. Using varying manufacturing techniques, the weavers, braiders, and knitters incorporate rubber thread, bare or covered, into their production of narrow fabric and sell their output to apparel makers.¹⁹

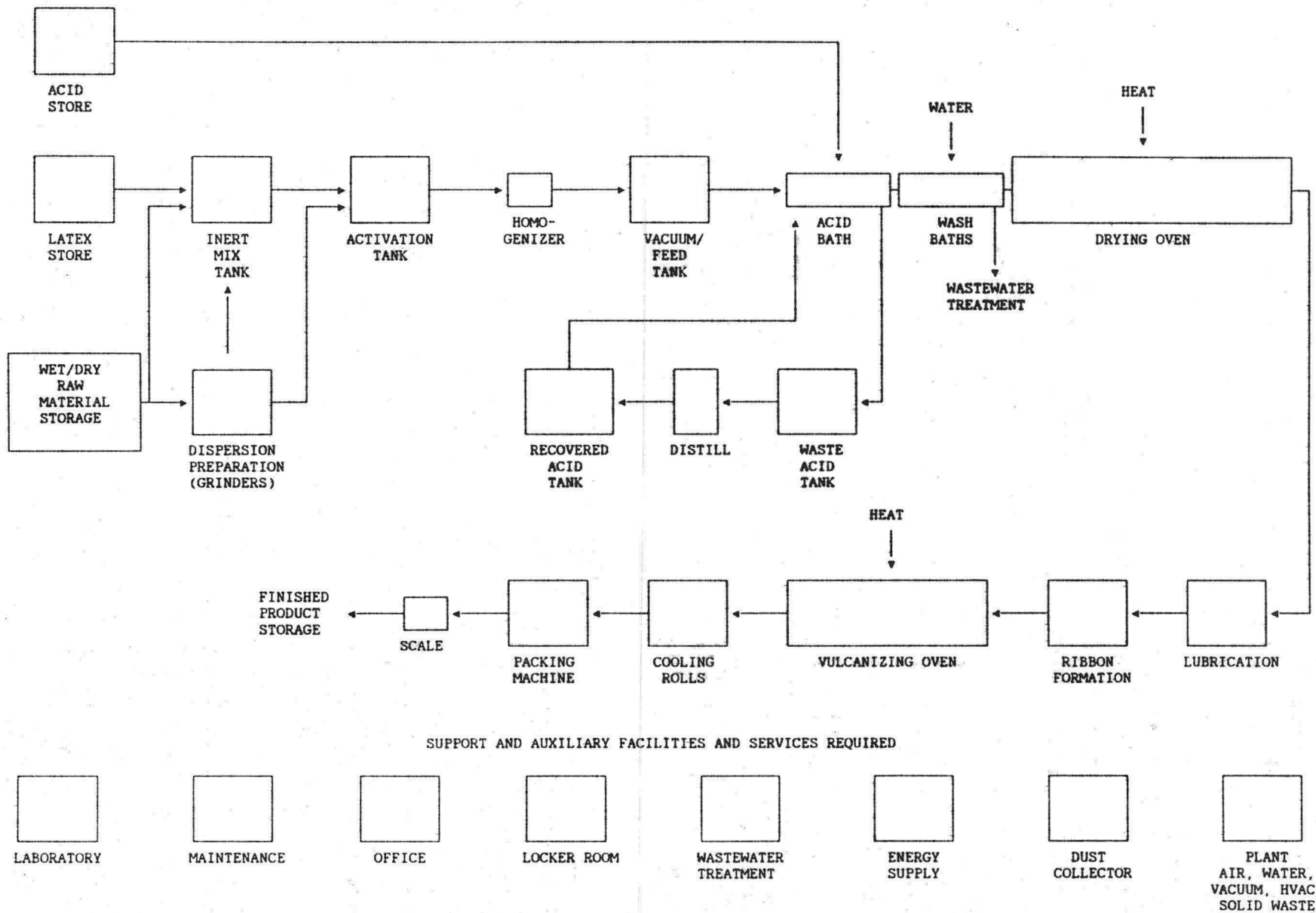
Manufacturing Process

Figure 1 shows a flowchart of a typical rubber thread manufacturing process, ***. All forms of subject rubber thread are manufactured on the same machinery using the same basic manufacturing process. The exact recipe for the thread will vary depending on the desired performance characteristics, but the basic process is the same.²⁰

¹⁹ Rubber thread is a principal component of narrow elastic fabrics, accounting for about 23 percent of the cost or selling price of the finished product. Testimony by John H. Elliott, president, Rhode Island Textile Co., at the Commission's hearing in connection with inv. No. 731-TA-527 (Final), transcript, pp. 81-82. At the Commission's hearing in connection with the instant investigation, Mr. Elliott further testified that the only effect of import duties or quotas will be to increase the material costs of elastic fabricators and other downstream users leading to "drastic consequences to the tightly competitive and import-sensitive narrow fabric industry." Transcript, pp. 129-130.

²⁰ Malaysian respondents' prehearing brief in inv. No. 731-TA-527 (Final), p. 47. (Permission granted by counsel for the respondents to incorporate information into the record for the instant investigation.)

Figure 1
Schematic diagram of the extruded rubber thread manufacturing process



Source: North American Rubber Thread Co., Inc.

Production of rubber thread begins with the preparation of the rubber latex mixture. Producers add a variety of chemicals²¹ in small amounts to the natural rubber latex to impart desired physical properties²² in the end product and to prepare the latex mix for vulcanization. These chemical additives are blended thoroughly with the liquid latex to ensure homogeneity. The latex mix²³ is then "matured" in an activation tank. The maturing process is usually carried out at 77°-95° F for 1 to 5 days. It results in a product free of lumps and blisters that does not show "necking" when dried and vulcanized.²⁴ After the maturation process, the latex is passed through a homogenizer, which removes any lumps in the mixture.²⁵ The vacuum/feed tank removes air bubbles and adjusts the feed rate through the extruder (i.e., capillary nozzles or spinnerets) to the acid bath in order to ensure a uniform viscosity of the latex mix. Viscosity affects the rate of flow of the latex mix through the spinnerets; thus, if viscosity changes, the diameter of the thread will change.

The mix is extruded at low pressure through glass capillary nozzles into an aqueous acetic acid solution. The acid acts as a coagulant to solidify the liquid latex into a continuous thread. The speed of the extrusion process depends on the oven length available for drying and curing the thread and on the diameter of the thread; the larger diameter thread is processed more slowly than the smaller diameter thread. It is possible to adjust the thread diameter by adjusting the speed of the drawoff roller. Therefore, with a given latex mix and a particular set of spinnerets, the thread diameter is controlled by the pressure head feeding the latex to the manifold and by the

²¹ These chemical additives may include all or some of the following: stabilizers, pigments, antioxidants, extenders, vulcanizing agents, accelerators, activators, and dispersing agents (defined in app. C).

²² Such as tensile strength, elongation at room temperature, and resilience or rebound elasticity. According to the petitioner (Antidumping petition, p. 10), the following physical properties have become de facto industry standards worldwide:

<u>Physical properties</u>	<u>Acceptable levels</u>
Elongation at break	650 to 775 percent
Tensile at break	3,000 pounds per square inch (PSI) minimum
Modulus (i.e., the "Schwartz" test)	130 to 170 PSI

²³ Natural rubber latex is the principal component of rubber thread, accounting for about 80 to 85 percent by weight of the finished product (and for at least 40 percent of its cost). Domestic manufacturers purchase the raw material locally from U.S. distributors or brokers. (North American noted that it ***. ***) Petitioner's posthearing brief, p. 13. ***.

²⁴ "Necking" refers to irregular thinning seen upon extension and retraction of the thread.

²⁵ Lumps cause clogging of the capillary nozzles, which may lead to thread breakage.

rate of pulloff of the thread by the rollers. As a consequence, a manufacturer can produce the whole range of rubber thread using only two diameters of capillary nozzles.²⁶

The newly formed thread passes into a hot wash bath (i.e., 140°-215° F), where the excess acetic acid is washed off. The rubber thread then enters the drying oven (set at 190°-200° F), which lowers moisture in the thread to about 5 percent. 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. After lubrication, the threads are lightly bonded together in ribbons to form flat tapes. The ribbons then enter the vulcanizing oven, which is maintained at temperatures from 250° F to 285° F. Depending on the temperature of the oven, the ribbons are rotated in it for up to 20 minutes. The ribbons then pass over cooling rollers and are either wound onto bobbins or packaged in boxes.

Substitute Products

Other products that could be substituted for extruded rubber thread in some textile applications include cut rubber thread and spandex. Cut rubber thread can be made from either natural rubber (like extruded rubber thread) or from synthetic rubber, whereas spandex is made from a synthetic polymer.

Cut rubber thread²⁷ is manufactured from sheets of solid rubber (in contrast to extruded rubber thread, which is made from liquid latex). The rubber first is calendered²⁸ into sheets of varying thicknesses depending on the desired width of the thread, then usually is layered or rolled before a final cutting process. A key difference between cut rubber thread and extruded rubber thread is the cross-sectional shape of the thread--extruded rubber has a round cross-section, whereas cut rubber thread is rectangular or square in cross section. Consequently, cut rubber thread cannot be used easily on much of the machinery (specifically, knitting and weaving machinery) used by customers for the subject product.²⁹ Cut rubber thread that is made from synthetics (which will not degrade as easily as natural rubber) often is used in elastics that must withstand drycleaning.³⁰

²⁶ The diameter of the thread made in the extrusion process depends on the following factors: (a) the total solids content and specific gravity of the mix; (b) the diameter of the capillary tube; (c) the rate of flow of latex through the spinneret, itself dependent on the diameter and length of the glass capillary tube, the viscosity of the latex, and the pressure from the hydrostatic head feeding the latex to the manifold; and (d) the rate of pulloff of the thread by the rollers.

²⁷ Cut rubber thread is the oldest of the elastomeric fibers. Production of such thread reportedly started in the late 1800s.

²⁸ Calendering is a process of forming sheet by passing material through a series of double rollers.

²⁹ Petitioner's posthearing brief in inv. No. 731-TA-527 (Final), pp. 14-15. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

³⁰ Cut rubber thread, like extruded rubber thread, often is covered with a yarn before being incorporated into a garment. The typical textile applications of cut rubber thread are in braids and narrow fabrics; it also is used in food applications and in the production of golf balls. Heat-resistant cut rubber thread also is available.

Spandex³¹ is a monofilament or, more often, a multifilament elastomeric yarn made from a synthetic polymer using a production process that differs significantly from that used for extruded rubber thread.³² Alternating soft and hard blocks along the polymer chain permit the stretch associated with this fiber. Its chemical composition imparts certain properties that make spandex superior in certain characteristics to extruded rubber thread. For example, spandex has good resistance to abrasion, ultraviolet light, oxidation, and chlorine; is easily dyed; has better stretch recovery; does not need yarn covering for usage; is lighter in weight; and can be made into finer threads than extruded rubber thread. The major end uses for spandex are in swimwear, athletic apparel, foundation garments, and hosiery.³³

The substitutability of cut rubber thread and spandex for extruded rubber thread is reportedly limited to a small number of applications.³⁴ The inherent physical properties of natural rubber latex make extruded rubber thread uniquely suited for certain end uses. Although cut rubber thread and spandex possess desirable properties, their higher cost relative to extruded rubber thread has limited their use in many applications typically served by extruded rubber thread.³⁵

³¹ Spandex is manufactured in the United States by E.I. du Pont de Nemours & Co. (Du Pont) in Waynesboro, VA, under the trade name Lycra and by Globe under the trade names Cleerspan and Glospan S-1 and S-5. Commercial spandex operations reportedly began in the early 1960s.

³² Petitioner's posthearing brief in inv. No. 731-TA-527 (Final), p. 14. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

³³ The size of the U.S. market for spandex is estimated to range between 26.5 million pounds and 30.9 million pounds. Japan Textile News, Aug. 1991. (In 1991, U.S. consumption of rubber thread was 31.4 million pounds.) The demand for spandex in stretch fashion wear is expected to increase in the future. Also, increased demand is anticipated as spandex is used in place of natural fibers and is incorporated into industrial material requiring elasticity (particularly for automobile interiors, nonwovens, and medical applications).

³⁴ Walter Coyne, Flexfil Corp. (a U.S. importer), conference transcript in inv. No. 731-TA-527 (Preliminary), p. 46. Referring to the subject product and to cut rubber thread and spandex, Mr. Coyne stated that "...in most cases, probably 95 percent of the cases, they are not like products." Both domestic producers of extruded rubber thread corroborated this statement and added that ***.

³⁵ Spandex is priced 4 to 10 times higher than extruded rubber thread. Prehearing brief of Elastic Corporation of America (p. 12.) Due to a more costly production process for cut rubber thread, that product is sold for one and one-third to twice the price of extruded rubber thread. Petitioner's posthearing brief in inv. No. 731-TA-527 (Final), pp. 14 and 17. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

Like or Directly Competitive Product Issues

Neither the petitioner nor counsel for the Malaysian respondents extensively addressed the issue of like or directly competitive product, noting that the issue had been reviewed as part of the like product analysis in the Commission's antidumping investigation on rubber thread from Malaysia (inv. No. 731-TA-527 (Final)).³⁶ In that investigation petitioner maintained that all extruded rubber thread (including food grade rubber thread) is one like product.³⁷ Malaysian respondents contended that most types of extruded rubber thread (with the noted exception of the food grade product, but including rubber thread under 18 gauge in diameter) constitute a single like product for the purposes of the Commission's analysis.³⁸ However, in the broader analysis required under a section 201 investigation, they add that spandex should "possibly" be included in the definition of the U.S. industry producing a "directly competitive product."³⁹ In contrast, petitioner states

³⁶ Petitioner's prehearing brief, p. 2, and Malaysian respondents' prehearing brief (pp. 2-3 and exhibit 1, which incorporates prior submissions from inv. No. 731-TA-527 (Final)).

³⁷ In petitioner's antidumping petition, the subject product is defined as thread that measures from 140 gauge to 18 gauge, inclusive, in diameter. Petitioner argued that there are inherent differences between heavier gauge thread (less than 18 gauge in diameter) and other rubber thread in terms of manufacture, price, and marketing. (Petitioners' postconference brief in inv. No. 731-TA-527 (Preliminary), pp. 2-4.) (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.) There is no thread produced that is finer than 140 gauge in diameter; it is probably not technically possible to do so.

Petitioner stated in its petition in the instant investigation that all rubber thread is included, irrespective of gauge. This statement, however, was conditional, "pending resolution of this issue" in the Commission's opinion in the final antidumping investigation. In inv. No. 731-TA-527 (Final), the Commission did not find multiple like products on the basis of gauge (in other words, rubber thread less than 18 gauge in diameter was included in the definition of the domestic industry).

³⁸ Prehearing brief in inv. No. 731-TA-527 (Final), pp. 43-50. (Permission granted by counsel for the respondents to incorporate information into the record for the instant investigation.)

³⁹ Malaysian respondents' posthearing brief, p. 4. Elastic Corp. of America (ECA) concurs (posthearing brief, p. 2).

Counsel for the Malaysian respondents stated at the Commission's hearing that "we have suggested that the Commission should look at whether spandex should be considered a like product," noting that "if the price of rubber thread gets too high and spandex is sufficiently low, that users will consider using spandex instead of rubber thread." Mr. Elliott, president of Rhode Island Textile Co., testified that substitutability could begin if rubber thread were priced "about" \$2.50 per pound. Transcript, p. 150. Other witnesses commented that although spandex historically has displaced extruded rubber thread, "it won't go back." (Transcript, pp. 55 and 151.) Similarly, ECA, in its prehearing brief (p. 12) stated that "it is unlikely that we would ever shift production of items currently being produced with spandex back to rubber thread."

(continued...)

that spandex is not "like" extruded rubber thread. Both petitioners and Malaysian respondents affirm that cut rubber thread and extruded rubber thread are not "like" products.⁴⁰

In inv. No. 731-TA-527 (Final), three Commissioners⁴¹ determined that there were two domestic industries: that producing food grade extruded rubber thread and that producing all other types of extruded rubber thread.⁴² The following tabulation (based on data submitted in response to Commission questionnaires) lists U.S. shipments of imported food grade rubber thread from all sources:

<u>Item</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>Jan. - June 1992</u>
Quantity (pounds)..	***	***	***	***	***	***
Value (dollars)....	***	***	***	***	***	***

Note.--Qualitex ***. ***. ***. In its questionnaire response, ***; ***. Both firms manufactured food grade thread.

With the exception of shipments from Italy, all imports of food grade rubber thread were from Malaysia. The product also has been manufactured in the United States: Qualitex, a U.S. producer, shipped *** pounds of food grade rubber thread in 1989 and *** pounds in 1990.⁴³ Globe (which testified at the Commission's hearing that it shipped food grade thread in (at least) 1990 and 1991) could not provide data; North American has not produced food grade rubber thread for commercial uses.⁴⁴ As stated earlier, only food grade thread that uses the Heveafil or AMI formulations may be sold in the United States. Globe testified at the Commission's hearing that it plans to submit a petition for FDA approval to permit the use of its product.⁴⁵

³⁹ (...continued)

An associated issue is whether the availability of spandex has been a cause of injury to U.S. rubber thread manufacturers. This subject is addressed by Malaysian respondents in their posthearing brief, pp. 26-28.

⁴⁰ Petitioner's posthearing brief in inv. No. 731-TA-527 (Final), pp. 12-17 and Malaysian respondents' posthearing brief, p. 4 and exhibit 1. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

⁴¹ Vice Chairman Watson and Commissioners Brunsdale and Crawford.

⁴² See "Determination and Views of the Commission" in Extruded Rubber Thread from Malaysia, USITC publication 2559 (Sept. 1992). The other Commissioners (Chairman Newquist and Commissioners Rohr and Nuzum) found that there was one industry consisting of producers of all extruded rubber thread. Ibid.

⁴³ ***.

⁴⁴ However, the firm has undertaken research on the food grade product. Mr. Friar, president of North American, testified at the Commission's hearing that the firm has developed two formulas (and submitted test thread to independent laboratories) for products with reduced nitrosamines. He believes either of the formulas could obtain FDA approval. Transcript, pp. 172-173.

⁴⁵ Transcript, p. 171.

U.S. Tariff Treatment

Extruded rubber thread is provided for in HTS heading 4007.00.00. The column 1-general rate of duty for countries granted most-favored-nation (MFN) status is 4.2 percent ad valorem, and the column 2 rate of duty is 35 percent ad valorem. Imports of extruded rubber thread are eligible for duty-free entry under the Generalized System of Preferences (GSP),⁴⁶ the Andean Trade Preference Act (ATPA), the Caribbean Basin Economic Recovery Act (CBERA), and the United States-Israel Free Trade Area Implementation Act of 1985 (IFTA). Goods originating in the territory of Canada under the United States-Canada Free-Trade Agreement (CFTA) are dutiable at 2.5 percent ad valorem as of January 1, 1992.

THE WORLD INDUSTRY

Historically, Italy was the major producer of rubber thread; a large portion of the technology and machinery was developed by Italian firms.⁴⁷ During the last 5 years Italian producers gradually have abandoned their manufacturing facilities in Italy and have shifted production to plants in Malaysia. At least partially as a result of this shift, rubber thread production in Malaysia has increased tremendously over the past 20 years. The first plant began operating during the 1970s and, as of 1990, there were six firms that reportedly supplied about 84 percent of the world demand for rubber thread.^{48 49}

In order to better understand the developments and changes in the world rubber thread industry, it is necessary to address the interrelationships among world producers. ***. ***.⁵⁰ ***,⁵¹ ***. ***.

* * * * *

⁴⁶ On Mar. 12, 1992, the President of the United States determined that it was appropriate to withdraw the duty-free treatment afforded under the GSP to imports of extruded rubber thread from Malaysia (57 F.R. 9041, Mar. 16, 1992).

⁴⁷ May, Ngam Su, "How Long Latex Thread Boom?," *Malaysian Business*, Feb. 16, 1990, p. 40.

⁴⁸ *Ibid.*, p. 37.

⁴⁹ The following firms currently manufacture rubber thread in Malaysia:
 Filati Lastex Elastofibre (Filati),
 Filmax Sdn. Bhd. (Filmax)/Heveafil Sdn. Bhd. (Heveafil),
 Hulme Industries,
 Rubfil Sdn. Bhd. (Rubfil),
 Rubberflex Sdn. Bhd. (Rubberflex), and
 Rubber Thread Industries (M) Sdn. Bhd.

⁵⁰ Malaysian respondents' prehearing brief, exhibit 2.

⁵¹ ***. Staff conversation with counsel for the respondents, Aug. 3, 1992.

⁵² Malaysian respondents' prehearing brief in inv. No. 731-TA-527 (Final), pp. 8-9. Respondents contend that price underselling by imports in the U.S. market is the result of Malaysia's significant comparative cost advantage, at least partially attributable to producing rubber thread at the source of rubber latex. They state that Malaysian producers pay substantially less in

(continued...)

THE U.S. MARKET

U.S. Producers

The Commission received completed questionnaire responses from North American Rubber Thread Co., Inc.; Globe Manufacturing Co.; and Qualitex, Inc., the three firms that have produced rubber thread in the United States since 1987. North American and Globe support the petition; Qualitex ***. Table 2 shows names of producing firms, plant locations, shares of 1991 production, and types of rubber thread produced. A brief description of each firm and its manufacturing operations follows.

North American began producing rubber thread in March 1987 when it purchased the thread production facilities of Pilgrim Latex Thread Co. (Pilgrim Latex).⁵³ In addition to rubber thread, North American also produces small quantities of shock cord from scrap material generated in the manufacture of the thread product.⁵⁴

⁵² (...continued)

transporting rubber thread to the United States than U.S. producers pay to import rubber latex, which contains 40 percent water by weight, and provide data demonstrating an overall per-unit manufacturing cost significantly less than that of U.S. manufacturers. Prehearing brief in inv. No. 731-TA-527 (Final), pp. 24-26, exhibit 4, and posthearing brief in inv. No. 731-TA-527 (Final), exhibit 1. In addition, respondents report that they purchase rubber latex for a price *** less than that paid by North American. Posthearing brief in inv. No. 731-TA-527 (Final), p. 8 and exhibits 2 and 3. (Respondents also cite their ability to purchase latex on a spot basis, the lower cost of labor in Malaysia, and the ***. Prehearing brief in inv. No. 731-TA-527 (Final), pp. 34-35). (See also respondents' discussion in the instant investigation, prehearing brief, pp. 21-25 and 51-52 and posthearing brief, pp. 21-24, 48-50, and exhibit 7.)

Petitioner disagrees with, among other items noted above, (and, to support its position, provides an analysis of) respondents' position on transportation costs. Posthearing brief in inv. No. 731-TA-527 (Final), p. 21 and exhibit 5. In addition, as the petitioner points out in its posthearing brief in inv. No. 731-TA-527 (Final), p. 27, Commerce recently determined that the manufacture of rubber thread (including the price of the input rubber latex) is subsidized by the Government of Malaysia.

(Permission granted by counsel for the petitioner and counsel for respondents to incorporate information cited above from inv. No. 731-TA-527 (Final) into the record for the instant investigation.)

⁵³ Malaysian respondents contend that, when acquired by North American, Pilgrim Latex's facilities were obsolete and that North American's undercapitalization has hampered modernization and, thus, productive efficiency. They argue that its purchase was "an unwise investment decision." Prehearing brief, pp. 26-29.

⁵⁴ Shock cord accounted for *** percent of North American's overall sales revenue in 1991. The company reports its movement of rubber thread scrap to its shock cord profit center at a transfer price of \$*** per pound.

Table 2

Extruded rubber thread: U.S. producers, their shares of total U.S. production in 1991, and types of rubber thread produced

Firm	Plant location	Share of total U.S. production in 1991 Percent	Type of rubber thread currently produced
Petitioner:			
North American ¹	Fall River, MA..	***	Talced Talcless Heat-resistant.
Other U.S. manufacturers:			
Globe Manufacturing Co. ¹ ..	Fall River, MA..	***	Talced Talcless Fine gauge Heat-resistant.
Qualitex, Inc. ²	Johnston, RI....	(³).....	(⁴)

¹ ***.

² Qualitex reported in its questionnaire response that it is *** owned by ***. ***.

³ No longer in operation. Qualitex's manufacturing operations accounted for *** percent of U.S. production in 1987, *** percent in 1988, *** percent in 1989, and *** percent in 1990.

⁴ Prior to its closure, Qualitex produced talced, talcless, fine gauge, and food grade rubber thread.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

As shown in table 2, Globe is currently the *** U.S. producer of rubber thread. The firm, which was established in 1945, also manufactures spandex and in recent years ***.⁵⁵ Globe is negotiating with an Indonesian firm to produce rubber thread in Indonesia through a joint venture. A representative of Globe indicated that ***.⁵⁶

The final U.S. producer, Qualitex, operated a plant in Johnston, RI. The company left the rubber thread industry in October 1990 with the sale of its ***.⁵⁷ ⁵⁸ There is considerable debate among parties as to the actual reasons for the closing of Qualitex. Petitioner claims that Qualitex was

⁵⁵ Spandex accounted for *** percent of Globe's overall sales revenue in 1987, *** percent in 1988, *** percent in 1989, *** percent in 1990, and *** percent in 1991.

⁵⁶ ***. ***. ***. Staff meeting with Globe officials, July 27, 1992.

⁵⁷ Malaysian respondents' prehearing brief, pp. 5-6.

⁵⁸ ***. ***. Malaysian respondents' prehearing brief, exhibit 2. ***. ***. ***. ***.

forced out of business by low-priced imports.⁵⁹ Malaysian respondents, in contrast, state that *** and argue that the closure of Qualitex was part of the *** discussed earlier in this report. Additional information on the closing of Qualitex is presented in the following section of this report.

The Departure by Qualitex from the U.S. Rubber Thread Industry

Malaysian respondents argue that the "entire case for any injury at all rests on the closure of Qualitex" and that "it is inappropriate for the Commission to use *** as the basis for finding injury to the domestic industry. According to respondents, "the owners of Qualitex recognized the fundamental reality of this market: it is more efficient to produce rubber thread at the source of the latex."⁶⁰ Qualitex ***⁶¹ ⁶² and was itself an importer of the subject product during much of the period of investigation. Respondents further argue that the *** involving Qualitex caused the increase in imports.⁶³

The firm began importing from Heveafil (in Malaysia) in 1989; prior to 1989, Qualitex imported rubber thread from ***.⁶⁴ The following tabulation (based on responses to Commission questionnaires) presents data on U.S. shipments of rubber thread from Qualitex's manufacturing and importing operations and Heveafil USA's importing operation (in thousands of pounds):

<u>Item</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>Jan. - June - - 1992</u>
Product produced in the United States by Qualitex...	***	***	***	***	***	***
Product imported by Qualitex..	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***
Product imported from Malaysia by Heveafil USA....	***	***	***	***	***	***
Total.....	***	***	***	***	***	***

Note.--***.

⁵⁹ An official of Qualitex stated in a letter dated Oct. 30, 1990, that the closure of the firm was "brought about as a direct result of the arrival of foreign goods...in the last two years...from the far east" and that these goods were purchased in "ever increasing quantities." The letter goes on to say that the "price erosion that has occurred as a result of the introduction of these goods...has reached the point that Qualitex Inc. can no longer be competitive." A copy of this letter is presented in app. D.

⁶⁰ Malaysian respondents' prehearing brief, pp. 1 and 5-6.

⁶¹ ***. ***. ***. Staff conversation with counsel to Malaysian respondents, Sept. 21, 1992.

⁶² ***. ***. ***. ***. ***.

Malaysian respondents (citing testimony of purchasers at the Commission's hearing) state that *** was generally known in the industry. Respondents' posthearing brief, pp. 6-7.

⁶³ Malaysian respondents' posthearing brief, p. 7.

⁶⁴ As noted earlier in this report, Heveafil indicates that it began ***.

As shown, import operations by Qualitex accounted for *** percent of its total shipments for the period from 1987 until it closed operations in October 1990.⁶⁵ The above tabulation also permits an examination of U.S. shipments of rubber thread from all producing locations of the ***.⁶⁶ Such shipments within and into the United States decreased irregularly during 1987-91 (by *** percent).

Qualitex shut down both its manufacturing and importing operations on October 26, 1990, following a decision that, according to ***, was made by ***.⁶⁷ The reported reason for the decision was ***. ***.^{68 69}

U.S. Importers

A handful of U.S. firms have imported rubber thread since 1987. The Commission received nine completed importer questionnaires, which are believed to account for virtually all imports of rubber thread from Malaysia and approximately 90 percent of imports from all sources. The principal importers are Heveafil Sdn. Bhd. USA Branch, Inc. (Heveafil USA) and Flexfil Corp. (Flexfil), based in Charlotte and Hickory, NC, respectively. Heveafil USA markets Malaysian rubber thread produced by its Malaysian affiliates, Heveafil and Filmax Sdn. Bhd. (Filmax), primarily to apparel manufacturers in the narrow fabric industry. The firm offers products in all of the product categories. Heveafil USA first began direct sales of rubber thread in the U.S. market in late 1990. Prior to that time, Qualitex reportedly acted as the *** U.S. importer and distributor for Heveafil and Filmax.⁷⁰

Flexfil is the U.S. affiliate of the Malaysian rubber thread maker Rubberflex Sdn. Bhd. (Rubberflex). Rubberflex used to sell rubber thread through Sher & Mishkin, Inc., of Kutztown, PA, and Hickory, NC, a wholesale distributor to the apparel industry. However, the Malaysian producer terminated this relationship in 1989 in order to import directly into the United States through its subsidiary.⁷¹ Rubberflex has also sold some quantities of rubber thread directly to U.S. end users, specifically ***⁷² and ***. *** manufactures covered rubber yarns; *** purchases food grade rubber thread for the manufacture of meat netting.⁷³

⁶⁵ However, the import share of its total U.S. shipments of rubber thread increased *** in 1990, rising to *** percent. Production by Qualitex accounted for a large though decreasing share of total U.S. production. In 1987, *** percent of domestic production was attributable to Qualitex; in 1990, its operations accounted for *** percent of U.S. production.

⁶⁶ Excluded are small amounts of product such as *** imported directly by the end user.

⁶⁷ ***. ***. ***. ***. ***. ***.

⁶⁸ ***.

⁶⁹ ***. ***. ***.

⁷⁰ Qualitex imported *** from Malaysia in 1989 and 1990.

⁷¹ ***. The firm also reported a limited quantity of imports from ***. ***.

⁷² ***. Importer questionnaire response.

⁷³ ***. The petitioner estimates that food grade thread accounts for 1 to 3 percent of total U.S. rubber thread consumption.

North American imported a *** amount of rubber thread from ***, a Malaysian producer, in ***.⁷⁴ ***.⁷⁵

The only other known importers of rubber thread--Fletcher International, Inc. (Fletcher), Southern Pines, NC, and FLE-USA, Inc. (FLE), West Warwick, RI--purchased rubber thread from Filati Lastex Elastofibre, S.p.A. (Filati), an Italian manufacturer. Fletcher ***.⁷⁶ FLE began importing from its parent firm, Filati, in ***.⁷⁷

Apparent U.S. Consumption

The data on apparent U.S. consumption of rubber thread presented in table 3 consist of domestic shipments reported by U.S. producers and U.S. importers in response to Commission questionnaires.⁷⁸ Apparent consumption (in terms of quantity) increased by almost *** percent from 1987 to 1988, declined somewhat (by *** percent) in 1989, then rose steadily in 1990 and 1991, for an overall increase of *** percent during the period. Consumption rose by 9.5 percent in the first 6 months of 1992 in comparison with the same period in 1991. The trend of apparent consumption in terms of value varied when compared with quantity trends for the period 1988 to 1990 due to the 1989 increase in the price of rubber thread. (This increase and the reasons for it are addressed in subsequent sections of this report.)

Channels of Distribution

Domestic producers and importers of rubber thread generally sell rubber thread directly to unrelated manufacturers of elasticized intermediate goods, such as round or flat braid, knitted or woven narrow fabric, and covered rubber yarns.⁷⁹ U.S. producers and importers of rubber thread did not report any sales to distributors in 1991. Small quantities of imported rubber thread are often purchased directly from importers' stock in U.S. warehouses. Larger purchases (i.e., full container loads of 22,000 pounds) of imported rubber thread usually are shipped directly from the overseas production facilities to the buyer's facilities in the United States.

⁷⁴ North American's imports from *** totaled *** pounds in 1988, *** pounds in 1989, *** pounds in 1990, and *** pounds in 1991, or the equivalent of *** percent, *** percent, *** percent, and *** percent, respectively, of North American's production in those years.

⁷⁵ ***. ***.

⁷⁶ ***.

⁷⁷ ***.

⁷⁸ See app. E for summary data on the U.S. market.

⁷⁹ However, certain specialty products, such as food grade rubber thread, are shipped directly to nontextile customers (e.g., C & K) and used by those firms in their internal manufacturing operations.

Table 3

Extruded rubber thread: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 1987-91, January-June 1991, and January-June 1992

Item	1987	1988	1989	1990	1991	Jan. - June - -	
						1991	1992
Quantity (1,000 pounds)							
Producers' U.S. shipments:							
North American and Globe..	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	21,576	25,825	20,824	16,831	***	***	***
Importers' U.S. shipments:							
Malaysia.....	***	***	***	9,617	***	***	***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Total.....	***	***	4,573	10,575	***	***	***
Apparent consumption..	***	***	25,398	27,406	31,360	15,627	17,113
Value (1,000 dollars)							
Producers' U.S. shipments:							
North American and Globe..	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	38,115	47,945	47,905	30,534	***	***	***
Importers' U.S. shipments:							
Malaysia.....	***	***	***	10,639	***	***	***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Total.....	***	***	7,542	11,785	***	***	***
Apparent consumption..	***	***	55,446	42,319	45,853	23,119	25,852

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

THE QUESTION OF INCREASED IMPORTS

U.S. Imports

Table 4 provides data on U.S. imports from 1987 through June 1992. As shown, the quantity of imports rose dramatically from 1987 to 1991, increasing almost twentyfold. However, the rate of increase is clearly slowing: slightly less than *** percent more rubber thread was imported in January-June 1992 than in the corresponding 1991 period. The unit value of imported rubber thread has generally fallen, decreasing from \$*** per pound in 1987 to \$*** per pound in January-June 1992.

Table 4
 Extruded rubber thread: U.S. imports, by sources,¹ 1987-91, January-June 1991, and
 January-June 1992

Item	1987	1988	1989	1990	1991	Jan. - June - -	
						1991	1992
Quantity (1,000 pounds)							
Malaysia.....	***	***	***	10,889	***	***	***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Total.....	***	***	5,426	11,738	***	***	***
Value ² (1,000 dollars)							
Malaysia.....	***	***	***	10,382	***	***	***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Total.....	***	***	7,740	11,350	***	***	***
Unit value (per pound)							
Malaysia.....	\$***	\$***	\$***	\$0.95	\$***	\$***	\$***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Average.....	***	***	1.43	0.97	***	***	***
Share of total quantity							
Malaysia.....	***	***	***	92.8	***	***	***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0

¹ Importers reported no sources of imports other than those shown in the table.

² Landed, duty-paid at the U.S. port of entry.

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Although Italy accounted for a significant share of imports in 1987 (and Thailand and Venezuela accounted for smaller periodic amounts), imports from Malaysia made up the vast majority of the rubber thread shipped into the United States since 1987.⁸⁰ The unit value of imports from Malaysia in 1987 (\$*** per pound) was *** than that of the 1987 imports from Italy (\$*** per pound). However, the margin between the two narrowed in subsequent time periods (and, in 1989, actually reversed).

U.S. Imports Relative to Production

The following tabulation (based on data from responses to Commission questionnaires) shows the quantity of imports relative to the quantity of U.S. production:

<u>Period</u>	<u>U.S. imports</u> (1,000 pounds)	<u>Production</u> (1,000 pounds)	<u>Ratio of imports</u> <u>to production</u> (Percent)
1987.....	***	22,519	***
1988.....	***	26,240	***
1989.....	5,426	22,565	24.0
1990.....	11,738	17,326	67.7
1991.....	***	***	***
Jan.-June--			
1991.....	***	***	***
1992.....	***	***	***

In 1987, imports of rubber thread from all sources were minor compared with U.S. production. However, by 1991, the amount of such imports was more than 1 1/2 times that produced by the U.S. industry.

The Trade Act of 1974 provides for provisional relief because of "critical circumstances" (sec. 202(b)(3)(B)) as follows:

...critical circumstances exist if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this chapter would cause harm that would significantly impair the effectiveness of such action.

The petitioner has alleged that critical circumstances exist.⁸¹ The following tabulation, compiled from questionnaire responses, provides monthly

⁸⁰ ***. ***. ***. ***.

⁸¹ Although the standard is quite different and not controlling here, it is worth noting that the petitioner also alleged critical circumstances in the antidumping investigation (inv. No. 731-TA-527) and in Commerce's concurrent countervailing duty investigation concerning imports of rubber thread from Malaysia. In the antidumping investigation, Commerce (selecting Aug. 29, 1991, to Nov. 29, 1991, as the comparison period) determined that critical circumstances exist with respect to imports from Rubberflex (57 F.R. 38465, Aug. 25, 1992). The Commission, however, made a negative determination regarding critical circumstances in its antidumping investigation. Commerce found that critical circumstances exist for Filmax, Rubberflex, and Filati in its countervailing duty investigation (57 F.R. 38472, Aug. 25, 1992).

data on U.S. imports and production (in thousands of pounds) of rubber thread during January 1990-June 1992, and the ratio of imports to production:

<u>Period</u>	<u>U.S. imports</u> (1,000 pounds)	<u>Production</u> (1,000 pounds)	<u>Ratio of imports</u> <u>to production</u> (Percent)
1990:			
January.....	***	***	***
February.....	***	***	***
March.....	***	***	***
April.....	***	***	***
May.....	***	***	***
June.....	***	***	***
July.....	***	***	***
August.....	***	***	***
September.....	***	***	***
October.....	***	***	***
November.....	***	***	***
December.....	***	***	***
Total.....	***	17,326	***
1991:			
January.....	***	***	***
February.....	***	***	***
March.....	***	***	***
April.....	***	***	***
May.....	***	***	***
June.....	***	***	***
July.....	***	***	***
August.....	***	***	***
September.....	***	***	***
October.....	***	***	***
November.....	***	***	***
December.....	***	***	***
Total.....	***	***	***
1992:			
January.....	***	***	***
February.....	***	***	***
March.....	***	***	***
April.....	***	***	***
May.....	***	***	***
June.....	***	***	***
Total.....	***	***	***

Note.--Because of rounding, figures may not add to the totals shown. Also, data do not reconcile with total imports reported elsewhere in this report, primarily due to the inability of *** to provide data on imports by month. Thus, imports (and the ratio of imports to production) are understated for 1990. ***.

The petition in the subject investigation was properly filed on June 23, 1992; the petitions in the antidumping and countervailing duty investigations on rubber thread from Malaysia were filed on August 29, 1991. Qualitex ceased manufacturing operations (and shipments) in October 1990.

In its questionnaires, the Commission also requested that firms report imports of (or contracts to import) rubber thread after June 30, 1992. The following information was provided:

<u>Firm</u>	<u>Quantity</u> (Pounds)	<u>Time period of</u> <u>order and/or receipt</u>
*	*	*

THE QUESTION OF SERIOUS INJURY

Section 202(c)(1)(A) of the Trade Act of 1974 provides that, with respect to serious injury--

In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)--

(I) the significant idling of productive facilities in the domestic industry,

(II) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and

(III) significant unemployment or underemployment within the domestic industry.

The following information pertains to all of the known U.S. producers of extruded rubber thread during the period of investigation. North American and Globe (other than as noted) provided data for the entire period of investigation, and former Qualitex officials completed information on the period prior to the company's termination of manufacturing and sales on October 26, 1990. For production, capacity, shipments, and inventories, the data coverage for the U.S. industry is virtually 100 percent.⁸²

U.S. Production, Capacity, and Capacity Utilization

Data on reported production, capacity, and capacity utilization for the three U.S. producers are reported, by company, in table 5. Total U.S. industry average-of-period capacity increased slightly from 1987 to 1989, then declined between 1989 and 1991, ending the 1987-91 period *** percent lower than at the beginning. After falling by approximately 6 percent in 1990,

⁸² ***. ***. See also footnote 2 to table 9.

Table 5

Extruded rubber thread: U.S. capacity, production, and capacity utilization, by firms, 1987-91, January-June 1991, and January-June 1992

Item	1987	1988	1989	1990	1991	Jan.-June--	
						1991	1992
<u>Average-of-period capacity (1,000 pounds)</u>							
North American ¹	*** ²	***	***	***	***	***	***
Globe ³	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex ⁴	***	***	***	***	***	***	***
Total.....	29,837	31,241	31,823	29,965	***	***	***
<u>Production (1,000 pounds)</u>							
North American.....	*** ²	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	22,519	26,240	22,565	17,326	***	***	***
<u>Average-of-period capacity utilization (percent)</u>							
North American.....	*** ²	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	75.5	84.0	70.9	57.8	***	***	***

¹ The capacity data for North American are based on the operation of *** extrusion lines, *** hours per week, *** weeks per year.

² Data are reported for a 10-month period. Information on the operations of Pilgrim Latex during the first part of 1987 (prior to its March 1987 acquisition by North American) are not included in this table. However, if data for Pilgrim Latex were included, the trend in production from 1987 to 1988 would ***. (Pilgrim Latex produced and sold approximately *** pounds in January-February 1987.)

³ The capacity data for Globe are based on the operation of *** extrusion lines, *** hours per week, *** weeks per year.

⁴ The capacity data for Qualitex are based on the operation of ***.

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

capacity dropped by nearly *** percent in 1991 as a result of Qualitex's departure from the industry. North American *** in its capacity to produce during the 5 years investigated;⁸³ the reported capacity of Globe ***, for an overall net *** of *** percent over the 5-year period. Industry production capacity climbed slightly (by *** percent) in interim 1992.

Production increased from 1987 to 1988, then declined during calendar years 1988-91, for an overall decrease of *** percent. In 1990 output fell by 23 percent and in 1991 it dropped another *** percent. This trend reflects, among other factors, Qualitex's *** and its eventual cessation of production. Overall output increased by *** percent in interim 1992, ***. Given the noticeable decline in capacity and the steeper reduction in output, capacity utilization decreased considerably from 84.0 percent in 1988 to *** percent in 1991.⁸⁴ In interim 1991 and 1992, these rates were *** percent and *** percent, respectively.

U.S. Producers' Shipments

During the period of investigation, U.S. producers did not report any company transfers and *** amount of exports.⁸⁵ Domestic and export shipments are presented, by firm, in table 6.

The trend in domestic shipments by U.S. producers for calendar years 1987-91 closely follows the trend in production, decreasing irregularly by *** percent over the 5-year period.⁸⁶ Unlike production, however, domestic shipments continued to decline between January-June 1991 and January-June 1992 (down *** percent). The unit value of U.S. rubber thread shipments increased by *** percent from 1987 to interim 1992, with a sharp peak in 1989. This short-lived peak in unit value reflects a jump in the price of natural rubber latex that affected the general level of rubber thread prices worldwide.⁸⁷

Exports averaged only *** to *** percent of total shipments during the period of investigation.

⁸³ North American stated in its questionnaire response that the ***. ***.

⁸⁴ Capacity utilization (along with average-of-period capacity and production) increased from 1987 to 1988. With the exception of capacity in 1989, annual decreases were shown for each industry indicator in the subsequent annual periods. ***.

⁸⁵ None of the producers manufactures a downstream product that contains rubber thread.

⁸⁶ Data reported by North American showed some difference in trends among its various product lines. Shipments of talced rubber thread ***. ***. North American's shipments of the talcless product ***. ***. North American first reported shipments of heat-resistant rubber thread in ***. During January-June 1992, North American shipped *** pounds of the product.

***. ***.

⁸⁷ Speculation on the impact of AIDS on future latex demand drove the price of latex to all-time highs in late 1988 and early 1989. See fig. 5 in the section of this report entitled "Prices."

Table 6

Extruded rubber thread: U.S. producers' shipments, by firms,¹ 1987-91, January-June 1991, and January-June 1992

Item	1987	1988	1989	1990	1991	Jan. - June - -	
						1991	1992
Quantity (1,000 pounds)							
Domestic shipments:							
North American.....	*** ²	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	21,576	25,825	20,824	16,831	***	***	***
Export shipments:							
North American ³	*** ²	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***
Value (1,000 dollars)							
Domestic shipments:							
North American.....	*** ²	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	38,115	47,945	47,905	30,534	***	***	***
Export shipments:							
North American ³	*** ²	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***
Unit value (per pound)							
Domestic shipments:							
North American.....	\$*** ²	\$***	\$***	\$***	\$***	\$***	\$***
Globe.....	***	***	***	***	***	***	***
Average.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	1.77	1.86	2.30	1.81	***	***	***
Export shipments:							
North American.....	*** ²	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Average.....	***	***	***	***	***	***	***

¹ Qualitex ***.

² Data are reported for a 10-month period.

³ The principal export markets were *** and ***.

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. Producers' Inventories

Table 7 provides U.S. producers' inventories since 1987. Inventory levels varied from year to year, with an overall decline of *** percent from end-of-period 1987 to end-of-period 1992. As a ratio to U.S. production, inventories ranged between *** and *** percent, ***.

Table 7

Extruded rubber thread: End-of-period inventories of U.S. producers, by firms, 1987-91, January-June 1991, and January-June 1992

Item	1987	1988	1989	1990	1991	Jan. -June--	
						1991	1992
Quantity (1,000 pounds)							
North American..	***	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	1,571	1,002	1,562	***	***	***	***
Ratio to production (percent)							
North American..	***	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	7.0	3.8	6.9	***	***	***	***
Ratio to total shipments (percent)							
North American..	***	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	***	***	***	***	***	***	***

Note.--Because of rounding, figures may not add to the totals shown. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. Employment, Wages, and Productivity

All three domestic producers provided usable data on employment and wages. Table 8 presents these data.⁸⁸ The number of workers producing rubber thread and the hours worked by and total compensation paid to such workers were relatively constant or increased slightly from 1987 to 1988, then fell steadily from 1988 to 1991, for net 1987-91 decreases of *** percent, *** percent, and *** percent, respectively. (The sharpest decline occurred from 1990 to 1991 as a result of the shutdown in operations by Qualitex.) Employment (and hours worked and total compensation paid) in the interim periods was relatively unchanged. Hourly wages paid remained somewhat constant through the period from 1987 to interim 1992, although the average hourly wage paid differed sharply among producers. Productivity declined irregularly from 1987 to interim 1992, and unit labor costs varied somewhat. *** reported significantly higher productivity than the industry average; unit labor costs also varied somewhat among producers.

Financial Experience of U.S. Producers

Three U.S. producers--Globe, North American, and Qualitex--accounting for all U.S. production of extruded rubber thread after 1987, provided income-and-loss data on their extruded rubber thread operations and on their establishment operations.⁸⁹ Qualitex discontinued its production and sales of extruded rubber thread in October 1990. The Commission did not receive complete income-and-loss data for 1987 from Pilgrim Latex, the predecessor company of North American.

Operations on Extruded Rubber Thread

Aggregate income-and-loss data of the three producers on their rubber thread operations are shown in table 9. Table 10 presents selected company-by-company income-and-loss indicators for these same operations.

⁸⁸ North American's employment figures from 1990 on include ***. North American reports that *** and that there has been no net increase in U.S. employment associated with rubber thread production as a result of ***.

⁸⁹

*	*	*	*	*	*	*
*	*	*	*	*	*	*

Table 8

Average number of production and related workers at firms producing extruded rubber thread, hours worked, total compensation paid to such employees, hourly wages, productivity, and unit labor costs, by firms, 1987-91, January-June 1991, and January-June 1992

Item	1987	1988	1989	1990	1991	Jan.-June-- 1991	1992
Number of production and related workers (PRWs)							
North American.....	*** ¹	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	225	223	205	190	***	***	***
Hours worked by PRWs (1,000 hours)							
North American.....	*** ¹	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	418	435	369	343	***	***	***
Total compensation paid to PRWs (1,000 dollars)							
North American.....	*** ¹	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	6,127	6,316	5,434	4,994	***	***	***
Hourly wages paid to PRWs							
North American.....	\$*** ¹	\$***	\$***	\$***	\$***	\$***	\$***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	11.16	11.23	11.34	11.33	***	***	***
Productivity (pounds per hour)							
North American.....	*** ¹	***	***	***	***	***	***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	53.8	60.3	61.1	50.5	***	***	***
Unit labor costs (per pound)							
North American.....	\$*** ¹	\$***	\$***	\$***	\$***	\$***	\$***
Globe.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	.27	.24	.24	.29	***	***	***

¹ Data are for a 10-month period.

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 9
Income-and-loss experience of U.S. producers on their operations producing extruded rubber thread, calendar years 1987-91, January-June 1991, and January-June 1992¹

Item	1987 ²	1988	1989	1990	1991	January-June--	
						1991	1992
Quantity (1,000 pounds)							
Net sales	22,206	26,838	22,033	17,662	***	***	***
Value (1,000 dollars)							
Net sales	39,602	50,307	50,140	31,686	***	***	***
Cost of goods sold	35,010	44,623	46,298	31,548	***	***	***
Gross profit	4,592	5,684	3,842	138	***	***	***
Selling, general, and administrative expenses	***	***	5,273	2,776	***	***	***
Operating income or (loss)	***	***	(1,431)	(2,638)	***	***	***
Shutdown expenses	***	***	***	***	***	***	***
Interest expense	***	***	***	***	***	***	***
Other income or (loss), net	***	***	***	***	***	***	***
Net income or (loss) before income taxes	194	(1,428)	(2,257)	(3,202)	***	***	***
Depreciation and amortization included above	1,167	1,335	1,334	1,319	***	***	***
Cash flow ³	1,361	(93)	(923)	(1,883)	***	***	***
Share of net sales (percent)							
Cost of goods sold	88.4	88.7	92.3	99.6	***	***	***
Gross profit	11.6	11.3	7.7	0.4	***	***	***
Selling, general, and administrative expenses	***	***	10.5	8.8	***	***	***
Operating income or (loss)	***	***	(2.9)	(8.3)	***	***	***
Net income or (loss) before income taxes	0.5	(2.8)	(4.5)	(10.1)	***	***	***
Value (per pound)							
Net sales	\$1.78	\$1.87	\$2.28	\$1.79	\$***	\$***	\$***
Cost of goods sold	1.58	1.66	2.10	1.78	***	***	***
Gross profit	0.21	0.21	0.18	0.01	***	***	***
Selling, general, and administrative expenses	***	***	0.24	0.16	***	***	***
Operating income or (loss)	***	***	(0.06)	(0.15)	***	***	***
Net income or (loss) before income taxes	0.01	(0.05)	(0.10)	(0.18)	***	***	***
Number of firms reporting							
Operating losses	***	***	***	***	***	***	***
Net losses	***	***	***	***	***	***	***
Data	3	3	3	3	2	2	2

¹ The producers are Globe, North American, and Qualitex. ***. Qualitex closed its rubber thread operations in October 1990.

² Pilgrim Latex Thread Co. did not provide data for 1987. ***.

³ Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 10

Selected income-and-loss data of U.S. producers on their operations producing extruded rubber thread, by firms, calendar years 1987-91, January-June 1991, and January-June 1992

Item	1987 ¹	1988	1989	1990	1991	January-June--	
						1991	1992
Value (1,000 dollars)							
Net sales:							
Globe.....	***	***	***	***	***	***	***
North American.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex ²	***	***	***	***	***	***	***
Total.....	39,602	50,307	50,140	31,686	***	***	***
Operating income or (loss):							
Globe.....	***	***	***	***	***	***	***
North American.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	***	***	(1,431)	(2,638)	***	***	***
Book value of fixed assets:							
Globe.....	***	***	***	***	***	***	***
North American.....	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***
Ratio to net sales (percent)							
Operating income or (loss):							
Globe.....	***	***	***	***	***	***	***
North American.....	***	***	***	***	***	***	***
Average, 2 firms.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average, 3 firms.....	***	***	(2.9)	(8.3)	***	***	***
Return on book value of fixed assets (percent) ³							
Operating income or (loss):							
Globe.....	***	***	***	***	***	***	***
North American.....	***	***	***	***	***	***	***
Average, 2 firms.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average, 3 firms.....	***	***	***	***	***	***	***
Return on total assets (percent) ³							
Operating income or (loss):							
Globe.....	***	***	***	***	***	***	***
North American.....	***	***	***	***	***	***	***
Average, 2 firms.....	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Average.....	***	***	***	***	***	***	***

¹ Pilgrim Latex Thread Co. did not provide data for 1987.

² Qualitex stopped production and sales of extruded rubber thread in October 1990.

³ Data for the partial-year periods are calculated using annualized income-and-loss information.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

North American's net sales ***. ***. The company indicated that "***. ***. ***."

North American further stated that "***. ***. ***. ***. ***. ***."

The *** producer, Globe, accounted for *** percent of total industry sales in 1987, *** percent in 1988, *** percent in 1989, *** percent in 1990, *** percent in 1991, *** percent in January-June 1991, and *** percent in January-June 1992. ***.

Overall Establishment Operations

Income-and-loss data on overall establishment operations are presented in table 11. Qualitex produced only rubber thread in its establishment. North American's rubber thread sales accounted for over *** percent of its establishment sales. Its establishment's trends in sales and operating income are similar to those of its operations on rubber thread. Globe's rubber thread sales as a share of its total establishment sales *** from *** percent in 1987 to *** percent in 1991. Globe's operations relating to its major product, spandex thread, were ***. Its sales of spandex thread accounted for *** percent or more of its aggregate establishment sales during the reporting periods. Hence, trends in aggregate establishment operating income and loss margins are *** from those for rubber thread operations. Globe maintains *** on its rubber thread and spandex thread operations.

Table 11

Income-and-loss experience of U.S. producers on the overall operations of their establishments wherein extruded rubber thread is produced, calendar years 1987-91, January-June 1991, and January-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Financial Condition of North American's U.S. Overall Establishment

The balance sheets of North American as of December 31, 1987-91 and as of June 30, 1991-92 are presented in table 12. North American's total assets ***. ***. Total liabilities ***. Retained earnings ***. ***. ***. To analyze the financial condition of North American, selected financial ratios of the company are presented in table 13.

Table 12

Balance sheets of North American's U.S. overall establishment within which extruded rubber thread is produced, as of December 31, 1987-91, and as of June 30, 1991-92

(In thousands of dollars)

Item	As of December 31--					As of June 30--	
	1987	1988	1989	1990	1991	1991	1992
	*	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 13

Selected financial ratios of North American's U.S. overall establishment within which extruded rubber thread is produced, as of December 31, 1987-91, and as of June 30, 1991-92

(In thousands of dollars)

Item	As of December 31--					As of June 30--	
	1987	1988	1989	1990	1991	1991	1992
	*	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Liquidity ratios represent the ability of a firm to pay short-term debt and measure the quality and adequacy of current assets to meet current liabilities as they become due. These ratios are individually discussed below.

Current ratio

The current ratio is determined by dividing total current assets by total current liabilities. Normally, a current ratio of 2 to 1 is considered adequate, depending on the industry average. Generally, the higher the current ratio, the greater the ability of a company to pay its current debts. However, the type and quality of individual current assets is a critical factor in the analysis of a firm's liquidity. North American's current ratio of *** in 1987 *** to *** in 1988 and stayed around *** to *** in ***.

Quick ratio

The quick ratio is computed by dividing the sum of cash, cash equivalents, and trade accounts receivable by total current liabilities. This ratio, also known as the "acid test" ratio, is a more conservative measure of liquidity because only the most liquid current assets are considered in the computation. The usual guideline for this ratio is 1 to 1, again depending on the industry average. North American's quick ratio was *** during each period covered by the investigation.

Receivable turnover

The receivable turnover is determined by dividing net sales by net trade accounts receivable. This ratio measures the number of times trade receivables turn over during the year. It indicates the liquidity of receivables. A higher ratio reflects a shorter time between a sale and its cash collection. North American's receivable turnover was *** in 1987, when sales ***, and was *** in 1988 when sales ***. This ratio *** to *** in 1990 and *** in 1991.

Inventory turnover

The inventory turnover is computed by dividing the cost of goods sold by the inventory. This ratio indicates the liquidity of the inventory. The higher this ratio, the shorter the time between production and sale, indicating higher demand for the product, more efficient production control, or a lack of production capacity to keep up with demand, etc. A lower ratio may reflect poor demand, loss of market share, obsolete inventory, or buildup of inventory for a busy short season, etc. Total inventory was used to compute this ratio. North American's *** inventory turnover of *** in 1988 reflects ***, as compared with a ratio of *** in 1987, its first year of operations. The lower ratio of *** in 1990 resulted from ***. The ratio *** to *** in 1991.

Days' sales in receivables

The days' sales in receivables is determined by dividing 365 by the receivable turnover. This figure expresses the average time in days that receivables are outstanding. A change in any one of several factors (changes in customers, changes in prices, changes in credit terms, a temporary increase in sales volume, etc.) may change the reported days' sales in receivables. Generally, the greater number of days outstanding, the greater the probability of delinquencies in accounts receivable. North American's days' sales in receivables *** from *** in 1987 to *** in 1988 and then *** to *** in 1989, *** in 1990, and *** in 1991.

Days to sell inventory

The division of the inventory turnover ratio into 365 days yields the average length of time units are in inventory. North American's merchandise

remained in inventory *** days in 1987, its first year of operations, *** days in 1988 when ***, *** days in 1989 when ***, *** days in 1990 when ***, and *** days in 1991 when ***.

Working capital and related ratios

Working capital is the difference between current assets and current liabilities. It indicates the margin of protection a company provides for the payment of current obligations. Two ratios--receivables to working capital and inventory to working capital--are measures of the quality of working capital. They measure the dependency of the company's working capital on receivables and inventory. The ratio of sales to working capital reflects the demands made on working capital in support of the sales volume. North American had a *** working capital of \$*** in its first year of rubber thread operations in 1987 and had \$*** in 1990 when the company ***.

Financial stability ratios indicate the firm's long-term solvency. They are discussed below.

Total debt-to-equity

This ratio indicates the relationship between capital contributed by creditors and that contributed by the owners or from earnings. The higher the ratio, the greater the financial risk for creditors. North American's debt-to-equity ratio was *** in 1987 when equity was *** due to *** in the first year of its operations. The ratio *** to *** in 1988, *** in 1989, *** in 1990, *** in 1991, and *** as of June 30, 1992.

Long-term debt-to-equity

This ratio is similar to the total debt-to-equity ratio discussed above and both have the same objectives. This ratio compares only long-term debt-to-equity, rather than total debt. North American's long-term debt-to-equity ratio was *** in 1987 and *** each year to ***.

Property, plant, and equipment to equity

This ratio measures the extent to which the allocation of equity has been invested in the book value of property, plant, and equipment (fixed assets). A significant amount of leased fixed assets, which are not shown on the balance sheet, may understate this ratio. North American's ratio *** from *** in 1988 to *** in 1991, and *** as of June 30, 1992.

Times interest earned

This ratio is computed by dividing earnings before interest and taxes by interest expense. This ratio is a measure of the company's ability to meet its interest payments. A high ratio may indicate that a borrower would have little difficulty in meeting the interest obligations of a loan. North American's ratio was *** in 1988, *** in 1989, and *** in 1991. It was *** in 1987, and *** in 1990 when ***. This ratio was *** as of June 30, 1991 and 1992.

Return-on-investment ratios

The return-on-investment ratios are a measure of the effectiveness of management in employing the resources available to it. The returns are measured by comparing net income before income taxes to total assets, equity, and invested capital (working capital plus noncurrent assets). ***.

In summary, North American's financial condition ***. ***.

Financial Condition of Globe's U.S. Overall Establishment

The balance sheets of Globe's U.S. overall establishment as of December 31, 1987-91 and as of June 30, 1991-92 are presented in table 14. Globe's total assets *** by *** percent from \$*** in 1987 to \$*** in 1988. Thereafter, total assets ***. Total liabilities ***. Equity ***. As of June 30, total assets ***. During the same period, total liabilities ***.

Table 14

Balance sheets of Globe's U.S. overall establishment within which extruded rubber thread is produced, as of December 31, 1987-91, and as of June 30, 1991-92

(In thousands of dollars)							
Item	As of December 31--					As of June 30--	
	1987	1988	1989	1990	1991	1991	1992
	*	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

To analyze the financial condition of Globe (including all establishment operations), selected financial ratios of the company are presented in table 15. All individual ratios are discussed in detail in the earlier section describing the financial condition of North American. Globe's establishment financial results are completely different from those for rubber thread operations; therefore, Globe's ratios are discussed in summary form.

Table 15

Selected financial ratios of Globe's U.S. overall establishment within which extruded rubber thread is produced, as of December 31, 1987-91, and as of June 30, 1991-92

(In percent, except as noted)							
Item	As of December 31--					As of June 30--	
	1987	1988	1989	1990	1991	1991	1992
	*	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Globe indicated that the majority of its capital expenditures of \$*** for rubber thread operations in 1990 were for ***. North American spent \$*** out of its total capital expenditures of \$*** for ***. North American mentioned that it was ***. Qualitex did not provide data on capital expenditures.

Research and Development Expenses

The research and development (R&D) expenses reported by North American and Globe are shown in the following tabulation (in thousands of dollars):

Item	1987	1988	1989	1990	1991	Jan.-June--	
						1991	1992
All establishment products...	***	***	***	***	***	***	***
Rubber thread.....	***	***	***	***	***	***	***

Qualitex reported *** R&D expenditures. North American indicated in its questionnaire that ***. ***.

Impact of Imports on Capital and Investment

The Commission requested that each producer describe any actual and/or potential negative effects of imports of rubber thread on its growth, investment, and ability to raise capital, or on its existing development and production efforts (including efforts to develop a derivative or improved version of its products). Appendix F presents the producers' responses.

THE QUESTION OF THREAT OF SERIOUS INJURY

Section 202(c)(1)(B) of the Trade Act of 1974 provides that, with respect to threat of serious injury--

In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)--

(I) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry,

(II) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development, [and]

(III) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.

The available information for items I and II are presented primarily in the section of this report entitled "The Question of Serious Injury." Available information on importers' inventories (item (I)), information on item (III), and a discussion of the foreign industry follow.

Foreign Producers

In addition to data presented elsewhere in this report (including the section entitled "The World Industry"), the following section was prepared for purposes of analyzing the threat of serious injury. The Commission has attempted to gather information on foreign production of rubber thread, both from cables to embassies of the United States in the major producing countries, and through requests to counsel for parties participating in this investigation (all of which are located in or import from Malaysia).

Countries that have produced rubber thread since January 1, 1987, and an estimate of their capacity to produce, are listed in the following tabulation:

<u>Country</u>	<u>Number of extrusion lines in operation in--</u>		<u>Nominal capacity (1,000 pounds)</u>
	<u>1987</u>	<u>1992</u>	
Asia:			
Malaysia.....	10	36	108,000
Thailand.....	3	8	15,000
Indonesia.....	2	4	7,000
China.....	2	4	4,000
Singapore.....	2	0	4,000
India.....	3	3	3,000
Sri Lanka.....	2	1	1,000
South Korea.....	(1)	1	1,000
Philippines....	1	0	0
Taiwan.....	<u>1</u>	<u>0</u>	<u>0</u>
Subtotal.....	26	57	143,000
Europe:			
Russia.....	8 ²	8 ²	8,000
Turkey.....	3	3	2,000
Germany.....	3	1 ²	1,000
Yugoslavia.....	1	1 ²	1,000
Portugal.....	1	1	1,000
Italy.....	8	0	0
Spain.....	<u>2</u>	<u>0</u>	<u>0</u>
Subtotal.....	26	14	13,000

Tabulation continued.

<u>Country</u>	<u>Number of extrusion lines in operation in--</u>		<u>Nominal capacity (1,000 pounds)</u>
	<u>1987</u>	<u>1992</u>	
North America:			
United States...	15	7	25,000
Mexico.....	<u>6</u>	<u>0</u>	<u>4,000</u>
Subtotal.....	21	7	29,000
South America:			
Brazil.....	10	5	8,000
Venezuela.....	4	1	3,000
Colombia.....	6	1	1,000
Argentina.....	2	1	1,000
El Salvador.....	1	0	0
Peru.....	<u>1</u>	<u>0</u>	<u>0</u>
Subtotal.....	24	8	13,000
South Africa.....	<u>2²</u>	<u>1</u>	<u>1,000</u>
Total.....	99	87	199,000

¹ Not available.

² Estimate.

Note.--This information was provided by *** in its response to the Commission's questionnaire. *** notes that the data were prepared from circulating industry reports and are not necessarily definitive. (There are slight discrepancies between this information and the information that *** provided to the Commission on U.S. and Malaysian capacity.)

As shown above, the total number of extrusion lines outside the United States (and thus, presumably, total nominal capacity) has declined slightly during the last 5 years, decreasing from 84 lines in 1987 to 80 lines in 1992. However, there have been major shifts in the locations of producing firms during this period, with a demonstrated increase in capacity to produce rubber thread in Asia (primarily Malaysia) and a corresponding decrease in capacity in Europe and in North and South America.⁹² A number of countries (including Italy) that produced rubber thread in 1987 no longer do so. Some of this shift (especially from producing locations in Europe to Malaysia) is due to *** which was discussed earlier in this report. However, for other countries, the decrease in production capacity may be attributed to competition with exports from Malaysia and, possibly, Thailand.⁹³

⁹² Flexfil, in its response to the Commission's importers' questionnaire, attributed the growth in rubber thread production in the Pacific Rim countries to several factors, which include: ***.

⁹³ Further information on such competition is presented in the section of this report entitled "The Industries in Other Countries."

The Industry in Malaysia

Information on foreign capacity, production, and shipments of rubber thread was provided by counsel for the Malaysian respondents and is presented in table 17. Data are included for the following five firms:

Filati Lastex Elastofibre (Filati),
 Filmax Sdn. Bhd. (Filmax),
 Heveafil Sdn. Bhd. (Heveafil),
 Rubfil Sdn. Bhd. (Rubfil), and
 Rubberflex Sdn. Bhd. (Rubberflex).⁹⁴

The combined operations of these manufacturers account for almost all of Malaysian production and exports of rubber thread to the United States.⁹⁵ Rubber thread accounted for *** of the total sales of the firms.

As shown in table 17, capacity and production rose over the period of investigation: overall capacity and production in 1991 were more than five times the levels of 1987. Future (although relatively smaller) increases in capacity and production are projected for 1992 and 1993. The industry has operated at virtually full capacity utilization throughout the period. The

⁹⁴ As discussed earlier in this report, each of the Malaysian producers imports into the United States through its U.S. affiliates. Filati is affiliated with FLE, the U.S. importer. (FLE is owned and controlled by Filati Malaysia Holding Co. (AUSCHEM S.P.A. of Italy)). Rubberflex currently imports rubber thread into the United States through Flexfil, its *** subsidiary. Filmax and Heveafil are related firms (Filmax is owned by Heveafil) and both import rubber thread into the United States through Heveafil USA, a *** of Heveafil. Rubfil projects *** exports to the United States in 1992 and 1993.

The production facilities of Filmax and Heveafil are located on the same site in Malaysia. According to an industry article ("How Long Latex Thread Boom?" in *Malaysian Business*), Filmax was established by Heveafil as a separate corporation in order to receive "pioneer status" and tax incentives no longer available to Heveafil.

Rubberflex was established in 1986 by former Heveafil executives. (Ibid.). An industry article submitted to the Commission by the petitioner (Antidumping petition, exhibit 3), describes an ongoing price war among the Malaysian producers: "Since the battle started in earnest around 1989, industry executives estimate that the price of rubber thread has plummeted by almost 50 per cent depending on the product range." Furthermore, "talks with industry officials seem to suggest that the crux of the matter is the rivalry between Heveafil and Rubberflex, the two largest players." ("Price Joust Hits Hard," *Malaysian Business*, Apr. 1992). The petitioner provides additional information on the background of the "price war" in exhibit 4 to its posthearing brief.

⁹⁵ The antidumping petition also lists two other significantly smaller Malaysian rubber thread producers. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.) These companies--Rubber Thread Industries (M) Sdn. Bhd., and Hulme Industries--appear not to be actively involved in the U.S. market.

Table 17

Rubber thread: Malaysian producers' capacity, production, shipments, and inventories, 1987-91, January-June 1991, January-June 1992, and projected 1992-93^{1 2}

Item	1987	1988	1989	1990	1991	Jan.-June--		Projections	
						1991	1992	1992	1993
<u>Quantity (1,000 pounds)</u>									
Capacity ³	***	***	***	106,173	126,030	60,171	63,515	128,514	145,798
Production.....	***	***	***	101,373	121,905	57,519	62,510	124,379	138,423
Shipments:									
Home market.....	***	***	***	***	***	***	***	***	***
Exports to--									
United States.....	***	***	***	***	***	***	***	***	***
All other markets.....	***	***	***	***	***	***	***	***	***
Total exports.....	***	***	***	***	***	***	***	***	***
Total shipments.....	***	***	***	98,087	121,805	56,625	60,040	123,926	136,574
Ending inventories.....	***	***	***	5,378	5,879	6,225	8,194	5,891	7,740
<u>Ratios and shares (percent)</u>									
Capacity utilization.....	***	***	***	95.5	96.7	95.6	98.4	96.8	94.9
Inventories to production...	***	***	***	5.3	4.8	5.4	6.6	4.7	5.6
Share of total quantity of shipments:									
Home market.....	***	***	***	***	***	***	***	***	***
Exports to--									
United States.....	***	***	***	***	***	***	***	***	***
All other markets.....	***	***	***	***	***	***	***	***	***

¹ Data for the following firms are included in this table: Heveafil, Filati, Filmax, Rubfil, and Rubberflex.

² Data reported are for rubber thread measuring from 18 to 140 gauge in diameter. No firm reported production of rubber thread under 18 gauge.

³ The capacity data for firms are reported on the following basis: Heveafil (operating *** hours per week, *** weeks per year); Filati (operating *** hours per week, *** weeks per year); Filmax (operating *** hours per week, *** weeks per year); Rubfil (operating *** hours per week, *** weeks per year); and Rubberflex (operating *** hours per week, *** weeks per year).

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted by counsel for the respondents.

following tabulation presents production and exports of rubber thread to the United States (in thousands of pounds), and lists the number of extrusion lines, by firm:

<u>Firm</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
Production:					
Filati.....	***	***	***	***	***
Filmax.....	***	***	***	***	***
Heveafil.....	***	***	***	***	***
Rubfil.....	***	***	***	***	***
Rubberflex.....	***	***	***	***	***
Total.....	***	***	***	101,373	121,905
Number of extrusion lines:					
Filati.....	***	***	***	***	***
Filmax.....	***	***	***	***	***
Heveafil.....	***	***	***	***	***
Rubfil.....	***	***	***	***	***
Rubberflex.....	***	***	***	***	***
Total.....	***	***	***	29	34
Exports to the United States..					
Filati.....	***	***	***	***	***
Filmax.....	***	***	***	***	***
Heveafil.....	***	***	***	***	***
Rubfil.....	***	***	***	***	***
Rubberflex.....	***	***	***	***	***
Total.....	***	***	***	***	***

Note.--Because of rounding, figures may not add to the totals shown.

As is demonstrated by the above tabulation, production operations in Malaysia have been characterized by ongoing expansion throughout 1987-91. Three new firms of significant size (Filati, Filmax, and Rubfil) have begun the manufacture of rubber thread, and ***⁹⁶ throughout the 1987-91 period. (The entrance of Filmax can be viewed as an expansion of operations by Heveafil, its parent.) The addition of Filati, Filmax, and Rubfil to the industry (and an increase in production by ***) led to an annual increase in production of over *** percent in 1990 alone.

The data in table 17 also show a dramatic rise in exports to the United States. Slightly over *** pounds of rubber thread were exported to the United States in 1987; such shipments increased by a magnitude of 20 to over *** pounds by 1991. A comparison of interim-period numbers, however, reveals only a slight increase of U.S.-bound exports, and U.S. export projections for 1992 and 1993 are roughly comparable with 1991 levels.⁹⁷ As shown in the above

⁹⁶ However, with the exception of ***.

⁹⁷ Data presented in table 17 also document the increasing share of exports destined for the United States. Although other markets, especially the traditional textile manufacturing countries of Hong Kong, Japan, and Italy, command the lion's share of Malaysian exports, the United States has accounted (continued...)

tabulation, *** and *** are the source of the largest volume of exports destined for the United States; in 1991, each firm shipped approximately *** percent of its total shipments to the United States.

The Industries in Other Countries

In addition to the United States and Malaysia, the major producing countries of rubber thread at this time include Thailand, Indonesia, China,⁹⁸ India, the former Soviet Union, Turkey, and Brazil. Information on production in Thailand, Indonesia, and Brazil provided by local U.S. Embassies in response to Commission inquiries is presented below:⁹⁹

Thailand: The U.S. Embassy in Thailand has identified three producers of rubber thread, namely, Filatex Co., Ltd.; Freetex Elastic; and Saha Union Co.

Indonesia: The production of rubber thread in Indonesia is characterized in the telegram as "low," with imports of rubber thread into Indonesia being larger in volume than exports from Indonesia. Domestic production does not currently meet demand. At this time there are six producers; Bakrie (in partnership with Globe) is building a rubber extrusion plant which, according to the U.S. Embassy, will be operational in mid-1993. (The source for the information was not provided.)

Brazil: ***. ***. ***. ***. ***. ***. ***.

The Commission also received information from the U.S. Embassies in other countries whose local industry reported competition with exports from Southeast Asia. Their responses follow:

South Korea: The telegram from the U.S. Embassy in Seoul, South Korea, indicated that until 1989, there were four firms in South Korea that imported latex and produced rubber thread. The response stated: "Since the latter half of the 1980's, Korean industry has been under increasing pressure as natural rubber exporting countries have developed

⁹⁷ (...continued)

for a rising share of total shipments. In 1987 the U.S. market consumed *** percent of Malaysia's rubber thread shipments; by interim 1992, that figure stood at *** percent. Home-market shipments are small for all producers: *** takes the lead with nearly *** percent of its shipments going to Malaysia in 1991.

⁹⁸ Staff of the U.S. Embassy was able to identify four firms that produced rubber thread in China. However, neither representatives from the firms nor government officials in China were willing to provide information on the industry in that country.

⁹⁹ There is no information available with respect to production in the other-named countries.

processing operation lines and moved to export vulcanized rubber thread, rather than unprocessed latex. All four have closed their production lines of vulcanized rubber thread, because the rapid increases of cheaper imports from Malaysia and Thailand since 1990 have eroded their competitiveness in the domestic market. The Korean industry informs us that the price of raw material (latex) is 30 percent higher in the domestic market than in those exporting countries."

Taiwan: The response from the American Institute of Taiwan (AIT) in Taipei, Taiwan, indicated that only a few firms still produce rubber thread in Taiwan. A representative of one of the remaining firms, Rich Yu Sheng Rubber Industrial Co., Ltd., stated to an AIT employee that "because of wage increases and foreign competition from Malaysia and Thailand, which have cheap domestic sources of latex and rubber material, the number of firms has declined from around 30 to 6 or 7 currently. Many remaining firms plan to either move abroad or close."

Japan: Similarly, a response from the U.S. Embassy in Tokyo, Japan, stated that exports of Japanese-produced rubber thread to the United States have declined in the past few years "apparently because of competition from low-priced Malaysian products."

Barriers to Trade

Section 202(c)(1)(B)(iii) of the Trade Act of 1974 requires that in making its determination the Commission consider:

"the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets."

The major apparel-producing countries (and thus consumers of extruded rubber thread) are China, Taiwan, Korea, and Hong Kong. Other significant textile producers include the European Community (EC), Thailand, Malaysia, and Indonesia. According to the petitioner, countries that have developed the capability to produce rubber thread tend to place higher import duties on the product than nonproducing countries do.

The following information has been provided by the country desk offices, U.S. Department of Commerce:

	<u>Duty</u>	<u>Taxes</u>	
	<u>--Percent--</u>		
European community: ¹			
Belgium	6.2	19.5	Value-added tax (VAT)
Denmark	6.2	25.0	VAT
France	6.2	18.6	VAT
Germany	6.2	14.0	VAT
Greece	6.2	18.0	VAT
Ireland	6.2	21.0	VAT
Italy	6.2	19.0	VAT

Tabulation continued.

	<u>Duty</u>	<u>Taxes</u>	
	--Percent--		
Luxembourg	6.2	15.0	Value-added tax (VAT)
Netherlands	6.2	18.5	VAT
Portugal	6.2	16.0	VAT
Spain	6.2	15.0	VAT
United Kingdom	6.2	17.5	VAT
Other Europe:			
Turkey	5.0	10.0	VAT
		15.0	municipal tax, applied on customs duty value
		10.0	support and price stabilization tax, applied on c.i.f. value
		10.0	revenue stamp tax, applied on c.i.f. value
		3.0	transportation tax, by land or air; applied on c.i.f. value and total tax value except VAT
		4.0	transportation tax, by sea; applied on c.i.f. value and total tax value and total tax value except VAT
Russia	15.0		
East Asia:			
China	60.0	20.0	VAT
		18.0	industrial, commercial, consolidated tax
Hong Kong	duty free	0.5	average declaration surcharge
Korea	11.0	10.0	VAT, applied to c.i.f. and duty value
Taiwan	7.5	5.0	VAT, applied to c.i.f. value
		0.5	harbor tax, applied to c.i.f. and duty value
Southeast Asia:			
Indonesia	15.0	10.0	VAT
		15.0	import surcharge
		7.5	withholding tax
Malaysia	15.0	10.0	sales tax
Thailand	50.0	7.0	VAT
North and South America:			
Brazil	55.0 ²		
Canada	4.0 ³	7.0	goods and services tax
Mexico	20.0		

¹ Imports of rubber thread from Malaysia into the European Community are eligible for duty-free treatment under GSP provisions.

² The duty rate is scheduled to be reduced to 40 percent in November 1992, and further reduced to 20 percent during mid-1993.

³ Imports of rubber thread from Malaysia into Canada are eligible for duty-free treatment under GSP provisions.

As stated above, the Government of Brazil has issued an affirmative countervailing duty determination on rubber thread imports from Malaysia.¹⁰⁰ Also, Indonesia and Thailand have recently imposed remedial tariffs of 30 to 80 percent ad valorem.^{101 102 103} In addition, a ***.^{104 105}

U.S. Importers' Inventories

U.S. importers' inventories of rubber thread that were held in the United States are reported in table 18. (No foreign producer reported maintaining U.S. inventories of the product.) The level of inventories increased sharply throughout the period, reflecting the larger amounts of product entering the United States.¹⁰⁶ (However, the ratio of inventories to imports actually declined somewhat during 1988-91, reflecting a larger increase in imports than in inventories).

¹⁰⁰ After determining that Brazilian imports of rubber thread from Malaysia were subsidized and had increased by 2,530 percent between 1989 and 1990, Brazil's Economic Ministry imposed a countervailing duty of 15.9 percent ad valorem on rubber thread from all Malaysian producers. Petition, exhibit 15.

¹⁰¹ Transcript of the hearing for inv. No. 731-TA-527 (Final), p. 15.

¹⁰² Petitioner's postconference brief, p. 14, and exhibits 6 and 7, inv. No. 731-TA-527 (Preliminary). (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

¹⁰³ Respondents argue that since shipments of the Malaysian product into these markets has been small (Heveafil and Rubberflex estimate that approximately *** percent of their total shipments have been directed to Brazil, Thailand, and Indonesia), any diversion from these markets would not be significant enough to establish a threat of material injury. Posthearing brief in inv. No. 731-TA-527 (Final), p. 10. (Permission granted by counsel for the respondents to incorporate information into the record for the instant investigation.)

¹⁰⁴ Petitioner's postconference brief in inv. No. 731-TA-527 (Preliminary), pp. 14-15. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

¹⁰⁵ ***. ***. ***. ***. ***. ***. ***. Response by U.S. Embassy in Venezuela to Commission request for information.

¹⁰⁶ U.S. importers (at least Heveafil) maintain warehouses in the United States, and, therefore, can provide "just-in-time" delivery to customers. Elastic Corp. of America's prehearing brief, p. 9.

Table 18

Extruded rubber thread: End-of-period inventories of U.S. importers and ratios to imports, by sources, 1987-91, January-June 1991, and January-June 1992

Item	1987	1988	1989	1990	1991	Jan.-June--	
						1991	1992
	*	*	*	*	*	*	*

Note.--Because of rounding, figures may not add to the totals shown. Part-year inventory ratios are annualized. Ratios are calculated using data of firms providing both numerator and denominator information.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

In addition, there are reported increases in inventories held by purchasers. Petitioner testified at the Commission's hearing in connection with inv. No. 731-TA-527 (Final) that end users who have switched to the Malaysian product have stored increasing amounts of rubber thread. The reported reason for the "significant" increase is that "the Malaysians generally ship the product in container-load quantities. . . . Further, many customers believe that the Malaysian prices are only temporarily low, and that they will return to much higher levels."¹⁰⁷

CONSIDERATION OF THE QUESTION OF THE CAUSAL RELATIONSHIP BETWEEN THE ALLEGED SERIOUS INJURY AND IMPORTS

Section 202(c)(1)(C) of the Trade Act of 1974 provides that, with respect to substantial cause--

In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)--

an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

Available information is presented below and in the section of this report entitled "The Question of Increased Imports."

¹⁰⁷ Transcript of the hearing for inv. No. 731-TA-527 (Final), pp. 13-14.

Market Penetration of Imports

Shares of apparent U.S. consumption accounted for by imports of rubber thread from all sources are presented in table 19. Over the period of investigation and, in particular, after the closing of Qualitex in 1990, U.S. producers have supplied a rapidly decreasing share of U.S. apparent consumption. In 1987 their share of the quantity of apparent domestic consumption stood at *** percent; in January-June 1992, U.S. producers accounted for *** percent of U.S. consumption. In turn, market penetration of imports (particularly from Malaysia) increased substantially in terms of both quantity and value.

Table 19

Extruded rubber thread: Shares of the quantity and value of U.S. apparent consumption accounted for by U.S. shipments of domestic product and U.S. shipments of imports, 1987-91, January-June 1991, and January-June 1992

Item	1987	1988	1989	1990	1991	Jan. - June - -	
						1991	1992
Share of the quantity of U.S. consumption (percent)							
Producers' U.S. shipments:							
North American and Globe..	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Subtotal.....	***	***	82.0	61.4	***	***	***
Importers' U.S. shipments:							
Malaysia.....	***	***	***	35.1	***	***	***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Total.....	***	***	18.0	38.6	***	***	***
Apparent consumption..	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of the value of U.S. consumption ¹ (percent)							
Producers' U.S. shipments:							
North American and Globe..	***	***	***	***	***	***	***
Qualitex.....	***	***	***	***	***	***	***
Subtotal.....	***	***	86.4	72.2	***	***	***
Importers' U.S. shipments:							
Malaysia.....	***	***	***	25.1	***	***	***
Italy.....	***	***	***	***	***	***	***
Thailand.....	***	***	***	***	***	***	***
Venezuela.....	***	***	***	***	***	***	***
Total.....	***	***	13.6	27.8	***	***	***
Apparent consumption..	100.0	100.0	100.0	100.0	100.0	100.0	100.0

¹ Based on f.o.b. U.S. shipping point values.

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Prices

Market Characteristics

Domestic producers and importers of rubber thread typically sell their product to manufacturers of elasticized intermediate goods such as round or flat braid, knitted or woven narrow fabric, and covered rubber yarns.¹⁰⁸ These intermediate goods are used to produce end products such as hosiery, active wear, medical garments, and undergarments. Domestic producers and importers of rubber thread generally sell directly to the manufacturer, and the imports are shipped either from stock in U.S. warehouses or directly from the production facilities.¹⁰⁹

Demand for specific types of rubber thread depends on the thread's coating (talced or talcless), gauge, chemical composition (standard, heat-resistant, food grade, etc.), color, and end count. The majority of both domestic and imported rubber thread sold in the U.S. market is talced or talcless, 24-44 gauge, standard compound, white or black thread sold in 30-60-end ribbons. Talcless rubber thread is gradually replacing talced rubber thread because of the excessive machine wear and environmental concerns associated with the talc coating. Some purchasers require special types of rubber thread. Hosiery producers typically need fine gauge (greater than 75 gauge) rubber thread. Purchasers whose products must have higher than normal heat tolerances require heat-resistant rubber thread.¹¹⁰ Elastic netting that is used for meatpacking must be made from specially formulated food grade rubber thread that is approved by the FDA. Producers of toys such as Koosh balls typically use nonstandard colors of rubber thread. Combined U.S. shipments of fine gauge, heat-resistant, food grade, and nonstandard-color extruded rubber thread accounted for more than 21 percent of the total U.S. market in 1991.

Producers and importers reported that demand for rubber thread has increased overall since 1987. *** attributes the increase in demand for rubber thread during the late 1980s to the recovery of the textile industry following the recession of the early 1980s. ***.

Several purchasers reported that spandex and cut rubber thread can be substituted for extruded rubber thread in some end uses. *** reports that spandex has permanently displaced extruded rubber thread in some hosiery and intimate apparel applications.¹¹¹ *** reported that cut rubber thread can be substituted for extruded rubber thread in the production of underwear tops, stretchable fabrics, sock tops, and other uses. However, knitters reported that cut rubber thread cannot be used in knitting operations because the square or rectangular thread does not pass through the knitting needles

¹⁰⁸ Extruded rubber thread is also used in the production of dust masks, bungee cords, and toys (such as Koosh balls).

¹⁰⁹ In both cases the customer is buying rubber thread from the importer and is not the importer of record.

¹¹⁰ ***.

¹¹¹ ECA's prehearing brief, pp. 11-12.

properly.¹¹² Extruded rubber thread is generally used whenever possible because it is typically much less expensive than the other products.¹¹³

Extruded rubber thread prices are typically quoted on a delivered per-pound basis. Globe reported that it issues price lists, as did Qualitex before it closed. These are generally used as starting points in price negotiations. The other U.S. producer, North American, and the importers of rubber thread do not issue price lists. Globe offers *** and ***-percent discounts for payment within *** days. North American occasionally offers discounts for payment within *** to *** days. One importer of Malaysian rubber thread, Flexfil, offers a ***-percent quantity discount to customers who buy full containers of rubber thread shipped directly to their plants. Domestic producers typically offer sales terms of net 30-60 days, whereas importers offer sales terms of net 45-60 days and, in a few cases, net 90 days.

Domestic producers and importers sell both on a contract and a spot basis. Globe sells *** percent of its rubber thread on a contract basis. Globe's contracts ***. North American sells *** of its rubber thread on a spot basis. Flexfil sells *** of its rubber thread by contract and *** on a spot basis. Flexfil's contracts ***. Sher & Mishkin, a former importer of rubber thread from Malaysia and ***, sold *** percent of its rubber thread on a contract basis and the remaining *** percent on a spot basis.¹¹⁴ Sher & Mishkin's contracts ***. Heveafil sells *** of its imported Malaysian rubber thread on the spot market. All of Heveafil's sales are ***. FLE *** sells *** of its imported Malaysian and Italian rubber thread on the spot market.

Although prices are quoted on a delivered basis, domestic producers and importers of rubber thread reported that transportation costs are not an important factor in their customers' sourcing decisions. Average U.S. transportation costs of U.S. and imported rubber thread are *** to *** percent of net delivered prices, depending on the distance that the thread must be shipped. Extruded rubber thread is typically shipped by truck, and the U.S. producers and importers generally pay the transportation costs.

The average lead times for delivery of U.S.-produced rubber thread are 6-21 days, whereas lead times for the imported product vary depending on whether the rubber thread is delivered from the importers' U.S. warehouses or shipped directly from the foreign production facilities to the customer. Deliveries of small shipments from the importers' U.S. warehouses can be made overnight, whereas deliveries of container loads (approximately 22,000 pounds) of imported rubber thread shipped directly from the foreign production facilities to the customer's plant require 56-90 days.

In general, U.S.-produced and imported Malaysian extruded rubber thread appear to be of similar quality. Most purchasers described domestic and

¹¹² Transcript of the hearing for inv. No. 731-TA-527 (Final), pp. 79, 80, and 121.

¹¹³ ***. ***.

¹¹⁴ Sher & Mishkin no longer sells extruded rubber thread. (See the "U.S. Importers" section.)

Malaysian extruded rubber thread as comparable in quality. In general, the end users of extruded rubber thread are not interested in or aware of the country of origin of the product. At the hearing, both the petitioner and the respondents agreed that extruded rubber thread that is made to the same specifications is interchangeable.¹¹⁵

Purchasers generally buy extruded rubber thread either weekly, monthly, or irregularly. They usually contact only one or two suppliers before making a purchase and rarely change suppliers.¹¹⁶ Some purchasers reported that importers offer better payment terms¹¹⁷ and nearly all purchasers reported that the imported product was priced below the domestic product. At the hearing, purchasers reported mixed opinions of the technical service offered by U.S. producers and importers of the Malaysian product.¹¹⁸ Several purchasers reported that the Malaysian salesmen make more frequent contact with them than domestic salesmen.¹¹⁹ Those purchasers that bought the domestic product even though the imported product was available at a lower price cited factors such as better availability and "Buy American" preferences.

Questionnaire Price Data

The Commission requested U.S. producers and importers to provide quarterly net delivered selling price data for each firm's largest sale during January 1987-June 1992 for the six representative products listed below:¹²⁰

¹¹⁵ John Friar, president of North American, maintained that "All producers of extruded rubber thread use similar formulations, with negligible differences in the end product." Transcript of the hearing for inv. No. 731-TA-527 (Final), p. 12. Walter Spak, representing the respondents, allowed that "We don't disagree that when products are the same specifications, that they are interchangeable." Transcript of the hearing for inv. No. 731-TA-527 (Final), p. 112.

¹¹⁶ Several purchasers reported that they contact only one supplier before making a purchase and have never changed suppliers.

¹¹⁷ One purchaser reported that importers of Malaysian extruded rubber thread offer open-account, net 30 days or net 60 days payment terms, whereas their domestic counterparts required cash before delivery. Another purchaser reported 5 percent, 60 days payment terms for the Malaysian product vs. 3 percent, 15 days payment terms for the domestic product.

¹¹⁸ Transcript of the hearing for inv. No. 731-TA-527 (Final), pp. 52-53 and 76.

¹¹⁹ Ibid., pp. 76-77 and purchaser questionnaire responses.

¹²⁰ David Sullivan, sales manager of North American, reported that rubber thread in the 26-34 gauge range (corresponding to yield rates of 650-1,150 yards per pound) is sold at the same price. Mr. Sullivan reported that the price of rubber thread in the 36-44 gauge range (corresponding to yield rates of 1,250-2,300 yards per pound) varies by approximately \$0.05 per pound. Transcript of the conference in inv. No. 731-TA-527 (Preliminary), p. 38. Walter Coyne, president of Flexfil, stated that rubber thread in the yield range of 650-1,150 yards per pound is the same product. Transcript of the conference in inv. No. 731-TA-527 (Preliminary), p. 75.

accounting for about *** percent of the quantity of domestic products and *** percent of the imported products for which price data were reported.

The Commission also requested purchasers to report delivered purchase prices of the U.S. and imported products 1-6 during January 1987-March 1992. Based on extruded rubber thread products 1-4 for which price data were reported, purchase quantities of U.S. products were *** percent of sales quantities reported by U.S. producers, and purchase quantities of the imported products were *** percent of sales quantities reported by U.S. importers. U.S. product purchase prices generally mirrored U.S. product sales prices, whereas imported product purchase prices were similar to imported product sales prices if they were lagged 1-4 quarters, depending on the product.

Price trends

As shown in tables 20-24 and figures 2-4, delivered selling prices of U.S.-produced extruded rubber thread products sold to end users generally increased during 1987-88, increased sharply in the first quarter of 1989 after prices for the rubber latex input rose sharply, then returned to pre-1989 price levels in 1990 and fluctuated around those levels during the rest of the period. Importers did not report price data for sales during 1987, and reported only one price series that included price data for sales during 1988. All the other price series began in 1989 or later. Those price series that began in 1989 tended to fall to lower levels in 1990, then fluctuated to higher levels at the end of the period. Imports from all sources were priced consistently below comparable domestic products in all quarters.

Table 20

Extruded rubber thread: Weighted-average net delivered prices and total quantities of U.S.-produced and imported product 1 sold to end users, by country and quarters, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 21

Extruded rubber thread: Weighted-average net delivered prices and total quantities of U.S.-produced and imported product 2 sold to end users, by country and quarters, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 22

Extruded rubber thread: Weighted-average net delivered prices and total quantities of U.S.-produced and imported product 3 sold to end users, by country and quarters, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 23

Extruded rubber thread: Weighted-average net delivered prices and total quantities of U.S.-produced and imported product 4 sold to end users, by country and quarters, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 24

Extruded rubber thread: Weighted-average net delivered prices and total quantities of U.S.-produced and imported products 5 and 6 sold to end users, by country and quarters, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure 2

Extruded rubber thread: Weighted-average net delivered prices of U.S.-produced and imported products 1 and 2 sold to end users, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure 3

Extruded rubber thread: Weighted-average net delivered prices of U.S.-produced and imported products 3 and 4 sold to end users, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure 4

Extruded rubber thread: Weighted-average net delivered prices of U.S.-produced product 5 and U.S.-produced and imported product 6 sold to end users, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

United States.--Prices for U.S. product 1 increased from \$*** per pound in the first quarter of 1987 to \$*** in the fourth quarter of 1988, increased sharply to \$*** in the first quarter of 1989, continued to rise to a period high of \$*** per pound by July-September 1989, and remained at this level the following quarter. Product 1 prices then fell to \$*** per pound in the first quarter of 1990 and generally continued their downward path to \$*** per pound in the second quarter of 1992, or *** percent above the initial-period value.

Prices for U.S. product 2 increased unevenly during 1987-88, from \$*** per pound in the first quarter of 1987 to \$*** per pound in the fourth quarter of 1988. Prices increased sharply to \$*** in the first quarter of 1989, then fell to \$*** per pound in the first quarter of 1990. Prices fluctuated around the \$*** per pound level during the rest of the period, ending at \$*** per pound, or *** percent above the initial-period value.

Prices for U.S. product 3 fluctuated between \$*** and \$*** per pound during 1987-88. Prices increased sharply to \$*** per pound in the first quarter of 1989, then fell to \$*** per pound in the second quarter of 1990. During the rest of the period prices fluctuated between \$*** and \$*** per pound, ending the period at \$*** per pound, or *** percent above the initial-period value.

Similar to product 3 price trends, prices for U.S. product 4 fluctuated upward from \$*** per pound in the first quarter of 1987 to \$*** per pound in the fourth quarter of 1988, then increased sharply to \$*** per pound in the first quarter of 1989. Product 4 prices remained at this level during the next quarter, then fell sharply to \$*** per pound in the third quarter of 1989. Prices declined steadily to \$*** per pound in the third quarter of 1990, increased steadily to \$*** per pound in the second quarter of 1991, then

fluctuated between \$*** and \$*** per pound during the rest of the period. During the entire period, prices fell overall by *** percent.

Available prices for U.S. product 5 remained at \$*** per pound during January 1990-March 1992, then fell to \$*** per pound at the end of the period. Prices for U.S. product 6 increased from \$*** per pound in the first quarter of 1987 to a period high of \$*** per pound in the first quarter of 1989. Product 6 prices then fell to a period low of \$*** per pound in the second quarter of 1990, remained at this level during the next two quarters, then increased to \$*** per pound in the first quarter of 1992, or *** percent above the initial-period value.

Malaysia.--Prices for imported Malaysian product 1 fell from \$*** per pound in the first quarter of 1988 to \$*** per pound in the third quarter of 1988, then increased sharply to a period high of \$*** per pound in the first quarter of 1989. Malaysian product 1 prices then fell sharply to a period low of \$*** in the first quarter of 1990, before increasing to \$*** per pound at the end of the period, or *** percent below the initial-period value.¹²⁵

Prices for imported Malaysian product 2 started at a period high of \$*** per pound in January-March 1989, fell to \$*** by October-December 1989, and then plummeted to \$*** per pound in the following quarter. Prices then fluctuated before falling to a period low of \$*** per pound by the first quarter of 1992, and then rose to end the period at \$*** per pound, or *** percent below the initial-period value.¹²⁶

Prices for imported Malaysian product 3 started at a period high of \$*** per pound in the third quarter of 1989, dropped sharply to \$*** per pound in the following quarter, recovered somewhat to \$*** per pound in the second quarter of 1990, and then fluctuated but fell to a period low of \$*** per pound in October-December 1991. Prices rebounded to \$*** per pound in January-March 1992 and ended the period at \$*** per pound, or *** percent below the initial-period value.¹²⁷

Prices for imported Malaysian product 4 started at a period high of \$*** per pound in the third quarter of 1989, dropped to \$*** per pound in the following quarter, rose irregularly to \$*** per pound by the second quarter of 1991, and then fell to a period low of \$*** per pound in October-December 1991. Prices rebounded to \$*** per pound in the second quarter of 1992 to end the period *** percent below the initial-period value.¹²⁸

Prices for imported Malaysian product 6 started at a period high of \$*** per pound in the third quarter of 1989, then fell sharply to \$*** per pound in the third quarter of 1990. Prices then fluctuated between \$*** and \$*** per

¹²⁵ During January 1988-June 1992, prices of the U.S. product 1 increased by *** percent.

¹²⁶ During January 1989-June 1992, prices of the U.S. product 2 fell by *** percent.

¹²⁷ During July 1989-June 1992, prices of the U.S. product 3 fell by *** percent.

¹²⁸ During July 1989-June 1992, prices of the U.S. product 4 fell by *** percent.

pound during the rest of the period, ending at \$*** per pound in January-March 1992, or *** percent below the initial-period value.¹²⁹

Italy.--Limited available prices for imported Italian product 1 increased irregularly from \$*** per pound in the second quarter of 1990 to \$*** per pound in the fourth quarter of 1991.¹³⁰ Prices for imported Italian product 2 fell from a period high of \$*** per pound in the second quarter of 1989 to a period low of \$*** per pound in the second quarter of 1990, then increased to \$*** per pound in the fourth quarter of 1991, or *** percent below the initial value.¹³¹ Prices for imported Italian product 3 fluctuated upward, increasing from \$*** per pound in the third quarter of 1990 to \$*** per pound in the second quarter of 1992.¹³² Limited available prices for imported Italian product 4 increased from \$*** per pound in the third quarter of 1990 to \$*** per pound in the fourth quarter of 1991.¹³³

Thailand.--Available prices for imported product 1 from Thailand fluctuated downward from \$*** per pound in the first quarter of 1989 to \$*** per pound in the fourth quarter of 1990.¹³⁴ Prices for imported product 2 from Thailand also fluctuated downward, declining from \$*** per pound in the first quarter of 1989 to \$*** per pound in the second quarter of 1991.¹³⁵

Comparison of U.S. extruded rubber thread prices and rubber latex input costs

Natural rubber latex is the most important input in the production of rubber thread, accounting for 80-85 percent by weight of the finished rubber thread product.¹³⁶ The latex input cost accounted for *** percent of North American's and *** percent of Globe's 1991 cost of goods sold for the production of extruded rubber thread; thus, the price of latex influences the price of extruded rubber thread. North American reported quarterly delivered prices for its contract purchases of natural rubber latex during January 1988-March 1992 from its principal supplier, ***, ***, ***, ***.

A comparison of weighted-average U.S. extruded rubber thread prices and North American's rubber latex input costs is shown in figure 5. The price of the rubber latex input increased by *** percent in the first quarter of 1989,

¹²⁹ During July 1989-June 1992, prices of the U.S. product 6 increased by *** percent.

¹³⁰ During April 1990-December 1991, prices for U.S. product 1 fell by *** percent.

¹³¹ During April 1989-December 1991, prices for U.S. product 2 fell by *** percent.

¹³² During July 1990-June 1992, prices for U.S. product 3 increased by *** percent.

¹³³ During July 1990-December 1991, prices for U.S. product 4 fell by *** percent.

¹³⁴ During January 1989-December 1990, prices for U.S. product 1 fell by *** percent.

¹³⁵ During January 1989-June 1991, prices for U.S. product 2 fell by *** percent.

¹³⁶ Petition, p. A-8, and transcript of the conference in inv. No. 731-TA-527 (Preliminary), p. 52.

while the prices for products 1-4 rose by *** to *** percent. The product 5 price series did not begin until the fourth quarter of 1989. The price for product 6 also increased in January-March 1989, but by only *** percent. From the first to the third quarter of 1989, the price of the rubber latex input declined by *** percent while prices for products 2-4 and 6 fell by *** percent and the price of product 1 rose by *** percent. After the third quarter of 1989, the price of the rubber latex input declined gradually through the second quarter of 1992, as did prices for all of the U.S. rubber thread products.

Figure 5

Weighted-average net delivered prices of U.S. extruded rubber thread products 1-6 and North American's rubber latex input costs, January 1987-June 1992

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the currencies of the four principal countries supplying rubber thread products to the United States fluctuated widely in relation to the U.S. dollar over the period from January-March 1987 through January-March 1992. Movements in the nominal value of individual currencies relative to the dollar ranged from a 7.2-percent appreciation for the Italian lira to a depreciation of 77.3 percent for the Venezuelan bolivar. Movements in the real value of these currencies relative to the dollar during the periods for which data were collected ranged from an appreciation of 16.0 percent for the Thai baht to a 5.8-percent depreciation for the Malaysian ringgit. Exchange rates and price data pertaining to the countries supplying the products covered in this investigation are presented in table 25.

Factors Other Than Imports Affecting the Domestic Industry

During the course of this investigation, parties in opposition to the petition argued that a number of factors more important than imports affect the domestic industry. These factors include the Malaysian producers' natural cost advantage associated with their access to domestically produced natural rubber latex, the domestic industry's significantly higher cost structure, competition from Qualitex, increased competition from spandex, and the latex price spike of 1988/89. Respondents also contend that the U.S. industry suffered from self-inflicted problems such as North American's investment in an antiquated facility, insufficient sales efforts made by the U.S. producers, and the limited product range offered by the U.S. producers.

Table 25

Exchange rates:¹ Nominal exchange rates of selected currencies in U.S. dollars, real exchange-rate equivalents, and producer price indicators in those countries, indexed by quarters, January 1987-March 1992

Period	U.S. Italy			Malaysia			Thailand			Venezuela			
	pro- ducer price index	Pro- ducer price index	Nominal exchange rate index	Real exchange rate index ²	Pro- ducer price index	Nominal exchange rate index	Real exchange rate index ²	Pro- ducer price index	Nominal exchange rate index	Real exchange rate index ²	Pro- ducer price index	Nominal exchange rate index	Real exchange rate index ²
1987:													
Jan.-Mar...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr.-June...	101.6	100.8	100.5	99.7	100.2	102.3	100.9	103.6	100.7	102.7	114.2	100.0	112.4
July-Sept...	102.8	101.8	98.2	97.3	101.9	100.6	99.7	107.5	100.0	104.7	123.7	111.1	133.7
Oct.-Dec...	103.3	102.4	104.6	103.7	104.0	101.6	102.3	110.6	101.5	108.7	129.6	111.5	140.0
1988:													
Jan.-Mar...	103.9	102.9	105.7	104.8	105.7	99.4	101.2	111.9	102.4	110.3	131.2	100.0	126.3
Apr.-June...	105.5	104.0	103.0	101.5	108.1	98.7	101.1	113.5	102.7	110.5	134.9	100.0	127.8
July-Sept...	107.1	105.5	94.2	92.9	111.1	96.3	99.9	115.0	101.3	108.8	141.9	100.0	132.5
Oct.-Dec...	107.6	106.9	99.2	98.5	111.0	94.9	97.9	115.8	102.6	110.4	149.8	100.0	139.3
1989:													
Jan.-Mar...	109.9	109.0	96.2	95.5	113.8	93.1	96.4	116.2	101.9	107.7	195.0	67.3	119.3
Apr.-June...	111.9	110.6	92.7	91.7	115.0	94.0	96.6	119.1	100.5	107.0	283.5	38.6	97.8
July-Sept...	111.5	111.4	94.2	94.1	112.6	94.8	95.8	122.0	99.9	109.4	309.1	38.6	107.0
Oct.-Dec...	111.9	113.1	97.8	98.8	112.0	94.3	94.4	119.9	100.2	107.4	313.8	34.5	96.9
1990:													
Jan.-Mar...	113.5	114.4	104.1	105.0	111.2	94.1	92.1	120.4	100.3	106.4	326.0	33.6	96.5
Apr.-June...	113.3	114.7	106.0	107.3	111.6	93.9	92.5	121.5	99.8	107.1	339.3	31.8	95.1
July-Sept...	115.3	115.8	110.9	111.4	113.5	94.4	92.9	122.7	101.3	107.7	362.0	29.6	92.9
Oct.-Dec...	118.8	117.6	115.8	114.6	120.3	94.4	95.5	129.1	103.0	111.9	374.0	29.1	91.6
1991:													
Jan.-Mar...	116.4	119.2	113.8	116.6	120.0	93.7	96.7	131.1	102.4	115.3	394.6	27.3	92.7
Apr.-June...	115.2	119.0	101.4	104.8	118.1	92.2	94.5	131.8	100.8	115.3	414.6	26.4	94.8
July-Sept...	115.0	119.4	100.3	104.1	118.1	91.8	94.2	132.7	100.7	116.1	439.1	24.6	94.1
Oct.-Dec...	115.2	119.9	106.7	111.1	(⁴)	92.9	(⁴)	131.6	101.6	116.0	464.7	24.0	96.9
1992:													
Jan.-Mar...	114.9	120.9	107.2	112.8	(⁴)	97.1	(⁴)	(⁴)	101.6	(⁴)	480.4	22.7	95.1

¹ Exchange rates expressed in U.S. dollars per unit of foreign currency.

² Producer price indicators--intended to measure final product prices--are based on period-average quarterly indices presented in line 63 of the International Financial Statistics.

³ The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and the specified country.

⁴ Not available.

Note.--January-March 1987 = 100. The real exchange rates, calculated from precise figures, cannot in all instances be derived accurately from previously rounded nominal exchange rate and price indexes.

Source: International Monetary Fund, International Financial Statistics, Sept. 1992.

Malaysian Producers' Natural Cost Advantage

Respondents argue that, because they have a local source of natural rubber latex, Malaysian producers have a natural cost advantage vis-a-vis the U.S. producers. Respondents maintain that the U.S. industry is more vulnerable to high markups and fluctuating latex prices because the U.S. producers must purchase their latex from middlemen through advance contracts. Furthermore, since the latex must then be shipped around the world by ocean freight, the U.S. producers do not use fresh latex in their production and must pay the freight cost of shipping the latex.¹³⁷

The petitioner contends that the Malaysian claims of a cost advantage are without merit. They argue that, although the Malaysian producers may benefit from spot market purchases when latex prices decline unexpectedly, the U.S. producers benefit from long-term contract purchases when latex prices increase unexpectedly. The petitioner maintains that, on balance, the Malaysian producers enjoy no net advantage.¹³⁸

Furthermore, the petitioner asserts that importers similarly incur brokerage costs when they ship rubber thread to the United States. The petitioner claims that, to the extent that Malaysian producers have set up U.S. selling subsidiaries to avoid these brokerage costs, there is no evidence that using a U.S. subsidiary is cheaper than using a broker.¹³⁹

The petitioner also maintains that transporting bulk latex with its relatively high water content is cheaper (on a per-pound-of-rubber-thread basis) than transporting extruded rubber thread with all its chemical ingredients and associated special packaging. The petitioner estimates that the cost of transporting Malaysian rubber thread to the United States is approximately *** cents per pound, whereas the cost of transporting one pound of natural rubber in latex form is 8 to 10 cents per pound on a dry-weight basis. Because one pound of rubber makes more than one pound of thread, the 8 to 10 cents becomes 7 to 8 cents on a per-pound-of-rubber-thread basis.¹⁴⁰

Higher U.S. Industry Cost Structure

Respondents claim that, during 1987-92, the average unit cost of goods sold for the U.S. producers was roughly \$*** per pound, whereas the average unit cost of goods sold for the Malaysian producers was approximately \$*** per pound. Respondents maintain that the imports have nothing to do with the U.S. industry's inability to produce extruded rubber thread at reasonable costs and

¹³⁷ Respondents' prehearing brief, pp. 21-22.

¹³⁸ Petitioner's posthearing brief in inv. No. 731-TA-527 (Final), p. 25.
(Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

¹³⁹ Ibid., p. 22.

¹⁴⁰ Ibid., p. 21. Counsel for respondents states that they "have not been able to verify or contradict" petitioner's point that the transportation expenses for latex are offset by the transportation costs incurred in shipping the finished rubber thread. Transcript, p. 156.

operating efficiency, and there is nothing that the U.S. industry can do to eliminate the cost advantage.

The petitioner questions the respondents' cost comparison of different product mixes of rubber thread, and cites Malaysian rubber thread export subsidies of 10 percent as one reason for any cost difference. The petitioner also questions the cost figures that the Malaysian producers supplied the Commission. Furthermore, the petitioner asserts that any cost advantages attributable to economies of scale that the Malaysian producers have over the U.S. producers are the result of import competition. The petitioner maintains that imports from Malaysia have taken the long production order sales and have forced U.S. producers, particularly North American, to accept smaller spot orders. These smaller orders require more frequent machine changes and lead to increased per-unit scrap and other costs.

Competition from Qualitex

Respondents maintain that Qualitex was the lowest cost producer in the U.S. market. Respondents argue that it was competition from Qualitex, and not imports, that forced Globe to pursue high-end niche markets. Respondents contend that North American could not compete with Qualitex in terms of quality or price and, therefore, was forced to play a secondary role in the U.S. market. Questionnaire data show that Qualitex's share of U.S. producers' domestic shipments fell regularly during 1987-90. In quantity terms, Qualitex's domestic shipments accounted for *** percent of U.S. producers' domestic shipments in 1987, *** percent in 1988, *** percent in 1989, and *** percent in 1990. Qualitex left the industry in October 1990.

Competition from Spandex

Respondents argue that the U.S. extruded rubber thread industry is facing increased competition from spandex. Respondents cite testimony of several narrow fabric producers indicating that many of their customers have switched from extruded rubber thread products to spandex. Respondents contend that spandex competes most directly with high-priced extruded rubber thread products and therefore competes with U.S.-produced rubber thread in particular.¹⁴¹

The petitioner maintains that there are few common uses of spandex and extruded rubber thread. They contend that spandex is primarily used in applications that require very thin elastic thread, such as bicycle pants and swimsuits. The petitioner claims that spandex is also used in products that must be drycleaned or that resist solvents. They state that extruded rubber thread cannot be used in these applications and suggest that even in those applications that can use both spandex and extruded rubber thread there is little direct competition because spandex costs *** to *** times more per pound than extruded rubber thread.¹⁴²

¹⁴¹ Respondents' posthearing brief, pp. 26-28.

¹⁴² Petitioner's posthearing brief in inv. No. 731-TA-527 (Final), pp. 12-14. (Permission granted by counsel for the petitioner to incorporate information into the record for the instant investigation.)

The Rubber Latex Price Spike of 1988-89

Respondents suggest that the rubber latex price spike of 1988-89 may have been a cause of any injury to the U.S. industry. Respondents note that the petitioner cited 1989 and 1990 as years when they experienced poor financial performance. Respondents argue that during 1989-90 it is likely that the difference between the U.S. industry's selling price and its raw material costs was reduced dramatically. Consequently, the financial performance of the U.S. industry may have been seriously affected. Respondents urge the Commission to account for the effects of the 1988-89 rubber latex price spike when it is considering the financial condition of the U.S. industry during this time.

North American's Antiquated Production Facilities

Respondents argue that North American made an unwise investment decision when it bought Pilgrim Latex's production facility. Respondents claim that this production facility is obsolete and cannot compete with other production facilities in the United States and the Far East. Respondents cite testimony of purchasers characterizing North American's production facility as "antiquated" and "outdated and inadequately equipped."¹⁴³

The petitioner explains that North American ***. ***.¹⁴⁴ ***.¹⁴⁵

U.S. Producers' Insufficient Sales Efforts

Respondents claim that U.S. producers have made little if any effort to market their products. They cite comments from several purchasers as evidence that Globe and North American have not marketed their products aggressively.¹⁴⁶

U.S. producers claim that they market their products aggressively, but are often unable to compete with the low prices offered by importers.¹⁴⁷ North American maintains that it calls all customers, but is often unable to offer competitive prices.¹⁴⁸ Globe claims that it attempted to reduce prices to compete with imports, but was unable to react quickly enough to avoid losing market share.¹⁴⁹

U.S. Producers' Limited Product Range

Respondents maintain that the U.S. producers have made no effort to compete in many market segments, including food grade rubber thread and talced rubber thread.¹⁵⁰ Respondents assert that Globe and North American have

¹⁴³ Respondents' posthearing brief, pp. 30-32.

¹⁴⁴ ***. ***.

¹⁴⁵ Petitioner's posthearing brief, exhibit 10.

¹⁴⁶ Respondents' prehearing brief, pp. 30-32; respondents' posthearing brief, p. 34; and transcript of the hearing, pp. 120 and 123.

¹⁴⁷ Transcript of the hearing in inv. No. 731-TA-527 (Final), pp. 156-7 and 159.

¹⁴⁸ Ibid., p. 159. Petitioner's prehearing brief, exhibit 3.

¹⁴⁹ Transcript of the hearing in inv. No. 731-TA-527 (Final), pp. 156-7.

¹⁵⁰ Respondents' posthearing brief, pp. 36-37.

refused to undertake the necessary research to produce food grade rubber thread that complies with FDA restrictions on nitrosamines. Respondents also claim that Globe and North American have abandoned the talced rubber thread segment.¹⁵¹ Respondents cite testimony of a purchaser, Beech Island, that suggests that North American could not supply them with satisfactory talced rubber thread.¹⁵²

The petitioner claims that they are ***. Globe reports that it is in the process of having its food grade product analyzed by an independent laboratory, and plans to submit a petition to the FDA to be able to market food grade rubber thread.¹⁵³ North American believes that ***. ***.

C & K Manufacturing, a purchaser of food grade rubber thread, reported that it takes 18 to 24 months and well over \$100,000 to submit a petition to produce food grade rubber thread to the FDA. C & K reports that the Malaysian producers Rubberflex and Heveafil both submitted food additive petitions to the FDA in January 1992.

U.S. Producers' Efforts to Compete with Imports

Through its questionnaires, the Commission requested that U.S. producers of rubber thread describe efforts made since 1987 to compete more effectively with imports. A summary of the information provided by *** follows:¹⁵⁴

<u>Efforts undertaken</u>	<u>Expense per year (1,000 dollars)</u>	<u>Competitive advantage of the effort</u>
Investments made in--		
* * *	* * *	* * *
Cost reductions with existing equipment:		
* * *	* * *	* * *

Tabulation continued.

¹⁵¹ Questionnaire data show that, in 1991, U.S. producers' shipments of talced rubber thread accounted for *** percent of U.S. producers' domestic shipments of rubber thread and *** percent of all U.S. shipments of domestic and imported talced rubber thread. (These figures are understated because they do not include shipments of fine gauge and heat-resistant rubber thread, which are for the most part talced and are predominantly supplied by U.S. producers.)

¹⁵² Transcript of the hearing, pp. 131-135.

¹⁵³ Ibid., p. 171.

¹⁵⁴ ***. *** stated the following:

* * * * *

<u>Efforts undertaken</u>	<u>Expense per year (1,000 dollars)</u>	<u>Competitive advantage of the effort</u>
Diversifications/expansions:		
*	*	*
Research and development:		
*	*	*
Organizational changes:		
*	*	*
Marketing changes:		
*	*	*
Other competitive efforts:		
*	*	*

A number of the items listed by ***, specifically ***, were undertaken with the aim of manufacturing a product not offered by competitors in Malaysia.¹⁵⁵

¹⁵⁵ Additionally, in its prehearing brief (pp. 19-20), North American reports ***.

APPENDIX A
FEDERAL REGISTER NOTICE

SUPPLEMENTARY INFORMATION:**Participation in the Investigation and Service List**

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 202.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Hearings on Injury and Remedy

The Commission has scheduled separate hearings in connection with the injury phase (including critical circumstances and provisional relief, if necessary) and the remedy phase of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on September 11, 1992, in the Main Hearing Room of the U.S. International Trade Commission Building. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on November 3, 1992. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before August 28, 1992, and October 28, 1992, respectively. All persons desiring to appear at the hearings and make oral presentations should attend prehearing conferences to be held at 9:30 a.m. on September 2, 1992, and October 29, 1992, respectively, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by §§ 201.6(b)(2) and 201.13(f) of the Commission's rules.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on injury is September 4, 1992; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. 225(a)(6)(B), is October 27, 1992. Parties may also file posthearing briefs. The deadline for filing posthearing briefs on injury is September 18, 1992; that for filing posthearing briefs on remedy is November 10, 1992. In addition, any person who has not entered an appearance as a party to the investigation may submit a written

[Investigation No. TA-201-63]

Extruded Rubber Thread

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation under section 202 of the Trade Act of 1974 (19 U.S.C. 2251, et seq.) (the act) and scheduling of hearings.

SUMMARY: Following receipt of a petition filed on June 18, 1992, as amended on June 23, 1992, by North American Rubber Thread Co., Inc., Fall River, MA, the United States International Trade Commission instituted investigation No. TA-201-63 under section 202 of the Trade Act of 1974 to determine whether extruded rubber thread of natural rubber latex, classified under heading 4007.00.00 of the Harmonized Tariff Schedule of the United States, is 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 the imported article.

For further information concerning the conduct of this 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 208, subparts A and B (19 CFR part 208).

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202-205-3172) or Lori Hylton (202-205-3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., 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.

statement of information pertinent to the consideration of injury on or before September 18, 1992, and pertinent to the consideration of remedy on or before November 10, 1992. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the rules.

In accordance with § 201.16(c) of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the 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 the authority of section 202 of the Trade Act of 1974. This notice is published pursuant to § 206.3 of the Commission's rules.

Issued: July 7, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-16614 Filed 7-14-92; 8:45 am]

BILLING CODE 7000-02-01

APPENDIX B
LISTS OF WITNESSES APPEARING AT THE COMMISSION'S HEARINGS

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the U.S. International Trade Commission's hearing on injury:

Subject : EXTRUDED RUBBER THREAD
(Injury hearing)

Investigation No. : TA-201-63

Date and Time : September 11, 1992 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the U.S. International Trade Commission, 500 E St., SW., Washington, DC.

IN SUPPORT OF THE PETITION:

Ablondi & Foster
Washington, DC
On behalf of

North American Rubber Thread

John Friar, President

David Sullivan, Sales Manager

Robert Bailey, Vice President, Globe

William Girrier, Marketing Manager, Globe

Louis Lavoie, President, Northeast Knitting

J. Keith Crisco, President, Asheboro Elastics Corp.

Peter Koenig--OF COUNSEL

IN OPPOSITION TO THE PETITION:

Wilkie Farr & Gallagher
Washington, DC
On behalf of

Heveafil Sdn. Bhd
Filmax Sdn. Bhd.
Rubberflex Sdn. Bhd.
Filati Lastex Elastofibre
Rubfil Sdn. Bhd.

(Malaysian Producers)

Alvin I. Lebensfeld, Secretary,
Beech Island Knitting

William J. Kurzenberger, President
and
Timothy Carroll, Vice-President
C&K Mill/Rippletwist

John Elliott, President
Rhode Island Textile Co.
South Carolina Elastic

Dr. James Marsden, Vice President
Scientific Affairs,
American Meat Institute

Walter J. Spak)
James P. Durling)--OF COUNSEL

IN OPPOSITION TO THE PETITION:

C & M International Ltd.
and
Crowell & Moring
Washington, DC
On behalf of

Elastic Corp. of America (NFA)
(Purchasers of domestic and imported
Product)

Edward W. Gleadall, President

David Casty, Chairman

Economic Consultants:

Elizabeth H. Ravesteijn, C&M International

C. Michael Hathaway)--OF COUNSEL

- END -

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the U.S. International Trade Commission's hearing on remedy:

Subject	:	EXTRUDED RUBBER THREAD (Remedy Hearing)
Inv. No.	:	TA-201-63
Date and Time	:	November 3, 1992 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the U.S. International Trade Commission, 500 E St., S.W., Washington, DC.

IN SUPPORT OF THE PETITION:

Ablondi & Foster
Washington, D.C.
On behalf of

North American Rubber Thread

John Friar, President

David Sullivan, Vice President

Globe Manufacturing Company

Robert Bailey, Vice President, Sales and Marketing

William Girrier, Marketing Manager

Louis Lavoie, President, Northeast Knitting Co.

Peter Koenig--OF COUNSEL

IN OPPOSITION TO THE PETITION:

Wilkie Farr & Gallagher
Washington, D.C.
On behalf of

Malaysian Producers

Heveafil Sdn. Bhd.

Filmax Sdn. Bhd.

Rubberflex Sdn. Bhd.

Filati Lastex Elastofibre

Rubfil Sdn. Bhd.

Timothy Carroll, Vice President
C&K Mill

John Elliot, President
Rhode Island Textile Company

Kenneth R. Button, Ph.D., Vice President
Economic Consulting Services, Inc.

Walter J. Spak)
Russel L. Smith)--OF COUNSEL
James P. Durling)

Crowell & Moring
C&M International Ltd.
Washington, D.C.
On behalf of

Elastic Corporation of America

David Casty, Chairman

C. Michael Hathaway--OF COUNSEL

APPENDIX C
GLOSSARY OF TECHNICAL TERMS

GLOSSARY OF TECHNICAL TERMS

Accelerators. Compounding material used to reduce vulcanization time (cure time) by increasing the rate of crosslinking.

Activator. Compounding material used in small proportions to increase the effectiveness of an accelerator.

Antioxidant. Compounding material used to retard deterioration caused by oxidation.

Coagulation. A physical or chemical change inducing transition from a fluid to a semisolid or gel-like state.

Dispensing agents. Materials added to a suspending medium to promote and maintain the separation of discrete, fine particles of solids or liquids.

Elasticity. The property allowing matter to return to its original size and shape after removal of the stress causing deformation such as stretching, compression, or torsion. It is the opposite of plasticity. It is often loosely employed to signify the "stretchiness" of rubber. As applied to rubber, it usually refers to the phenomenal distance to which vulcanized rubber can be stretched without losing its ability to return very nearly to its original shape; in this respect rubber is the most elastic substance known.

Extender. A relatively inert substance added to a plastic or rubber compound to reduce its cost and/or to improve physical properties, particularly hardness, stiffness, and impact strength.

Extrusion. The process of forcing a plastic material through an orifice so as to obtain the material in continuous lengths of definite shape. In rubber manufacturing, extrusion is used in various operations such as rubberizing bead wire, making of tubes, preparation of tire treads, straining, and thread.

Latex. An aqueous colloidal emulsion of rubber (natural or synthetic) or certain plastics. It generally refers to the emulsion obtained from a tree or plant or produced by emulsion polymerization.

Pigment. General term for all colorants, organic and inorganic, natural and synthetic, which are insoluble in the medium in which they are used. Many fillers or extenders, among them carbon black, act as powerful pigments.

Stabilizers. An agent used to keep a compounded mixture or solution from changing its physical or chemical nature throughout processing and service life of the material and/or the parts made therefrom.

Vulcanization. An irreversible process during which a rubber compound, through a change in its chemical structure, (for example, crosslinking), becomes less plastic and more resistant to swelling by organic liquids, and elastic properties are conferred, improved, or extended over a greater range of temperature.

Source: American Society for Testing Materials, Glossary of Terms Relating to Rubber and Rubber Technology; Whittington's Dictionary of Plastics; Gessner G. Hawley, The Condensed Chemical Dictionary; and K.F. Heinisch, Dictionary of Rubber.

APPENDIX D
LETTER FROM QUALITEX, INC., REGARDING CLOSURE



QUALITEX INC.

EXTRUDED RUBBER THREADS FROM NATURAL LATEX

(401) 751-5727
TELEX 6972012

19 INDUSTRIAL LANE, JOHNSTON, R.I. 02919
POST OFFICE BOX 7008 • U.S.A.

October 30, 1990

To Whom It May Concern:

As of October 26, 1990, Qualitex Inc. of Johnston, R.I. has ceased the manufacturing and sales of rubber threads to the Textile Industry. This action was brought about as a direct result of the arrival of foreign goods here in the United States.

In the last two years we have seen the arrival of rubber thread from the far east. The market place has responded to the importation of goods by the purchase of them in ever increasing quantities. These actions have been driven by the price erosion that has occurred as a result of the introduction of these goods. This price erosion has reached the point that Qualitex Inc. can no longer be competitive in today's market place.

In consideration of the above and the projections that imports will continue to gain larger market shares, the management of the company has been forced to take the above actions.

Davide Monti
V.P. of Manufacturing

Qualitex Inc. (Corporate Office)
604 Pressley Road
Charlotte, N.C. 28217
1-(704) 525-1401

APPENDIX E
SUMMARY DATA CONCERNING THE U.S. MARKET

Table E-1

Extruded rubber thread: Summary data concerning the U.S. market, 1987-91, January-June 1991, and January-June 1992

(Quantities in 1,000 pounds; values in 1,000 dollars; unit values and unit labor costs in dollars per pound; period changes in percent, except as noted)

Item	Reported data						Jan. - June - -	
	1987	1988	1989	1990	1991	1991	1992	
	*	*	*	*	*	*	*	

Source: Compiled from data presented in the body of this report.

APPENDIX F

**EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT
AND PRODUCTION EFFORTS, GROWTH, INVESTMENT,
AND ABILITY TO RAISE CAPITAL**

The Commission requested U.S. producers to describe the actual and potential negative effects of imports of rubber thread on the producers' existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), growth, investment, and ability to raise capital. The responses by the producers are shown below.

* * * * *

NORTH AMERICAN RUBBER THREAD COMPANY, INC. (NART)

Actual Negative Impact

The following was submitted by North American in its response to the Commission's questionnaire in the instant investigation:

* * * * *

Potential Negative Impact

* * * * *

The Commission requested U.S. producers to describe the actual and potential negative effects of imports of rubber thread on the producers' existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), growth, investment, and ability to raise capital. The responses by the producers are shown below.

* * * * *

NORTH AMERICAN RUBBER THREAD COMPANY, INC. (NART)

Actual Negative Impact

The following was submitted by North American in its response to the Commission's questionnaire in the instant investigation:

* * * * *

Potential Negative Impact

* * * * *

