

# **FABRIC AND EXPANDED NEOPRENE LAMINATE FROM TAIWAN**

**Determination of the Commission in  
Investigation No. 731-TA-371  
(Preliminary) Under the Tariff Act  
of 1930, Together With the  
Information Obtained in the  
Investigation**

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# **UNITED STATES INTERNATIONAL TRADE COMMISSION**

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Note.—Information which would reveal the confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC

Investigation No. 731-TA-371 (Preliminary)

FABRIC AND EXPANDED NEOPRENE LAMINATE FROM TAIWAN

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, 2/ pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Taiwan of fabric and expanded neoprene laminate, provided for in items 355.81, 355.82, 359.50, and 359.60 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value (LTFV). 3/

Background

On December 23, 1986, a petition was filed with the Commission and the Department of Commerce by Rubatex Corp., Bedford, VA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of fabric and expanded neoprene laminate from Taiwan. Accordingly, effective December 23, 1986, the Commission instituted preliminary antidumping investigation No. 731-TA-371 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting

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

2/ Chairman Liebelier dissenting.

3/ Vice Chairman Brunsdale determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports.

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 January 5, 1987 (52 F.R. 365). The conference was held in Washington, DC, on January 12, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF VICE CHAIRMAN ANNE BRUNSDALE AND COMMISSIONERS  
ALFRED ECKES, SEELEY LODWICK, AND DAVID ROHR

We determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of fabric and expanded neoprene laminate (FENL) from Taiwan that are allegedly sold at less than fair value.

(LTFV). 1/ 2/ 3/ 4/ 5/

1/ Vice Chairman Brunsdale determines only that there is a reasonable indication that the domestic industry is threatened with material injury and, therefore, does not join in the section of this opinion in which the majority finds a reasonable indication of material injury by reason of the subject imports.

2/ Chairman Liebler joins the discussion of her colleagues in the majority on the questions of the like product and the domestic industry and in their discussion of the condition of the domestic industry.

3/ Material retardation of the establishment of an industry in the United States is not an issue in this investigation and will not be further discussed.

4/ In a prior investigation we determined that the domestic FENL industry was materially injured by reason of LTFV imports from Japan. Fabric and Expanded Neoprene Laminate from Japan, Inv. No. 731-TA-206 (Final), USITC Pub. 1721 (July 1985) (hereafter "FENL from Japan"). Both that investigation and this investigation were initiated by the same petitioner, Rubatex Corp., Bedford, Virginia.

5/ In *American Lamb Co. v. United States*, the U.S. Court of Appeals for the Federal Circuit told the Commission that it should continue a preliminary investigation unless--

- (1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and
- (2) no likelihood exists that contrary evidence will arise in a final investigation.

785 F.2d 994, 1001 (Fed. Cir. 1986). See also *Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore*, Invs. Nos. 731-TA-367 through 370 (Preliminary), USITC Pub. 1937 at 6-7 (Jan. 1987) (hereafter *Color Picture Tubes*).

### Like Product and Domestic Industry

The statutory framework within which the Commission must conduct its antidumping investigations requires, as a threshold matter, that we determine the domestic industry against which to assess the impact of the allegedly LTFV imports. According to the statute, the "industry" consists of "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product;" <sup>6/</sup> and the "like product" is "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to investigation . . . ." <sup>7/</sup>

The like product determination is essentially factual and is made on a case-by-case basis. Minor variations in products are insufficient to cause us to find separate like products. <sup>8/</sup>

The imported article that is the subject of this investigation is fabric

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<sup>6/</sup> 19 U.S.C. § 1677(4)(A).

<sup>7/</sup> 19 U.S.C. § 1677(10).

<sup>8/</sup> See, e.g., Color Picture Tubes, supra p. 3, at 4. Moreover, the legislative history cautions that:

[t]he requirement that a product be 'like' the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the [domestic] product and the [imported] article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation.

S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).



and expanded neoprene laminate. <sup>9/</sup> In a prior investigation, we described it as follows:

. . . FENL is a sheet of rubber with a textile fabric bonded to one or both sides of the rubber. The rubber is an expanded rubber, usually neoprene or a blend predominantly of neoprene. The textile portion of the composite is primarily nylon, or a combination of nylon and spandex, which are used because they possess desired stretch and tensile-strength characteristics. The nylon fabric is available in various colors and constructions.

FENL is . . . used in surfing, sailboarding, diving, and other water sports. It is also used in sports-related activities, such as sailing apparel and ski masks, and, to a lesser extent, for eyeglass cases, mats, and bottle holders. <sup>10/</sup>

Domestic FENL is produced in a variety of grades, distinguishable by the recipes followed in their manufacture and the size and distribution of the air cells in the rubber. <sup>11/</sup> In FENL from Japan the Commission determined that the like product consisted of petitioner's G-231-N, R-1400-N, R-6000-N, R-131-N, and "008," and Kirkhill Rubber Company's LM300, S500, OS450, and

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<sup>9/</sup> The article subject to investigation is determined by the Department of Commerce (Commerce). Commerce has determined that "[t]he product covered by this investigation is fabric and expanded neoprene laminate currently classified under item numbers 355.81, 355.82, 359.50, and 359.60 of the Tariff Schedules of the United States (TSUS). This material is used primarily in the manufacture of wetsuits and similar products for the skin diving and recreational markets." 52 Fed. Reg. 2134 (Jan. 20, 1987).

<sup>10/</sup> Fabric and Expanded Neoprene Laminate from Japan, Inv. No. 731-TA-206 (Preliminary), USITC Pub. 1608, at 4-5 (Nov. 1984), cited with approval in FENL from Japan, supra p.3. See also Report of the Commission (Report) at A-2.

<sup>11/</sup> Report at A-3.

SE500. <sup>12/</sup> Petitioner stated that it continues to produce and market the same FENLs <sup>13/</sup> and Kirkhill has stated that it produces essentially the same products today as it did in 1985. <sup>14/</sup>

At the conference, Shieh Chung Hsin Ind. Ltd. (Sheico), the only Taiwanese exporter, stated that a large percent of its exports to the U.S. consisted of seconds. <sup>15/</sup> "[T]he defects on the seconds are usually caused by glue, ruffles, wrinkles, cavities, stains on the fabrics, thickness discrepancy, color discrepancy, et cetera." <sup>16/</sup> Sheico argued that the seconds do not compete with petitioner's FENLs and, therefore, should be treated separately from its exports of first quality material. <sup>17/</sup> Petitioner, on the other hand, stated that it had no disagreement with the Commission's like product definition in FENL from Japan. <sup>18/</sup>

Sheico's testimony at the conference shows that its seconds are not

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<sup>12/</sup> FENL from Japan, *supra* p.3, at 5-7. Commissioner Rohr determined that G-231-N was not included within the scope of the like product. *See* n.23, *infra*.

<sup>13/</sup> Transcript of the Conference (Tr.) at 23-25.

<sup>14/</sup> Staff telephone notes.

<sup>15/</sup> Tr. at 35.

<sup>16/</sup> *Id.* at 36.

<sup>17/</sup> *Id.*

<sup>18/</sup> *Id.* at 30.

articles of overall inferior quality. <sup>19/</sup> Rather, 50 to 70 percent of the surface area of its seconds is first quality material. <sup>20/</sup> Moreover, seconds generally are used in the same manner as first quality FENL. Patterns for FENL products are placed over FENL sheets in such a way as to minimize waste by positioning the defects so that they fall between the areas covered by the patterns. If a defect renders the sheet partially or totally unusable, the defective sheet is replaced, or a credit is negotiated with the customer. <sup>21/</sup> Finally, there are some uses for which the market does not distinguish between first quality goods and seconds.

Accordingly, we decline to separate the imported seconds from imports of first quality, but find instead that there is a single like product. <sup>22/</sup> As in the case of FENL from Japan, we conclude that the like product consists of petitioner's G-231-N, R-1400-N, R-6000-N, R-131-N, and "008," and Kirkhill

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<sup>19/</sup> We note that Sheico's exports of first quality material to the United States far exceed their exports of seconds. Report at A-3.

<sup>20/</sup> Id. and Tr. at 36.

<sup>21/</sup> See questionnaires and staff notes.

<sup>22/</sup> Chairman Liebler and Vice Chairman Brunsdale note that whether the Commission separates the imports into two articles or one is immaterial. Since petitioner no longer sells seconds (we have no information from Kirkhill in this regard), the product "most similar in characteristics and uses with" the imported seconds would be domestic first quality FENL. Therefore, even if we separated the imports into two articles, the like product for both the seconds and the first quality material would be domestic first quality FENL. Thus, we would be examining the impact of both qualities of imports on the same domestic industry.

Rubber Company's LM300, S500, OS450, and SE500. <sup>23/</sup> The domestic industry, therefore, consists of the domestic manufacturers of fabric and expanded neoprene laminate, Rubatex Corp. and Kirkhill Rubber Co.

Condition of the domestic industry <sup>24/ 25/</sup>

In evaluating the condition of the domestic industry, the Commission considers, among other factors, U.S. production, capacity utilization, domestic shipments, inventories, employment, and financial performance. <sup>26/</sup>

In FENL from Japan, which covered the period January 1982 through March 1985, we noted adverse trends in almost all of the indicators traditionally considered by the Commission. <sup>27/</sup> Full year data for 1985 and 1986 collected in this investigation show improvements in some indicators since

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<sup>23/</sup> Commissioner Rohr finds that G-231-N is not encompassed within the like product. He notes that G-231-N has characteristics different from other forms of FENL, it is produced in a different manner, and it has distinct uses for which other types of FENL do not substitute in any meaningful way. See FENL from Japan, supra p.3, at 6, n.16. He further notes that in the preliminary conference in this investigation petitioner stated, "[b]ut I don't think it's being fair to say that the G-231 is in direct competition with the Taiwanese material. It would be nice, but it's not the case." Tr. at 24.

<sup>24/</sup> As there are only two domestic producers of FENL, much of the information is business confidential and can be discussed only in general terms in this opinion.

<sup>25/</sup> Commissioner Rohr notes that, for purposes of this preliminary investigation, it was not possible to obtain separate data for the G-231-N product that he excluded from the like product analysis. Such separate information will be sought in any final investigation. As authorized by 19 U.S.C. § 1677(4)(D), he has therefore chosen to look at the industry at a higher level of aggregation including the data for G-231-N.

<sup>26/</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>27/</sup> FENL from Japan, supra p.3, at 8.

1984 but continued declines in others. <sup>28/</sup>

In particular, capacity has remained constant since 1984 and production has increased slightly, though shipments have declined rather substantially. <sup>29/</sup> Two factors appear to account for the inconsistent trends in production and shipments. First, much of the industry's unsold production has been placed in inventory, with the result that the ratio of inventories to shipments has grown substantially over the period of investigation. <sup>30/</sup> Second, the largest domestic producer discontinued open market sales of defective FENL in 1986, choosing instead to use its seconds in the manufacture of other products. <sup>31/</sup> This caused producers' shipments to fall without a corresponding decline in production. <sup>32/</sup>

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<sup>28/</sup> Commissioner Rohr notes that in fact, there has been significant improvement in many of the indicators between 1985 and 1986. He notes however that it is unclear whether the improvements are the result of the manner in which the data was collected by the industry or whether they reflect actual improvement in the operating performance of the industry.

<sup>29/</sup> Report at Tables 1 and 2.

<sup>30/</sup> Id. at Table 3.

<sup>31/</sup> Id. at A-5. We note that this producer's 1986 decision to stop selling seconds coincided with the Taiwanese respondent's introduction of seconds into the U.S. market. Should this case return for a final investigation, one area that we will explore in connection with our causation analysis is whether the introduction of Taiwanese seconds forced the U.S. producer to abandon this segment of the market, or whether the simultaneous decisions of the two producers were merely coincidental. We invite the parties to any final investigation to submit evidence on this question.

<sup>32/</sup> Commissioner Rohr notes that at present there is little evidence to support any particular explanation of the 1986 improvements in the indicators, and that an analysis of the 1986 performance of the industry will be a critical factor for him should this matter return for a final investigation.

Employment data are mixed. Both the hours worked by production and related workers and the average number of such employees fell over the period of investigation, but because production increased, labor productivity rose and the unit labor cost of producing FENL declined. <sup>33/</sup> Average hourly compensation paid to production and related employees also increased. <sup>34/</sup>

Financial indicators show considerable improvement in operating income and margins, but net sales in 1986 remained below the already low levels of 1984. Further, 1986 net sales and operating income were well below 1983 levels and operating margins were somewhat below 1983 levels. <sup>35/</sup> <sup>36/</sup>

On balance, the domestic industry in 1986 is not significantly better off than when we last examined it in FENL from Japan and found that it was experiencing material injury. <sup>37/</sup> We therefore find that there is a reasonable indication that the domestic industry is experiencing material injury. <sup>38/</sup> <sup>39/</sup>

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<sup>33/</sup> Report at Tables 4 and 5.

<sup>34/</sup> Id. at Table 5.

<sup>35/</sup> Id. at Tables 6 and 9.

<sup>36/</sup> Vice Chairman Brunsdale notes that the financial data on the overall operations of establishments producing FENL are considerably better than data reported for FENL production alone, Report at Table 7, leading her to question the cost allocations made by the domestic industry. For purposes of this preliminary investigation, she has accepted these allocations, but if this investigation returns to the Commission for a final phase, she will expect clarification of the basis of the allocations.

<sup>37/</sup> FENL from Japan, supra p.3, at 8.

<sup>38/</sup> Vice Chairman Brunsdale was not a member of the Commission at the time that FENL from Japan was decided, has not had access to all of the information before the Commission at the time of that decision, and therefore does not rely on that decision in reaching her determination in the present investigation. Based on the record before the Commission in this investigation, in particular the evidence of increasing domestic production and improvements in the industry's financial performance over the period of investigation, she is unable to find a reasonable indication that the domestic industry is currently experiencing material injury. In view of the decline in shipments and the rise in inventories, however, she concludes that the domestic industry may be in a weakened state.

<sup>39/</sup> Commissioner Lodwick notes that the margin of profit on transactions improved in 1986, as indicated by higher operating margins than in 1984 and 1985, but the level of transactions generated by the domestic industry remained low, as indicated by the lower shipment volumes and net sales in 1986 compared to 1984.

Reasonable Indication of Material Injury by Reason of Allegedly LTFV Imports from Taiwan <sup>40/</sup> <sup>41/</sup>

In determining whether the domestic industry is materially injured "by reason of" LTFV imports, the Commission is to consider, among other factors, the volume of the imports subject to investigation and the effect of these imports on prices in the United States for the like product and on the domestic industry. <sup>42/</sup>

The absolute quantity of imports from Taiwan has increased sharply over the period of investigation. <sup>43/</sup> As a share of apparent domestic consumption, the volume of imports from Taiwan has also increased very sharply. In value terms, imports have increased, but not as sharply because of a decrease in their prices. <sup>44/</sup>

Pricing data were collected by grade of FENL from both the domestic producers and the major importers. Since both parties to the investigation indicated that the single grade of Taiwanese material was most similar to Rubatex' 008 material, our pricing comparisons concentrated on these two.

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<sup>40/</sup> Having found no reasonable indication that the domestic industry is experiencing material injury, see n.38, supra, Vice Chairman Brunsdale does not join in this section of the opinion. She joins the subsequent section regarding threat of material injury.

<sup>41/</sup> Because there is only one exporter of FENL from Taiwan and a limited number of imports, the data regarding the impact of the subject imports may be discussed only in general terms.

<sup>42/</sup> 19 U.S.C. § 1677(7)(B).

<sup>43/</sup> Report at Table 9.

<sup>44/</sup> Id. at Table 10.

Quarterly price observations, commencing in the fourth quarter of 1985, when Rubatex' 008 was introduced, show margins of underselling in every instance in which comparisons are possible <sup>45/</sup> and some of those margins are quite large. <sup>46/</sup> It is particularly revealing that the prices for the imports dropped precipitously in the fourth quarter of 1985, precisely the same quarter in which Rubatex' "008" grade entered the market. Although import prices have risen slowly thereafter, they have not regained their mid-1985 levels. <sup>47/</sup> Finally, although actual quantities are uncertain, investigation of lost sales allegations confirmed that there were some purchases of the Taiwanese product instead of the domestic product because of its lower price. <sup>48/ 49/</sup>

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<sup>45/</sup> Id. at Tables 11 and 12.

<sup>46/</sup> We note that there was apparently some misunderstanding regarding the Commission's questionnaires and some of the price information for the imported product includes the discounted prices for seconds. Thus, some of the price data for the imports may be understated and, consequently, margins of underselling overstated. Nevertheless, considering the proportion of seconds to first quality imports and assuming that all import prices are so tainted, the imported product would still have been underselling the domestic product by substantial margins.

<sup>47/</sup> Report at Tables 11 and 12. It is apparently for this reason that imports have increased in value terms substantially less than in quantity terms.

<sup>48/</sup> Id. at A-19-A-20.

<sup>49/</sup> Commissioner Rohr notes that the improvements in the industry indicators in 1986 occurred at the same time that it is alleged that the Taiwanese imports were injuring the industry. He recognizes that this raises a question about the causal link between the imports and injury. He emphasizes however that in light of his questions about the actual performance of the domestic industry in 1986, see supra notes 28 and 32, and the, at present, unexplained pricing behavior of the Taiwanese imports, he finds there are significant questions that need to be resolved in any final investigation.



We conclude that there is a reasonable indication that a domestic industry is materially injured by reason of imports of FENL from Taiwan allegedly sold at less than fair value.

Reasonable Indication of Threat of Material Injury by Reason of Allegedly LTFV Imports from Taiwan

In determining whether there is a reasonable indication of a threat of material injury, the Commission considers, among other factors, any rapid increase in market penetration of the imports and the likelihood that such penetration will reach an injurious level, the likelihood of increased imports in the future because of increased capacity or existing underutilized capacity in the foreign country, and the probability that future imports will have a price depressing or suppressing effect in the domestic market. <sup>50/</sup> The threat of material injury must be real and imminent, not speculative or conjectural. <sup>51/</sup>

As noted above, imports from Taiwan have increased sharply over the period of investigation. Moreover, there has been a tremendous increase in Sheico's capacity to produce FENL during this period. <sup>52/</sup> While it is true

<sup>50/</sup> 19 U.S.C. § 1677(7)(F)(i).

<sup>51/</sup> 19 U.S.C. § 1677(7)(F)(ii)

<sup>52/</sup> Report at Table 8.

that Sheico has increased the number of countries to which it sells FENL, we have no additional information about those markets and, particularly, we cannot tell whether those markets may grow, shrink, or remain the same in the near future. <sup>53/</sup> Absent such information, we see no reason to assume that Sheico's exports to the United States will stabilize or decline. In fact, the rapid increases in Sheico's recent exports to the United States and its recent increases in capacity suggest that it intends to increase its exports to this market. The intention of the Taiwanese to continue their expansion into the U.S. market is further suggested by the significant price cuts at the time that Rubatex entered the market with its new 008 material. <sup>54/</sup> Finally, there is nothing of record to indicate that future imports from Taiwan will not have price suppressing or depressing effects on the domestic industry.

Accordingly, we determine that there is a reasonable indication that a domestic industry is threatened with material injury by reason of imports of FENL from Taiwan allegedly sold at less than fair value.

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<sup>53/</sup> We hope to develop further information regarding Sheico's other markets in the event of a final investigation.

<sup>54/</sup> Because a significant portion of FENL imports from Taiwan consists of seconds, Vice Chairman Brunsdale believes that evidence of the low price of the Taiwanese product must be viewed skeptically. See Additional Views of Vice Chairman Brunsdale, *infra*. Should this investigation return to the Commission for a final phase, she would expect the respondent to submit more detailed information concerning the percentage of it imports into the United States consisting of seconds, and the quality and value of its seconds relative to first-quality FENL.

## ADDITIONAL VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

Fabric and Expanded Neoprene Laminate from Taiwan

Investigation No. 731-TA-371 (Preliminary)

February 6, 1987

I note that a significant portion of imports from Taiwan consists of seconds that are priced below first-quality FENL from both Taiwan and the United States. These seconds contain defects that render between 30 and 50 percent of their surface area unusable. Tr. at 36. Because the seconds differ both in quality and price from domestically produced FENL, this case serves to illustrate two points that I have made in many previous opinions.

First, with regard to whether market penetration is best measured by the quantity or value of imports, this case is clearly one in which the quantity measure distorts the importance of imports in the U.S. market. A sheet of second-quality FENL from Taiwan may be as much as 50 percent unusable, meaning that from the customer's point of view it is the equivalent of only half a sheet of first-quality FENL. When the market penetration of imports is measured in quantity terms, this difference is ignored and the imported second is counted as a full sheet. When market penetration is measured in value terms, however, this problem is eliminated because the seconds are priced lower in proportion to their lower

quality. See Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 at 32-39 (1986) (Additional Views of Vice Chairman Brunsdale).

Accordingly, my determination in this case is based on the market penetration by value of the Taiwanese imports, not their penetration by quantity.

Second, this case demonstrates the deceptiveness of the concept of underselling as traditionally used by the Commission. Data collected by the Commission in this investigation show that prices for Taiwanese FENL took a tremendous dip in 1986 when the Taiwanese producer introduced its seconds to the U.S. market. Quality differences between the Taiwanese and U.S. products undoubtedly account for most of the increase in the gap between Taiwanese and U.S. prices in 1986. However, margins of underselling calculated from this price data would disregard this reason for the growing price gap. Further, quality differences certainly account for some of the price gap that existed prior to 1986. Accordingly, I have not relied on evidence of underselling in making my determination in this case.

The quality differences between the imported and domestic product in this case differ only in degree and not in kind from those present in other cases. Thus, for the reasons stated above, I typically do not rely on data concerning market penetration by quantity or on evidence of underselling in Title VII investigations.

## DISSENTING VIEWS OF CHAIRMAN LIEBELER

Fabric and Expanded Neoprene Laminate  
from Taiwan  
Inv. No. 731-TA-371 (Preliminary)

I determine that there is no reasonable indication than an industry in the United States is materially injured or threatened with material injury, by reason of imports of fabric and expanded neoprene laminate (FENL) from Taiwan that are allegedly being sold at less than<sup>1</sup> fair value.

I concur with the majority in their definitions of the like product and the domestic industry, and with their discussion of the condition of the domestic industry. I offer these dissenting views on causation.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a preliminary investigation, the Commission must determine that there is a reasonable indication that the dumped or

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Since there exists a domestic industry producing FENL, material retardation was not an issue in these investigations and will not be discussed further.

subsidized imports cause or threaten to cause material injury to the domestic industry producing the like product. The Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material injury, and whether any injury or threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds a reasonable indication of both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one must resort to the legislative history in order to interpret the relevant sections of the this import relief law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful<sup>2</sup> meaning are subject to such statutory interpretation.

The statutory language used for both parts of the analysis is ambiguous. "Material injury" is defined as

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<sup>2</sup>

C. Sands, Sutherland Statutory Construction § 45.02 (4th ed., 1985.).

"harm which is not inconsequential, immaterial, or unimportant."<sup>3</sup> As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would otherwise prevail. If a downward effect on price, accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down were all that were required for an affirmative determination, there would be no need to inquire further into causation.

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19 U.S.C. § 1977(7)(A) (1980).

But the legislative history shows that the mere presence of LTFV imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

" [T]he ITC will consider information which indicates that harm is caused by factors other<sup>4</sup> than the less-than-fair-value imports.

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."<sup>5</sup>

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination of the ITC with respect to causation, is under current law, and will be, under section 735, complex and difficult, and is a matter for the judgment of the ITC."<sup>6</sup> Since the domestic industry is no doubt worse

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Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 75 (1979).

5

Id.

6

Id.



off by the presence of any imports (whether LTFV or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. \* \* \* The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a

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United States industry.

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

[T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market

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price.

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Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

8

Id.

This "complex and difficult" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions of traditional microeconomic theory is that firms attempt to maximize profits.<sup>9</sup> Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear."<sup>10</sup>

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

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See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45 (12th ed. 1985); W. Nicholson, Intermediate Microeconomics and Its Application 7 (3d ed. 1983).

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Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."<sup>11</sup>

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit an affirmative finding under the law interpreted in light<sup>12</sup> of the cited legislative history.

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<sup>11</sup>

Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

<sup>12</sup>

Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebelser).

The stronger the evidence of the following .  
 . . the more likely that an affirmative  
 determination will be made: (1) large and  
 increasing market share, (2) high dumping  
 margins, (3) homogeneous products, (4)  
 declining prices and (5) barriers to entry  
 to other foreign producers (low elasticity  
 of supply of other imports).

The statute requires the Commission to examine the volume  
 of imports, the effect of imports on prices, and the  
 general impact of imports on domestic producers.<sup>14</sup> The  
 legislative history provides some guidance for applying  
 these criteria. The factors incorporate both the  
 statutory criteria and the guidance provided by the  
 legislative history. Each of these factors is evaluated  
 below.

### Causation analysis

Examining import penetration is important because  
 unfair price discrimination has as its goal, and cannot  
 take place in the absence of, market power. The market  
 penetration of imports under investigation increased from  
 less than one percent of apparent U.S. consumption in 1984

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<sup>13</sup>  
Id. at 16.

<sup>14</sup>  
 19 U.S.C. § 1677(7)(B)-(C) (1980 & cum. supp. 1985).

to more than 2 percent in 1985 and more than 7 percent in

<sup>15</sup>  
1986. Import penetration is increasing, but it is small and inconsistent with a finding of unfair price discrimination.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more likely it is that the product is being sold below the competitive price <sup>16</sup> and the more likely it is that the domestic producers will be adversely affected. In a preliminary investigation, the Commerce Department has not yet calculated any margins. I therefore typically rely on the margins alleged by petitioner. In this case,

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<sup>15</sup>

Report at A-15. The penetration figures presented here are measured on a quantity basis. I note that value-based import penetration is much lower but exhibits the same trend. In this investigation, a substantial amount of the Taiwanese imports consists of "seconds" which are lower in price than the domestic and imported first quality FENL. With fifty percent or more of the seconds sheet unusable as first quality product, the import penetration measured in numbers of sheets of FENL overstates market penetration. The value-based penetration ratio does not include this upward bias, as the seconds are appropriately priced to compensate the customer for the unusable portion of the sheet. See Additional Views of Vice Chairman Brunsdale, infra. I note that using value-based penetration data would not have changed my determination in this investigation.

<sup>16</sup>

See text accompanying note 8, supra.

petitioner alleged average dumping margins of 23.21 percent, 15.06 percent, 21.48 percent and 26.57 percent for FENL in thicknesses of 3/32 inch, 1/8 inch, 3/16 inch and 1/4 inch, respectively.<sup>17</sup> These margins are moderate.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic producers. Evidence presented in these investigations indicates that the domestic and imported products are similar. There is no information of record that the imported product of first quality differs in its physical or chemical attributes from the domestic product. All buyers of FENL expect it to meet certain minimum standards. Seconds (FENL with known defects) are sometimes sold at discount prices. Defects include tears or irregularities in the fabric, unevenness in the expanded neoprene, and/or warps or poor adhesion in the laminate. Some defects render the entire sheet unusable as first quality product (i.e. usable only for non wet-suit use), while others may only cause the FENL to

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<sup>17</sup>  
Report at A-1.

have useful (first quality) surface area of fifty or

seventy percent.<sup>18</sup> Thus, depending on the exact nature of the defect, a portion of the area of each sheet of imported FENL may be usable as first quality material.<sup>19</sup> I find that these products are

substitutible, though not perfectly so.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. The Commission asked U.S. producers and importers to provide the quantity and f.o.b. selling prices for their largest sale of each of four grades of fabric and expanded neoprene laminate, by quarters. Prices of domestic producers for all four grades increased<sup>20</sup> during the period of investigation.

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18

Tr. at 31.

19

See Fabric and Expanded Neoprene Laminate from Japan, Inv. No. 731-TA-206 (Final), USITC Pub. 1721 (July 1985) (hereinafter FENL from Japan). Such defects are dealt with in practice by placing patterns in such a way as to place the defects outside the pattern while maximizing the usable area.

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Report at Tables 11-12.

The fifth factor is foreign supply elasticity (barriers to entry). If there is low foreign elasticity of supply (or barriers to entry) it is more likely that a producer can gain market power. Imports from countries other than Taiwan were significant over the period of investigation, with Japan accounting for more than half of apparent U.S. consumption from 1984 through 1986.<sup>21</sup> I conclude that foreign supply is elastic.

These factors must be considered in each case to reach a sound determination. The alleged margins are moderate. The products are substitutable. Market share is increasing but low. Foreign supply is elastic. Domestic prices are increasing. While the first two factors are not inconsistent with an affirmative determination, they are outweighed by the lack of market share, elastic foreign supply and increasing domestic prices.

#### Threat of material injury

With respect to threat of material injury, the Taiwanese producers were operating at more than 90 percent

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<sup>21</sup>

Report at Table 10.



of capacity in 1984, more than 95 percent in 1985, and

more than 93 percent in 1986.<sup>22</sup> These capacity utilization figures indicate that the ability to generate additional FENL exports is limited. The United States has received a declining portion of total Taiwanese exports of the subject merchandise during the period of investigation. The United States accounted for 64.74 percent of Sheico's export sales of FENL in 1984, 38.46 percent in 1985 and 16.96 percent in 1986.<sup>23</sup> This indicates that some exports of FENL, currently exported to countries other than the United States, could be diverted to the United States.

However, there is no information on the record in this investigation that the Taiwanese producers intend to increase their capacity or their capacity utilization, or divert exports from third countries to the United States. I conclude that there is no reasonable indication that injury by reason of the subject imports is "real and imminent".<sup>24</sup>

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<sup>22</sup> Report at table 8.

<sup>23</sup> Respondent's post conference Brief at attachment 5.

<sup>24</sup> 19 U.S.C. § 1677(7)(F)(ii) (cum. supp. 1986).

Conclusion

Therefore, I conclude that there is no reasonable indication that the domestic industry producing FENL is materially injured or threatened with material injury by reason of imports of FENL from Taiwan that are allegedly being sold at less than fair value.

## INFORMATION OBTAINED IN THE INVESTIGATION

## Introduction

On December 23, 1986, a petition was filed with the U.S. International Trade Commission and U.S. Department of Commerce by Rubatex Corp. (Rubatex), Bedford, VA, alleging that less-than-fair value (LTFV) imports of fabric and expanded neoprene laminate from Taiwan are being sold in the United States and that an industry in the United States is materially injured and threatened with material injury by reason of such imports.

Accordingly, effective December 23, 1986, the Commission instituted antidumping investigation No. 731-TA-371 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports.

Notice of the institution of the Commission's investigation and of a public conference 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 on January 5, 1987 (52 FR 365). 1/ The public conference was held in Washington, DC, on January 12, 1987, 2/ and the vote was held on February 3, 1987. The applicable statute directs the Commission to notify Commerce of its preliminary determination within 45 days after the date of the filing of the petition, or by February 6, 1987.

Fabric and expanded neoprene laminate has been the subject of one other investigation conducted by the Commission, also instituted in response to a petition from Rubatex. In July 1985 the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of fabric and expanded neoprene laminate from Japan (investigation No. 731-TA-206 (Final); USITC Publication 1721, July 1985).

## Nature and Extent of Alleged Sales at LTFV

There is no information relating to the nature and extent of the alleged sales at LTFV other than the allegations of the petitioner. The petitioner identified one firm in Taiwan which produces and exports fabric and expanded neoprene laminate to the United States: Shieh Chung Hsin Ind., Ltd. (SHEICO). A comparison of the petitioner's estimates of SHEICO's unit production and selling costs with similar estimates of its prices to its primary U.S. customers shows average dumping margins of 23.21 percent, 15.06 percent, 21.48 percent, and 26.57 percent for fabric and expanded neoprene laminate in thicknesses of 3/32 inch (2.0 mm), 1/8 inch (3.0 mm), 3/16 inch (5.0 mm), and 1/4 inch (6.0 mm), respectively.

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1/ Copies of the Commission's and Commerce's notices instituting the investigation are shown in app. A.

2/ A list of witnesses appearing at the conference is presented in app. B.

## The Product

### Description and uses

The product subject to the petitioner's complaint—fabric and expanded neoprene laminate—consists of sheets of expanded rubber, 1/ usually neoprene or a blend predominantly of neoprene, 2/ to which a textile fabric, usually of nylon or nylon and spandex, 3/ has been laminated on one or both sides. This product is used primarily in the manufacture of wet suits, worn by participants in diving, surfing, water skiing, and other types of water-related activities, both recreational and professional. (About 80 percent of the suits sold in the United States are used for above-water activities, such as surfing, wind surfing, water skiing, and sailing; the remainder are used for below water activities, such as snorkeling, scuba diving, and deep diving). Other recreational articles made from this product include kayak cockpit covers, weight-reducing belts, handlebar grips for bicycles, and ski masks. Relatively small quantities are used for bottle and can holders, eyeglass cases, table mats, and miscellaneous novelty items.

The manufacture of fabric and expanded neoprene laminate begins with the production of expanded neoprene and ends with the lamination of this material to the fabric. U.S. producers purchase the fabric; SHEICO manufactures it. To produce expanded neoprene, raw neoprene polymer is heated and mixed with carbon black, calcium carbonate, naphthitic mineral oil, and other ingredients, cooled and remixed with "blowing agents" (i.e., chemicals which, when activated, decompose into bubbles of nitrogen gas, forming the closed cells of the finished rubber), extruded into continuous sheets about 45 inches in width, and reheated in ovens, which activate the blowing agents. 4/ The continuous sheets are then cut into lengths of about 50 feet. After allowing the sheets to cool and stabilize for about 2 weeks (the gas-forming actions of the blowing agents continue after cooling), the sheets are split into thicknesses ranging from about 1/32 inch (or about 0.5 mm) to about 3/8 inch (or about 9 mm). To produce the laminate, sheets of expanded neoprene are coated with an adhesive, joined to the fabric, and vulcanized. The other side of the sheets may have fabric applied in the same manner. After lamination, the sheets are either rolled and shipped as such or cut into smaller lengths of from 7 to 10 feet.

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1/ Expanded rubber, according to the American Society for Testing & Materials ("Standard Specifications for Flexible Cellular Materials, Sponge or Expanded Rubber", Annual Book of ASTM Standards, ASTM D 1056-78, pp. 1-14), is a type of rubber having closed (unconnected) cells (pockets) of gas dispersed throughout the rubber mass, in contrast to sponge rubber, which has open (connected) cells dispersed throughout the mass.

2/ Neoprene is a synthetic rubber made by the polymerization of chloroprene and characterized by superior resistance to decomposition by oils, oxygen, ozone, and many other substances.

3/ Nylon and spandex are synthetic (petroleum-based) fibers noted for strength and stretchability (elongation and recovery).

4/ Another method for forming closed cells in the rubber is to combine the neoprene mixture with nitrogen gas under pressure. The petitioner, which uses this method for some of its production, claims that the cells produced thereby are more regularly sized and consistently distributed than those produced by the regular method.

In addition to thickness and being laminated on one or both sides, fabric and expanded neoprene laminate is differentiated by variations in the fabric (including color, type of weave (plush, terry, etc.), and weight (thickness of yarn)); grade of expanded neoprene, and overall grade. Prices vary accordingly. The availability of various fabric colors and color combinations is important, since the majority of wet suits are purchased by individuals for sport and recreation purposes. Both the U.S.- and Taiwanese-produced products are available in a number of fabric combinations and colors. The petitioner offers four grades of expanded neoprene, another U.S. producer two, and the Taiwanese producer one. The grade of expanded neoprene is largely a function of the recipes followed for its manufacture and the size and distribution of its cells. It is measured with much the same criteria as is overall grade. Overall grade is not only a function of the expanded neoprene, but also of the type of fabric used for the laminate. It is measured in terms of such things as softness (compression deflection), stretchability (tensile stress), density, water absorption, temperature insulation, resistance to tear (tensile strength), and durability (resistance to abrasion, cuts, and deterioration under continual use). Softness and stretchability, related to the comfort in donning, wearing, and disrobing from a wet suit, are factors which are particularly important to the consumer. Large buyers of wet suits, such as the U.S. Navy, publish specifications for both fabric and expanded neoprene, in addition to the combined laminate. All buyers of fabric and expanded neoprene laminate expect it to meet certain minimum standards. Seconds, i.e., sheets with known defects, are sometimes sold at discount prices, but only for non-wet suit use. 1/ Secondary material produced by the petitioner accounts for less than 5 percent of its total production and since 1985 has virtually all been consumed at its plant in the manufacture of other products, such as soles for shoes and boots. Secondary material produced in Taiwan, listed as having either 50 percent or 70 percent usable surface, accounted for \*\*\* percent of the country's exports to the United States in 1986.

There are no known products which may substitute for fabric and expanded neoprene laminate as a wet suit material.

#### U.S. tariff treatment

Imports of fabric and expanded neoprene laminate may be classified in items 355.81, 355.82, 359.50, or 359.60 of the TSUS depending on their composition: 2/ If the product weighs over 44 ounces per square foot and contains 50 percent or less, by weight, of textile fibers, 3/ it is classified

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1/ Common defects include tears or irregularities in the fabric, uneven thickness in the expanded neoprene, and/or warps or poor adhesion in the laminate.

2/ The petitioner included TSUS item 359.60 in its petition, but it is doubtful that fabric and expanded neoprene laminate would be imported under this number since it provides for laminated fabrics of other than manmade fibers.

3/ For the purpose of the tariff schedules, in determining the component fibers of chief value in coated, filled, or laminated fabrics and articles wholly or in part thereof, the coating or filling or the nontextile lamination substances shall be disregarded in the absence of content to the contrary.

under TSUS item 359.50. All other products, pursuant to headnote 2(c), part 4c, of schedule 3, are classified under TSUS item 355.81 (if over 70 percent by weight of rubber or plastics) or TSUS item 355.82 (if 70 percent or less by weight of rubber or plastics). TSUS items 355.81, 355.82, and 359.50 include many fabrics other than those considered in this investigation.

The column 1 (most-favored-nation) rates of duty for TSUS items 355.81, 355.82 and 359.50, applicable to imports from Taiwan, are 4.2 percent ad valorem, 8.5 percent ad valorem, and 3.0 cents per pound plus 18 percent ad valorem, respectively. 1/ The column 1 rates for items 355.81 and 355.82 represent the last in a series of duty reductions granted in the Tokyo round of the Multilateral Trade Negotiations. The column 1 rate of duty for item 359.50 will be reduced to 16 percent ad valorem in 1988.

#### U.S. Channels of Distribution

Nearly all fabric and expanded neoprene laminate sold in the United States by U.S. producers is sold to unrelated product fabricators, mainly wet suit manufacturers located on the east, west, and gulf coasts. From 1984 to 1986, however, the proportion of fabric and expanded neoprene laminate sold by U.S. producers to wet suit manufacturers declined from about \*\*\* percent to \*\*\* percent. About \*\*\* percent of that sold in the United States by SHEICO is sold to its wholly-owned subsidiary in Garden Grove, CA, Go Sport Inc., which resells most of the material to product fabricators, of which about \*\*\* percent in 1986 were wet suit manufacturers. Go Sport manufactured a small quantity of wet suits from these imports itself. Most of the remaining \*\*\* percent of SHEICO's exports to the United States is sold to a small number of trading companies and product fabricators on the west coast.

#### U.S. Producers

In addition to the petitioner, which produces fabric and expanded neoprene laminate at a single plant in Bedford, VA, one other firm manufactures fabric and expanded neoprene laminate in the United States: Kirkhill Rubber Co., at a single plant in Brea, CA. 2/ The petitioner, a

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1/ The rates of duty in col. 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(d) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply if preferential tariff treatment is sought and granted to products of developing countries under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or to products of Israel or of least developed developing countries (LDDC's) as provided under the special rates of duty column. Taiwan is ineligible for GSP treatment under TSUS item 355.81 due to competitive-need limits; articles in the other tariff items are not eligible for GSP treatment.

2/ Kirkhill is in support of the petition.

wholly-owned subsidiary of Great American Industries, Binghamton, NY, accounts for about \*\*\* percent of U.S. production. Both Rubatex and Kirkhill are medium-sized, domestically-oriented corporations, and both manufacture several types of rubber products other than fabric and expanded neoprene laminate, many at the same plant and using some of the same equipment and labor. The subject product accounts for less than \*\*\* percent of Rubatex's sales and less than \*\*\* percent of Kirkhill's sales.

#### U.S. Importers

Other than Go Sport, \*\*\* is known to have imported fabric and expanded neoprene laminate directly from SHEICO between 1984 and 1986: \*\*\*, 1/ \*\*\*.

#### Consideration of Alleged Material Injury

The following sections, compiled from responses to the Commission's questionnaire by both U.S. producers of fabric and expanded neoprene laminate in the United States, represent 100 percent of domestic production during the period for which data were collected.

#### U.S. production, capacity, and capacity utilization

U.S. producers' capacity remained at slightly over \*\*\* square feet annually from 1984 through 1986 (table 1). The equipment at Rubatex used to manufacture expanded neoprene, up to the point at which it is split into different thicknesses, is also used to manufacture other rubber products. Expanded neoprene, or at least that used in the production of fabric and expanded neoprene laminate, accounts for about \*\*\* percent of this equipment's time.

After declining by \*\*\* percent from 1984 to 1985, U.S. production increased to a level in 1986 \*\*\* percent higher than in 1984. Less than \*\*\* percent of U.S. production throughout this period was defective material. Neither producer reported any unusual circumstances which might have resulted in a loss in production. Capacity utilization increased from \*\*\* percent in 1984 to \*\*\* percent in 1986, as shown in table 1.

#### U.S. producers' domestic shipments

Prior to 1986 all U.S. producers' defective material was sold as seconds on the open market. In 1986 Rubatex no longer offered this material for sale as a matter of policy and instead utilized it in the manufacture of other products. Approximately \*\*\* percent of Rubatex's 1986 production was consumed in this manner. All remaining production of both U.S. producers was shipped

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1/ Counsel for SHEICO reports that \*\*\* other firms imported fabric and expanded neoprene laminate directly from SHEICO during this period: \*\*\* (letter to the Commission, dated January 20, 1987).

Table 1

Fabric and expanded neoprene laminate: U.S. production, average practical capacity, and capacity utilization, by firms, 1984-86

Item and firm	1984	1985	1986
Production:			
Rubatex.....1,000 sq. ft..	***	***	***
Kirkhill.....do....	***	***	***
Total.....do....	***	***	***
Average capacity:			
Rubatex 1/.....1,000 sq. ft..	***	***	***
Kirkhill 1/.....do....	***	***	***
Total.....do....	***	***	***
Ratio of production to capacity:			
Rubatex 1/.....percent..	***	***	***
Kirkhill 1/.....do....	***	***	***
Total.....do....	***	***	***

1/ Capacity based on operating the firm's facilities 120 hours per week, 52 weeks per year.

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

within the United States. From 1984 to 1986, U.S. producers' domestic shipments declined from \*\*\* sq. ft., valued at \*\*\*, to \*\*\* sq. ft., valued at \*\*\*, or by \*\*\* percent (table 2). Unit sales values per sq. ft., also shown in table 2, declined from 1984 to 1985, but then increased in 1986 to a level \*\*\* percent above that in 1984.

### Inventories

From 1984 to 1986, U.S. producers' end-of-period inventories increased from \*\*\* sq. ft., or \*\*\* percent of total shipments, to \*\*\* sq. ft., or \*\*\* percent of total shipments (table 3). The net result for both producers combined was a \*\*\*-percent increase in inventories and a \*\*\* percentage-point increase in the ratio of inventories to shipments.



Table 2

Fabric and expanded neoprene laminate: U.S. producers' domestic shipments, by firms, 1984-86

Item and firm	1984	1985	1986
Quantity (1,000 sq. ft.)			
Domestic shipments:			
Rubutex.....	***	***	***
Kirkhill.....	***	***	***
Total.....	***	***	***
Value (1,000 dollars)			
Domestic shipments:			
Rubutex.....	***	***	***
Kirkhill.....	***	***	***
Total.....	***	***	***
Unit value (per sq. ft.)			
Domestic shipments:			
Rubutex.....	***	***	***
Kirkhill.....	***	***	***
Average.....	***	***	***

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

Table 3

Fabric and expanded neoprene laminate: U.S. producers' end-of-period inventories, by firms, 1984-86

Item and firm	1984	1985	1986
Inventories:			
Rubutex.....1,000 sq. ft..	***	***	***
Kirkhill.....do.....	***	***	***
Total.....do.....	***	***	***
Ratio of inventories to total shipments during the preceding period:			
Rubutex.....percent..	***	***	***
Kirkhill.....do.....	***	***	***
Total.....do.....	***	***	***

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

### Employment

Workers at Rubatex's plant are often shifted from the production of one product to another. The employment data shown for Rubatex in tables 4 and 5 reflect an average number of production and related workers equivalent to the proportional number of hours used to produce the subject articles.

The average number of production and related workers producing fabric and expanded neoprene laminate in the United States declined irregularly from \*\*\* in 1984 to \*\*\* in 1986, or by \*\*\* percent (table 4). Hours worked by these workers decreased correspondingly. Because of relatively stable production, productivity, in terms of output per hour worked, increased for U.S. producers from 1984 to 1986. For the most part, total compensation paid to production and related workers producing fabric and expanded neoprene laminate and unit labor costs have declined in recent periods, while hourly compensation has increased, as shown in table 5.

Table 4

Average number of production and related workers producing fabric and expanded neoprene laminate in U.S. establishments, hours worked by such workers, and output per hour worked, by firms, 1984-86

Item and firm	1984	1985	1986
Average number of production: and related workers producing fabric and expanded neoprene laminate:			
Rubatex.....	***	***	***
Kirkhill.....	***	***	***
Total.....	***	***	***
Hours worked by production and related workers producing fabric and expanded neoprene laminate:			
Rubatex.....1,000 hours..	***	***	***
Kirkhill.....do....	***	***	***
Total.....do....	***	***	***
Output (production) of fabric and expanded neoprene laminate per hour worked:			
Rubatex.....1,000 sq. ft..	***	***	***
Kirkhill.....do....	***	***	***
Average.....do....	***	***	***

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

Table 5

Total compensation and average hourly compensation paid to production and related workers producing fabric and expanded neoprene laminate in U.S. establishments and unit labor cost of such production, by firms, 1984-86

Item and firm	1983	1984	1985
Total compensation paid to production and related workers producing fabric and expanded neoprene laminate:			
Rubatex.....1,000 dollars..	***	***	***
Kirkhill.....do....	***	***	***
Total.....do....	***	***	***
Hourly compensation paid to production and related workers producing fabric and expanded neoprene laminate:			
Rubatex.....1,000 dollars..	***	***	***
Kirkhill.....do....	***	***	***
Total.....do....	***	***	***
Unit labor cost of producing fabric and expanded neoprene laminate:			
Rubatex.....per sq. ft..	***	***	***
Kirkhill.....do....	***	***	***
Average.....do....	***	***	***

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

#### Financial experience of U.S. producers

The dominant producer, Rubatex Corp., furnished usable income-and-loss data on its operations producing fabric expanded neoprene laminate and on its overall establishment operations. The other U.S. producer, Kirkhill Rubber Co., with approximately \*\*\* percent of U.S. producers' sales in 1986, did not provide cost data for the product under investigation because it does not maintain cost records for a product which comprises such a minor segment of its overall operations. Kirkhill's sales of fabric expanded neoprene laminate averaged only about \*\*\* percent of its overall establishment sales during 1984-86.

Operations producing fabric and expanded neoprene laminate.—Rubatex's net sales declined from \*\*\* in 1983 to \*\*\* in 1985, or by \*\*\* percent, then increased by \*\*\* percent to \*\*\* in 1986 (table 6). 1/ Operating income

1/ The 1986 data are preliminary; final operating results will not be available until mid-February 1987.

Table 6

Income-and-loss experience of Rubatex on its operations producing fabric expanded neoprene laminate, accounting years 1983-86

Item	1983	1984	1985	1986 1/
Net sales.....1,000 dollars..	***	***	***	***
Cost of goods sold.....do....	***	***	***	***
Gross profit.....do....	***	***	***	***
General, selling, and administra- tive expenses.....1,000 dollars..	***	***	***	***
Operating income or (loss).....do..	***	***	***	***
Depreciation and amortization expense.....1,000 dollars..	***	***	***	***
Ratio to net sales:				
Cost of goods sold:.....percent..	***	***	***	***
Gross profit.....do....	***	***	***	***
General, selling, and administra- tive expenses.....percent..	***	***	***	***
Operating income or (loss).....do....	***	***	***	***

1/ The 1986 data are preliminary; final operating results will not be available until mid-February 1987.

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

decreased from \*\*\* in 1983 to \*\*\* in 1984 and \*\*\* in 1985. \*\*\* was experienced in 1986 with operating income of \*\*\*. The operating income margin was \*\*\* percent in 1983, \*\*\* margins in 1984 and 1985 were \*\*\* percent and \*\*\* percent, respectively, and the operating income margin in 1986 was \*\*\* percent.

Overall establishment operations.—Net sales increased from \*\*\* in 1983 to \*\*\* in 1986, 1/ or by \*\*\* percent (table 7). Operating income increased from \*\*\* in 1983 to \*\*\* in 1984, declined to \*\*\* in 1985, and increased to \*\*\* in 1986. The operating margins during 1983-86 were \*\*\* percent, \*\*\* percent, \*\*\* percent, and \*\*\* percent, respectively.

Value of property, plant, and equipment.—Rubatex's investment in productive facilities employed in the manufacture of all products of its

1/ The 1986 data are preliminary; final operating results will not be available until mid-February 1987.

Table 7

Income-and-loss experience of Rubatex on the overall operations of the establishments in which fabric and expanded neoprene laminate is produced, accounting years 1983-86

Item	1983	1984	1985	1986 1/
Net sales.....1,000 dollars..	***	***	***	***
Cost of goods sold.....do....	***	***	***	***
Gross profit.....do....	***	***	***	***
General, selling, and administra- tive expenses.....1,000 dollars..	***	***	***	***
Operating income.....do....	***	***	***	***
Depreciation and amortization expense.....1,000 dollars..	***	***	***	***
Ratio to net sales:				
Cost of goods sold:.....percent..	***	***	***	***
Gross profit.....do....	***	***	***	***
General, selling, and administra- tive expenses.....percent..	***	***	***	***
Operating income.....do....	***	***	***	***

1/ The 1986 data are preliminary; final operating results will not be available until mid-February 1987.

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

establishment and fabric expanded neoprene laminate is shown in the following tabulation (in thousands of dollars):

Value of property, plant, and equipment

	<u>Original value</u>	<u>Book value</u>
All establishment products:		
1983.....	***	***
1984.....	***	***
1985.....	***	***
1986.....	***	***
Fabric and expanded neoprene laminate:		
1983.....	***	***
1984.....	***	***
1985.....	***	***
1986.....	***	***

Capital expenditures and research and development expenses.—Rubatex did not report any capital expenditures for buildings, machinery, and equipment used in the production of fabric expanded neoprene laminate. Rubatex did,

however, report capital expenditures for facilities and equipment used in the production of all establishment products as shown in the following tabulation (in thousands of dollars):

<u>Capital expenditures</u>	
1983.....	***
1984.....	***
1985.....	***
1986.....	***

Rubatex reported research and development expenses on fabric and expanded neoprene laminate as shown in the tabulation below (in thousands of dollars):

<u>Research and development expenses</u>	
1983.....	***
1984.....	***
1985.....	***
1986.....	***

Capital and investment.—U.S. producers were asked to describe any actual or potential negative effects of imports of the subject product from Taiwan on their firm's growth, investment, and ability to raise capital. Their replies were as follows:

Rubatex Corp.—\*\*\*.

Kirkhill Rubber Co.—\*\*\*.

#### Consideration of Alleged Threat of Material Injury

In the examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the rate of increase of imports and market penetration of such imports, probable suppression and/or depression of U.S. producers' prices, the capacity of producers in the exporting country to generate exports (including the existence of underutilized capacity) and the potential for product shifting, the availability of export markets other than the United States, and U.S. importers' inventories. Import, price, and market penetration trends for fabric and expanded neoprene laminate are discussed in the sections immediately following. A discussion of importers' inventories and foreign capacity and exports, to the extent such information is available, is presented below.

Data received from U.S. importers, which account for over 80 percent of the imports from Taiwan, show that nearly all fabric and expanded neoprene laminate imported from Taiwan has either been shipped or consumed shortly after importation. \*\*\*.

According to counsel for SHEICO, <sup>1/</sup> all of the fabric and expanded neoprene laminate Taiwan exports to the United States is produced by SHEICO, although two other firms are known to produce the product. SHEICO's capacity, production, and exports to the United States for 1984-86 are shown in table 8. The data show that while its capacity and production increased \*\*\* in this period, the United State's share of its production declined from \*\*\* percent to \*\*\* percent, and the number of countries to which it exported fabric and expanded neoprene laminate other than the United States increased from \*\*\* to \*\*\*. \*\*\* were the largest recipients. SHEICO's total exports of the subject product are unknown. Although its capacity was nearly fully utilized throughout the period, SHEICO is reportedly \*\*\*.

Table 8

Fabric and expanded neoprene laminate: SHEICO's capacity, production, and exports to the United States, 1984-86

Item	1984	1985	1986
Capacity.....1,000 sq. ft..	***	***	***
Production.....do....	***	***	***
Capacity utilization.... percent..	***	***	***
Exports to the United States 1,000 sq. ft..	***	***	***
Share of production that is exported to the United States percent..	***	***	***
Number of countries to which SHEICO exported fabric and expanded neoprene laminate.....	***	***	***

Source: Compiled from data submitted to the Commission by counsel for SHEICO (Post-conference brief of Kaplan, Russin & Vecchi, January 15, 1987).

#### Consideration of the Causal Relationship Between the Alleged LTFV Imports and the Alleged Material Injury

##### U.S. imports

In recent periods Japan and Taiwan have been the only countries known to have exported the subject product to the United States in significant quantities. From 1984 to 1986, total U.S. imports of fabric and expanded neoprene laminate rose irregularly from \*\*\* sq. ft., valued at \*\*\*, to \*\*\* sq. ft., valued at \*\*\*, an increase of 5.2 percent (table 9). Imports from Taiwan increased nearly \*\*\* in this period from \*\*\* sq. ft., or \*\*\* percent of imports, to \*\*\* sq. ft., or \*\*\* percent of imports. As shown in table 9, the unit value of fabric and expanded neoprene laminate from Taiwan dropped markedly in 1986, primarily as a result of the sale of substantial volumes of secondary material, none of which was sold in 1984-85.

<sup>1/</sup> Post-conference brief of Kaplan, Russin & Vecchi, January 15, 1987.

Table 9  
Fabric and expanded neoprene laminate: U.S. imports, by source, 1984-86

Source	1984	1985	1986
Quantity (1,000 sq. ft.)			
Japan.....	***	***	***
Taiwan.....	***	***	***
Total.....	***	***	***
Value (1,000 dollars) 1/			
Japan.....	***	***	***
Taiwan 2/.....	***	***	***
Total.....	***	***	***
Unit value (per sq. ft.)			
Japan.....	***	***	***
Taiwan 2/.....	***	***	***
Total.....	***	***	***

1/ Landed, duty-paid value at port of importation.

2/ Estimate made on the basis of Go Sport's imports.

Source: Imports from Taiwan compiled from data submitted by counsel for SHEICO; imports from Japan in 1984 compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; imports from Japan in 1985 and 1986 are estimates based on confidential data in the U.S. Customs Service's Net Import File and on official statistics of the U.S. Department of Commerce.

#### U.S. consumption and market penetration

After falling from \*\*\* sq. ft. in 1984 to \*\*\* sq. ft. in 1985, U.S. consumption of fabric and expanded neoprene laminate rose to \*\*\* sq. ft. in 1986, or to within 3.2 percent of 1984 levels (table 10). As a share of consumption, imports rose from \*\*\* percent in 1984 to \*\*\* percent in 1986. Imports from Taiwan, which rose from \*\*\* percent to \*\*\* percent of consumption in the same period, accounted for all of the increase, as shown in table 10.



Table 10

Fabric and expanded neoprene laminate: Apparent U.S. consumption and ratio of imports to consumption, 1984-86

Year	Apparent U.S. consumption	Ratio (percent) of imports to consumption—		
		For Taiwan	For Japan	Total
Quantity (1,000 sq. ft.)				
1984.....	***	***	***	***
1985.....	***	***	***	***
1986.....	***	***	***	***
Value (1,000 dollars) 1/				
1984.....	***	***	***	***
1985.....	***	***	***	***
1986.....	***	***	***	***

1/ Landed, duty-paid value at the port of importation for Japan; cost at the port of exportation for Taiwan..

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission, from confidential data reported in the U.S. Customs Service's Net Import File, and from official statistics of the U.S. Department of Commerce..

### Prices

Fabric and expanded neoprene laminate is an intermediate product whose demand is derived from the demand for articles used in water sports, such as wet suits, and for miscellaneous articles such as insulators for beverage containers and bicycle handle-bar grips. Producers and importers sell their products directly to manufacturers which produce articles for final consumption. Prices of fabric and expanded neoprene laminate vary depending upon the grade of the neoprene and upon its thickness. Generally, the higher quality grades are priced higher than lower quality grades, and thicker material is priced higher than thinner material.

In the previous fabric and expanded neoprene laminate case, investigation No. 731-TA-206, there was considerable disagreement between parties as to which products were comparable in the investigation. In order to avoid this problem the questionnaires in this investigation requested each producer and importer to identify each grade of fabric and expanded neoprene laminate they produce and its principal intended uses. For each grade specified, they were also asked to provide the following technical specifications: average density; average modulus or tensile stress at 100 percent elongation to measure softness; average ultimate elongation in percentage increases to measure stretchability; average compression-deflection to measure the materials' ability to return to its original thickness after compression; average ozone deterioration to help measure durability; and average percentage of closed cells for each grade to help measure the ability of the material to resist absorption of water. All parties were asked to include copies of the

producers' brochures for each grade of fabric and expanded neoprene laminate, and to list the primary uses for each grade of neoprene such as professional diving, amateur diving, surface-water sports, sports medicine, etc.

Although the single grade of Taiwanese fabric and expanded neoprene laminate is generally fungible with all four grades of domestic fabric and expanded neoprene laminate, comparisons were made between the Taiwanese product and Rubatex's 008 grade. Comparisons were made between these two products because the grade criteria indicated that the Taiwanese product was most closely comparable to Rubatex's 008 grade because of the similarity of densities and because the petitioner, importers, and purchasers all perceive the two products as competing in the marketplace.

Although prices are quoted on a sheet or roll basis, prices were requested on a square-foot basis since there is no standardized sheet size, and the petitioner is the only company that offers rolls. U.S. producers and importers were requested to provide the quantity and f.o.b. selling prices for their largest sale of each grade of fabric and expanded neoprene laminate, by quarters, for January 1985-December 1986 for the following thicknesses:

- Thickness 1: A rubber-textile material over 1/16 inch (approximately 1 mm) up to 3/32 inch (approximately 2 mm) in thickness with stretch-nylon fabric laminated to both sides of the expanded neoprene rubber.
- Thickness 2: A rubber-textile material over 3/32 inch (approximately 2 mm) up to 1/8 inch (approximately 3 mm) in thickness with stretch-nylon fabric laminated to both sides of the expanded neoprene rubber.
- Thickness 3: A rubber-textile material over 1/8 inch (approximately 3 mm) up to 3/16 inch (approximately 5 mm) in thickness with stretch-nylon fabric laminated to both sides of the expanded neoprene rubber.
- Thickness 4: A rubber-textile material over 3/16 inch (approximately 5 mm) up to 1/4 inch (approximately 6 mm) in thickness with stretch-nylon fabric laminated to both sides of the expanded neoprene rubber.

Rubatex, the petitioner, provided prices for four grades of neoprene covering all four thicknesses. Their G-231-N material, grade 1, was the highest priced domestic product, and their 008 material, grade 4, was the lowest priced domestic product (tables 11 and 12). R-1400-N and R-131-N, grades 2 and 3, respectively, were priced between grades 1 and 4. The other domestic producer, Kirkhill, provided prices but no quantities for two types of material that appeared to be equivalent to Rubatex's grade 3 material. Because there were no quantity weights for Kirkhill's product, only Rubatex's prices were used for grade 3 fabric and expanded neoprene laminate.

Rubatex's prices were stable for grades 2 through 4 for all thicknesses during 1985. Prices for petitioner's grade 4 material were only available from October-December 1985 onward, since they did not sell any of this grade in the previous periods. Petitioner's prices in 1986 for grade 1 increased

Table 11

Fabric and expanded neoprene laminate: U.S. producers' and importers' weighted-average f.o.b. prices and margins of underselling for thicknesses 1 and 2, by quarters, January 1985–December 1986

(Per square foot)

Period	Thickness 1			Thickness 2		
	U.S. price	Taiwan price	Margins of under- selling Percent	U.S. price	Taiwan price	Margins of under- selling Percent
1985:						
Jan.–Mar.....	***	***	***	***	***	***
Apr.–June.....	***	***	***	***	***	***
July–Sept.....	***	***	***	***	***	***
Oct.–Dec.....	***	***	***	***	***	***
1986:						
Jan.–Mar.....	***	***	***	***	***	***
Apr.–June.....	***	***	***	***	***	***
July–Sept.....	***	***	***	***	***	***
Oct.–Dec.....	***	***	***	***	***	***

1/ No prices reported.

2/ No margins are calculated because no prices were reported by either the domestic producers or the importers.

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

Note.—Percentage margins were calculated from unrounded figures; thus margins cannot always be calculated directly from the rounded prices in the table.

Table 12

Fabric and expanded neoprene laminate: U.S. producers' and importers' weighted-average f.o.b. prices and margins of underselling for thicknesses 3 and 4, by quarters, January 1985-December 1986

(Per square foot)						
Period	Thickness 3		Margins of under- selling  Percent	Thickness 4		Margins of under- selling  Percent
	U.S. price	Taiwan price		U.S. price	Taiwan price	
1985:						
Jan.-Mar.....	***	***	***	***	***	***
Apr.-June.....	***	***	***	***	***	***
July-Sept.....	***	***	***	***	***	***
Oct.-Dec.....	***	***	***	***	***	***
1986:						
Jan.-Mar.....	***	***	***	***	***	***
Apr.-June.....	***	***	***	***	***	***
July-Sept.....	***	***	***	***	***	***
Oct.-Dec.....	***	***	***	***	***	***

1/ No prices reported.

2/ No margins are calculated because no prices were reported by either the domestic producers or the importers.

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

Note.—Percentage margins were calculated from unrounded figures; thus margins cannot always be calculated directly from the rounded prices in the table.

for thicknesses 2 through 4 and decreased for thickness 1. Petitioner's prices in 1986 for grade 2 were stable for thicknesses 1 and 2 and declined for thicknesses 3 and 4. Domestic prices in 1986 for grade 3 increased for thickness 1, were stable for thickness 2, and, after falling, increased in October-December for thickness 3. There were no prices reported for grade 3, thickness 4 in 1986. Prices in 1986 for all of grade 4's thicknesses increased after January-March (table 11 and 12).

Prices of imports showed very large decreases for all thicknesses before increasing during 1986. Prices of imported thickness 1 fabric and expanded neoprene laminate fell 37 percent through January-March 1986 before increasing to nearly its original price level (table 11). The price of thickness 2 fell 81 percent from a high of \*\*\* per square foot in July-September 1985 to a low of \*\*\* per square foot in April-June 1986. The price of thickness 2 more than tripled from the \*\*\* per square foot price to \*\*\* per square foot by October-December 1986. Prices for both thicknesses 3 and 4 also decreased significantly (table 12). Thickness 3's prices decreased 78 percent from a high of \*\*\* per square foot in July-September 1985 to a low of \*\*\* per square foot in April-June 1986. Prices of thickness 3 rebounded to \*\*\* per square foot in October-December 1986, an increase of 158 percent over the April-June 1986 price. Thickness 4's prices decreased 51 percent from a high of \*\*\* per square foot in January-March 1985 to a low of \*\*\* per square foot in January-March and July-September 1986.

Prices of the Taiwanese material were lower than the domestic prices for every thickness (tables 11 and 12). Margins of underselling for thickness 1 ranged between 7 and 41 percent from October-December 1985 through July-September 1986. Margins of underselling for thickness 2 ranged between 20 and 75 percent during 1986. Margins of underselling for thickness 3 ranged between 19 and 61 percent during 1986, and margins of underselling for thickness four ranged between 38 and 43 percent, also for 1986. Price comparisons of the Taiwanese fabric and expanded neoprene laminate with the other domestic grades show even higher margins of underselling.

#### Lost sales

The Commission received three lost sales allegations from Rubatex involving 3 manufacturers where they had allegedly lost sales to imports of fabric and expanded neoprene laminate from Taiwan. The allegations totaled \*\*\* square feet of fabric and expanded neoprene laminate, valued at \*\*\*, and occurred during January 1985.

Rubatex alleged \*\*\* square feet of lost sales, valued at \*\*\*, to \*\*\*. \*\*\* of \*\*\* said that although \*\*\* has purchased the Taiwanese product, he had replaced the person who made the purchases and therefore could not give the reasons why.

Rubatex alleged \*\*\* square feet of lost sales, valued at \*\*\*, to \*\*\*. \*\*\* of \*\*\* confirmed the lost sales, saying that the domestic material is priced significantly higher than the Taiwanese material. \*\*\* also believes that the Taiwanese fabric and expanded neoprene laminate is better quality than the domestic fabric and expanded neoprene laminate.

Rubatex alleged \*\*\* square feet of lost fabric and expanded neoprene laminate sales, valued at \*\*\*, to \*\*\*. \*\*\* of \*\*\* said that his company has not purchased the Taiwanese material. \*\*\* said that although the Taiwanese product is significantly lower in price than the domestic product, \*\*\* does not purchase the Taiwanese fabric and expanded neoprene laminate because its quality is vastly inferior to the domestic fabric and expanded neoprene laminate. However, \*\*\* did say that they expect to purchase the Taiwanese product when the quality improves.

#### Exchange rates 1/

Exchange rate indices of the New Taiwan dollar, presented in table 13, indicate that during January 1983–September 1986 the quarterly nominal value of the Taiwan dollar advanced 5.8 percent against the U.S. dollar. After adjustment for slightly lower levels of inflation in Taiwan compared with those in the United States over the same period, the real value of Taiwan's currency remained relatively constant, appreciating by only a small amount (1.3 percent) relative to the dollar.

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1/ All Taiwan data is through August 1986 only.

Table 13

Exchange rates: 1/ Nominal-exchange-rate equivalents of the New Taiwan dollar in U.S. dollars, real-exchange-rate equivalents, and producer price indexes in Taiwan, 2/ indexed by quarters, January 1983–September 1986

Period	U.S.	Taiwan		
	Pro- ducer Price Index	Pro- ducer Price Index	Nominal- exchange- rate index	Real- exchange- rate index <u>3/</u>
			US dollars/NT\$	
1983				
Jan.–Mar.....	100.0	100.0	100.0	100.0
Apr.–June.....	100.3	100.8	99.7	100.2
July–Sept.....	101.3	101.0	99.4	99.2
Oct.–Dec.....	101.8	101.2	99.3	98.7
1984				
Jan.–Mar.....	102.9	101.5	99.4	98.1
Apr.–June.....	103.6	102.1	100.4	99.0
July–Sept.....	103.3	101.4	101.8	100.0
Oct.–Dec.....	103.0	100.9	101.4	99.3
1985				
Jan.–Mar.....	102.9	99.9	101.5	98.6
Apr.–June.....	103.0	99.1	100.3	96.6
July–Sept.....	102.2	98.5	99.0	95.3
Oct.–Dec.....	102.9	97.9	99.8	95.0
1986				
Jan.–Mar.....	101.3	97.1	101.7	97.4
Apr.–June.....	99.4	95.9	104.0	100.4
July–Sept.....	99.0	<u>4/</u> 94.8	<u>4/</u> 105.8	<u>4/</u> 101.3

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 average quarterly indexes presented in line 63 of the International Financial Statistics.

3/ The indexed real exchange rate represents the nominal exchange rate adjusted for the relative economic movement of each currency as measured here by the Producer Price Index in the United States and the respective foreign country. Producer prices in the United States decreased 0.6 percent during the interval January 1983–June 1986, compared to a 4.1-percent decrease in Taiwan prices for the same period.

4/ Taiwan data is July–August only.

Source: International Monetary Fund, International Financial Statistics, January 1987.

Note.—January–March 1983=100.0..





APPENDIX A

COMMERCE'S AND COMMISSION'S FEDERAL REGISTER NOTICES

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**INTERNATIONAL TRADE  
COMMISSION**

[Investigation No. 731-TA-371  
(Preliminary)]

**Fabric and Expanded Neoprene  
Laminate From Taiwan**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Institution of a preliminary  
antidumping investigation and  
scheduling of a conference to be held in  
connection with the investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-371 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of fabric and expanded neoprene laminate, provided for in items 355.81, 355.82, 359.50, and 359.60 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by February 8, 1987.

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

**EFFECTIVE DATE:** December 23, 1986.

**FOR FURTHER INFORMATION CONTACT:** Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that

information on this matter can be obtained by contacting the Commission's TOD terminal on 202-724-0002.

**SUPPLEMENTARY INFORMATION:**
**Background**

This investigation is being instituted in response to a petition filed on December 23, 1986, by Rubatex Corporation, Bedford, VA.

**Participation in the Investigation**

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

**Service List**

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), 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. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), 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 accompany the document. The Secretary will not accept a document for filing without a certificate of service.

**Conference**

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on January 12, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-523-0296) not later than January 8, 1987, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

**Written Submissions**

Any person may submit to the Commission on or before January 15, 1987, a written statement of information pertinent to the subject of the investigation as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

— **Authority:** This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: December 29, 1986.

**Kenneth R. Mason.**

*Secretary.*

[FR Doc. 87-31 Filed 1-2-87; 8:45 am]

BILLING CODE 7020-02-01

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(A-583-607)

**Initiation of Antidumping Duty Investigation: Fabric and Expanded Neoprene Laminate From Taiwan****AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

**SUMMARY:** On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of fabric and expanded neoprene laminate from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before February 6, 1987, and we will make ours on or before June 1, 1987.

**EFFECTIVE DATE:** January 20, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mary Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377-1769.

**SUPPLEMENTARY INFORMATION:****The Petition**

On December 23, 1986, we received a petition filed in proper form by the Rubatex Corporation, on behalf of the U.S. industry producing fabric and expanded neoprene laminate. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of fabric and expanded neoprene laminate from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

The petitioner based the United States prices on price lists of U.S. distributors, less estimated foreign inland freight, ocean freight, duty, insurance, and U.S. inland freight. Petitioner had no information on Taiwanese home market or third country prices. Instead, foreign market value was based on petitioner's production costs adjusted to reflect estimated Taiwanese costs with the

statutory minimums of 10 percent for general expenses and 8 percent for profit. Based on the comparison of prices to costs calculated by the foregoing methods, the potential dumping margins range from 1.80 to 12.23 percent.

#### Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on fabric and expanded neoprene laminate from Taiwan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of fabric and expanded neoprene laminate from Taiwan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by June 1, 1987.

#### Scope of Investigation

The product covered by this investigation is fabric and expanded neoprene laminate currently classified under item numbers 355.81, 355.82, 359.50, and 359.60 of the *Tariff Schedules of the United States* (TSUS). This material is used primarily in the manufacture of wet suits and similar products for the skin diving and recreational markets.

#### Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

#### Preliminary Determination by ITC

The ITC will determine by February 6, 1987, whether there is a reasonable indication that imports of fabric and expanded neoprene laminate from Taiwan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative the

investigation will terminate; otherwise it will proceed according to the statutory and regulatory procedures.

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration*

January 12, 1987.

[FR Doc. 87-1140 Filed 1-18-87; 8:45 am]

BILLING CODE 3510-09-M



APPENDIX B

LIST OF WITNESSES AT THE COMMISSION'S CONFERENCE.

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as Witnesses at the United States International Trade Commission's conference:

Subject: Fabric and Expanded Neoprene Laminate  
from Taiwan

Inv. No.: 731-TA-371 Preliminary)

Date and time: January 12, 1987 - 9:30am

Sessions were held in connection with the investigation in the Hearing Room of the United States International Trade Commission, 701 E Street, NW, Washington, DC.

In support of the antidumping duties:

Rubatex Corp.  
Bedford, VA

R. L. Adams, President and Chief Executive  
Officer

Karl Balliet, Technical Consultant

Milton G. Tsoleas, Controller

In opposition to the imposition of antidumping  
duties:

Kaplan, Russin & Vecchi--Counsel  
Washington, DC  
on behalf of

Shieh Chung Hsin Ind. Ltd. of Taiwan

Kathleen F. Patterson)--OF COUNSEL





UNITED STATES  
INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C. 20436

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