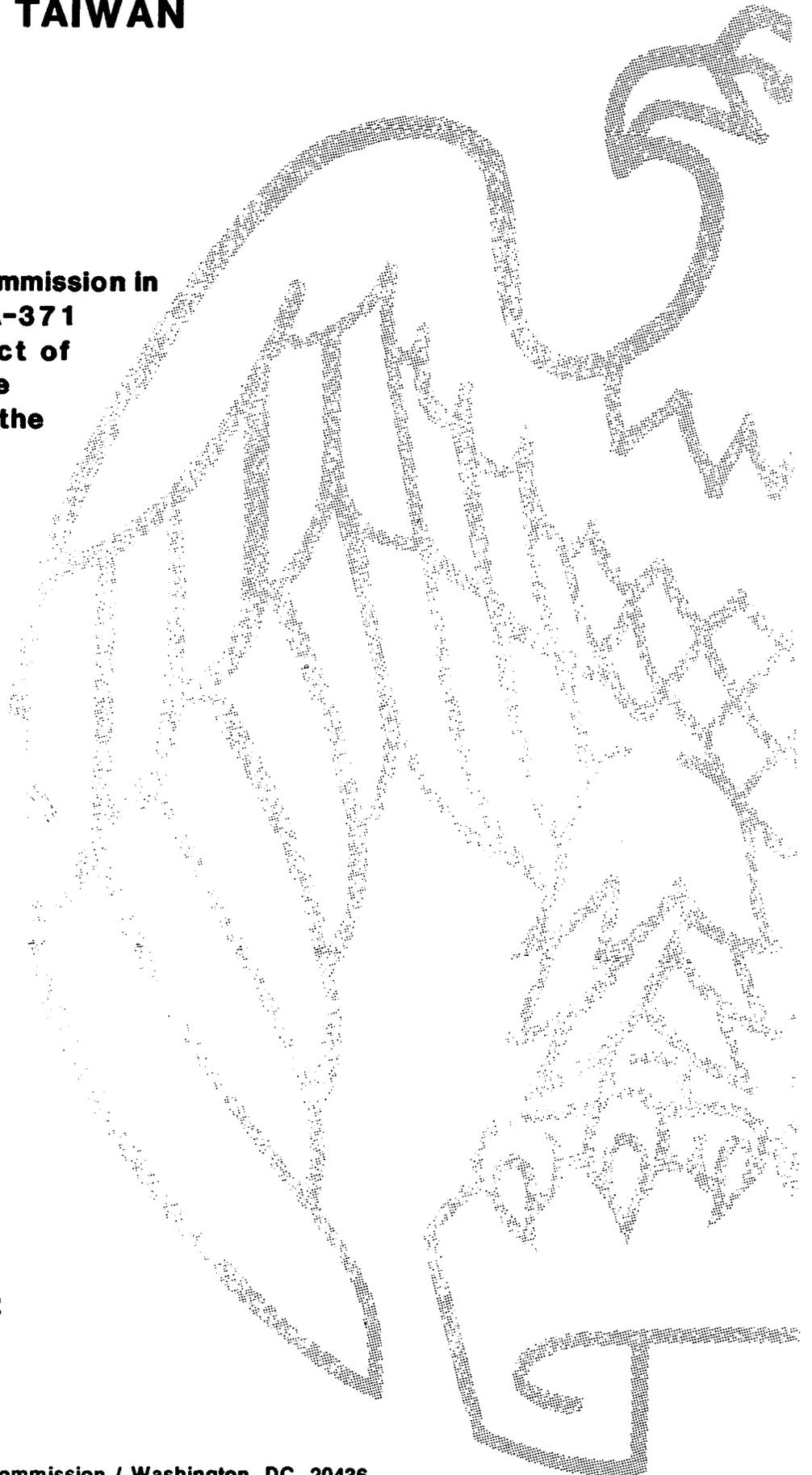


FABRIC AND EXPANDED NEOPRENE LAMINATE FROM TAIWAN

**Determination of the Commission in
Investigation No. 731-TA-371
(Final) 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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C O N T E N T S

	<u>Page</u>
Determination-----	1
Views of the Commission-----	3
Additional Views of Chairman Liebeler-----	17
Additional Views of Vice Chairman Brunsdale-----	29
Information obtained in the investigation:	
Introduction-----	A-1
Background-----	A-1
Previous investigation-----	A-2
Nature and extent of the LTFV sales-----	A-2
The product:	
Description and uses-----	A-3
U.S. tariff treatment-----	A-4
U.S. producers-----	A-5
U.S. importers-----	A-6
The U.S. market:	
Channels of distribution-----	A-6
U.S. consumption-----	A-6
Consideration of alleged material injury-----	A-6
U.S. capacity, production, and capacity utilization-----	A-8
U.S. producers' domestic shipments-----	A-10
Inventories-----	A-10
Employment and wages-----	A-10
Financial experience of U.S. producers-----	A-12
Operations producing fabric and expanded neoprene laminate---	A-12
Overall establishment operations-----	A-14
Value of property, plant, and equipment-----	A-16
Capital expenditures and research and development expenses---	A-16
Capital and investment-----	A-17
Consideration of alleged threat of material injury-----	A-17
U.S. importers' inventories-----	A-19
Capacity of foreign producers to generate exports-----	A-19
Consideration of the causal relationship between the LTFV imports and the alleged material injury:	
U.S. imports-----	A-20
U.S. importers' shipments-----	A-22
U.S. market penetration-----	A-22
Prices:	
Market demand-----	A-24
Competition among firms-----	A-24
Technical comparison of domestic and Taiwan fabric and expanded neoprene laminate-----	A-24
Price trends and comparisons-----	A-25
Quality-----	A-26
Appearance of fabric-----	A-27
Service-----	A-28
Lost sales-----	A-28
Exchange rates-----	A-29
Appendix A. Commission's <u>Federal Register</u> notices-----	A-31
Appendix B. Commerce's <u>Federal Register</u> notices-----	A-35
Appendix C. Calendar of witnesses-----	A-45
Appendix D. Rubatex's fabric and expanded neoprene laminate gross profit variance analysis and gross profit by grade-----	A-47
Appendix E. Producers' remarks-----	A-51

CONTENTS

Tables

	<u>Page</u>
1. Fabric and expanded neoprene laminate: U.S. producers' shipments, imports for consumption, and apparent consumption, 1984-86, January-June 1986, and January-June 1987-----	A-7
2. Fabric and expanded neoprene laminate: Summary of overall experience of U.S. producers, 1984-86, January-June 1986, and January-June 1987-----	A-8
3. Fabric and expanded neoprene laminate: U.S. capacity, production, and capacity utilization, by firms, 1984-86, January-June 1986, and January-June 1987-----	A-9
4. Fabric and expanded neoprene laminate: U.S. production by Rubatex, by grades, 1984-86, January-June 1986, and January-June 1987-----	A-10
5. Fabric and expanded neoprene laminate: U.S. producers' domestic shipments of first-quality and second-quality material, by firms, 1984-86, January-June 1986, and January-June 1987-----	A-11
6. Fabric and expanded neoprene laminate: U.S. producers' end-of-period inventories and shipments, by firms, 1984-86, January-June 1986 and January-June 1987-----	A-12
7. Fabric and expanded neoprene laminate: Number of production and related workers, hours worked by such workers, wages and total compensation paid, and output per hour, by firms, 1984-86, January-June 1986, and January-June 1987-----	A-13
8. Income-and-loss experience of Rubatex on its operations producing fabric and expanded neoprene laminate, accounting years 1984-86, and interim periods ended June 30, 1986, and June 30, 1987-----	A-14
9. Income-and-loss experience of Rubatex on its overall operations producing fabric and expanded neoprene laminate, accounting years 1984-86 and interim periods ended June 30, 1986, and June 30, 1987-----	A-15
10. Fabric and expanded neoprene laminate: Capacity, production, captive consumption, home-market sales, and exports by SHEICO, 1984-86, January-June 1986, and January-June 1987-----	A-20
11. Fabric and expanded neoprene laminate: U.S. imports, by sources, 1984-86, January-June 1986, and January-June 1987-----	A-21
12. Fabric and expanded neoprene laminate: Domestic shipments of first- and second-quality imports from Taiwan by Go Sport, 1984-86, January-June 1986, and January-June 1987-----	A-23
13. Fabric and expanded neoprene laminate: Apparent U.S. consumption and ratio of imports to consumption, 1984-86, January-June 1986, and January-June 1987-----	A-23
14. Fabric and expanded neoprene laminate: U.S. producers' and importers' f.o.b. selling prices for first- and second-quality two-sided standard nylon fabric and expanded neoprene laminate, by thicknesses 1 through 4, and by quarters, July 1984-June 1987-----	A-26
15. Nominal-exchange-rate equivalents of the New Taiwan dollar in U.S. dollars, real-exchange-rate equivalents, and producer price indices in Taiwan and the United States, indexed by quarters, January 1984-May 1987-----	A-30

Note.--Information that 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 (Final)

FABRIC AND EXPANDED NEOPRENE LAMINATE FROM TAIWAN

Determination

On the basis of the record ^{1/} developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not 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, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective May 14, 1987, following a preliminary determination by the Department of Commerce that imports of fabric and expanded neoprene laminate from Taiwan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of June 10, 1987 (52 F.R. 22010). The hearing was held in Washington, DC, on October 6, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

We determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of fabric and expanded neoprene laminate (FENL) from Taiwan that have been sold at less than fair value (LTFV). ^{1/} ^{2/} The condition of the domestic industry has improved significantly over the period of investigation and we find that it is not now experiencing material injury. Assuming that the industry were injured, there is no causal nexus between the condition of the industry and the LTFV imports. In particular, the imports have not caused either significant adverse volume effects or significant price suppressing or depressing effects. Finally, we find no threat of injury because the producer in Taiwan is operating at a high level of capacity, has a high and consistent level of captive consumption and has substantial commitments to third-country markets.

Like Product and Domestic Industry

As a threshold matter, the Commission must identify the domestic industry against which to assess the impact of the unfairly traded imports. Section 771(4)(A) of the Tariff Act of 1930 defines "domestic industry" as "the

^{1/} Material retardation of the establishment of an industry in the United States is not an issue in this investigation and will not be discussed further.

^{2/} Chairman Liebler and Vice Chairman Brunsdale do not concur with the views on causation expressed in this opinion and, accordingly, do not concur in the summary of reasons for the determination of no causal nexus in the test. See Additional Views of Chairman Liebler, infra, and Additional Views of Vice Chairman Brunsdale, infra.

domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major portion of the total domestic production of that product." ^{3/} "Like product," in turn, is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation" ^{4/ 5/}

The imported article that is the subject of this investigation is fabric and expanded neoprene laminate (FENL). ^{6/} In several prior investigations

^{3/} 19 U.S.C. § 1677(4)(A).

^{4/} 19 U.S.C. § 1677(10).

^{5/} In making the like product determination and in comparing that product to the appropriate imported product, the Commission examines (i) physical characteristics and uses, (ii) interchangeability, (iii) channels of distribution, (iv) common manufacturing facilities and production employees, and (v) customer or producer perceptions. See, e.g., Nitrile Rubber from Japan, Inv. No. 731-TA-384 (Preliminary), USITC Pub. 2027 at 4 (Oct. 1987); Certain Bimetallic Cylinders from Japan, Inv. No. 731-TA-383 (Preliminary), USITC Pub. 2017 at 5 (Sept. 1987); Certain Copier Toner from Japan, Inv. No. 731-TA-373 (Preliminary), USITC Pub. 1960 (July 1987). The like product determination is essentially factual and is made on case-by-case basis. Minor variations in products are insufficient cause to find separate like products. S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Fabric and Expanded Neoprene Laminate from Taiwan, Inv. No. 731-TA-371 (Preliminary), USITC Pub. 1944 at 4 (Feb. 1987). See, e.g., Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Invs. Nos. 731-TA-367 through 370 (Preliminary), USITC Pub. 1937 at 4 (Jan. 1987).

^{6/} 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, as provided for in items 355.8100, 355.8210, 355.8220, 359.5000 and 359.6000 of the Tariff Schedules of the United States Annotated (TSUSA). This material is used primarily in the manufacture of wet suits and similar products for the scuba diving and recreational markets." 52 Fed. Reg. 37193 (Oct. 5, 1987), reprinted in Report of the Commission (Report) at Appendix B, at A-44.

the Commission, having examined the like product issue extensively, ^{7/} determined that all domestic FENLs (petitioner Rubatex' FENLs denominated G-231-N, R-1400-N, R-6000-N, R-131-N, and 008, and Kirkhill Rubber Co.'s FENLs denominated LM300, S5000, OS450, and SE500) are encompassed within the scope of the like product. The Commission rejected arguments that certain domestic FENLs, principally G-231-N, should be excluded from the scope of the like product. ^{8/}

In this investigation, petitioner urged the Commission to adhere to the earlier definition of the like product. ^{9/} Shei Chung Hsin Industrial Company, Ltd. (Sheico), the producer and exporter in Taiwan, argued however that only petitioner's 008 grade FENL is the like product because only the 008 is in direct competition with the four grades of FENL from Taiwan. ^{10/} We find Sheico's arguments unpersuasive.

^{7/} Fabric and Expanded Neoprene Laminate from Taiwan, Inv. No. 731-TA-371 (Preliminary), USITC Pub. 1944 at 4-8 (Feb. 1987) (FENL from Taiwan (Preliminary)); Fabric and Expanded Neoprene Laminate from Japan, Inv. No. 731-TA-206 (Final), USITC Pub. 1721 at 3-8 (July 1985) (FENL from Japan (Final)); Fabric and Expanded Neoprene Laminate from Japan, Inv. No. 731-TA-206 (Preliminary), USITC Pub. 1608 at 4-8 (Nov. 1984) (FENL from Japan (Preliminary)).

^{8/} FENL from Taiwan (Preliminary) at 7-8. Commissioner Rohr determined that petitioner's G-231-N was not encompassed within the like product. Id. at 8, n. 23.

^{9/} Transcript of the Hearing (Tr.) at 57.

^{10/} Sheico posthearing Brief at 1-3. Sheico asserts that Rubatex' other principal products (R-1400-N and the R-131-N) are comparable to products of the other U.S. manufacturer, Kirkhill, but not to the FENL from Taiwan and that G-231-N is of so much higher quality than all other FENLs that it does not compete with them. Sheico prehearing Brief at 5-6.

As noted in prior investigations, all grades of FENL have essentially the same chemical composition and the same general physical characteristics, even though their technical specifications vary. Moreover, each grade of FENL may be used for each FENL application, although one grade may be preferred over another for a particular end use. ^{11/} Each domestic producer manufactures its various grades of FENL on the same production lines. ^{12/}

Although Rubatex 008 is perceived as the most direct competitor of the subject imports, purchasers also perceive Rubatex R-1400-N, R-131-N, and G-231-N as substitutable for the imports. ^{13/} Some purchasers report substituting among sources and grades of FENL and, of those, some do not disclose their sources to their customers. ^{14/}

Accordingly, we reject the argument that only petitioner's 008 is the like product and adhere to the definitions of like product and domestic industry we adopted in FENL from Taiwan (Preliminary), supra. ^{15/}

^{11/} FENL from Japan (Final) at 5.

^{12/} G-231-N differs from the other domestic FENLs in its manufacture because it is expanded by being infused with nitrogen gas at high pressure rather than being chemically blown. Otherwise, it is manufactured on the same production lines using the same workers, plant, and machinery. FENL from Japan (Final), supra, at 5. See FENL from Taiwan (Preliminary), supra, at A-2, n. 4.

^{13/} Report at A-24-25. See also EC-K-428 at 1 (Nov. 3, 1987). Although G-231-N is preferred for the professional and serious amateur diving market, the data do not suggest that the subject imports cannot be used for these applications. There is direct substitutability of the subject imports and G-231-N in sports medicine applications. EC-K-428, supra, at 1.

^{14/} Report at A-25.

^{15/} Commissioner Rohr again determines that G-231-N is not encompassed within the scope of the like product for the reasons he expressed in FENL from Taiwan (Preliminary), supra, at 8, n. 23.

Condition of the domestic industry. 16/ 17/

In evaluating the condition of the domestic industry, we considered, among other factors, U.S. production, capacity utilization, domestic shipments, inventories, employment, and financial performance over the entire period of investigation. 18/ 19/

Starting from a base of weak performance in 1984, 20/ the domestic industry experienced significant improvement in a number of indicators through the first half of 1987. 21/ Domestic productive capacity was unchanged

16/ As the domestic industry consists of only two firms, most of the data regarding the economic performance and condition of the industry are confidential and may be discussed only in general terms.

17/ Commissioner Rohr notes that, as he did not include G-231-N within the scope of the like product, in considering the condition of the domestic industry and the question of causation, the industry he considered did not include G-231-N.

18/ See 19 U.S.C. § 1677(7)(C)(iii).

19/ The data obtained in this investigation cover calendar years 1984, 1985, and 1986 and partial years January-June 1986, and January-June 1987. The financial data cover accounting years 1984, 1985, and 1986 and the interim accounting periods ending June 30, 1986, and June 30, 1987. Report at Table 8.

20/ In FENL from Japan (Final), supra, at, the Commission noted that almost all of the economic indicators of the condition of the domestic industry declined for the period 1982 through March 1985.

21/ Relying on the improvements in the condition of the domestic industry during the most recent periods, Sheico argued that "the current U.S. industry is healthy and cannot be said to be suffering 'material injury[.]'" suggesting that the Commission make a negative determination on this basis alone. Sheico prehearing brief at 2. See American Spring Wire Corp. v. United States, 590 F.Supp. 1273 (CIT 1984), aff'd sub nom. Armco Inc. v. United States, 750 F.2d 249 (Fed. Cir. 1985). Nevertheless, injury must be determined on a
(Footnote continued on next page)

throughout the period of investigation. Domestic production and capacity utilization generally declined from 1984 to 1985, but rose in 1986 to levels greater than the 1984 levels. Domestic shipments also fell in 1985, but recovered partially in 1986. All three indicators showed significant improvement in January-June 1987 compared to January-June 1986. ^{22/} ^{23/} The divergence between production and shipments during 1986 was due to petitioner's decision to stop selling FENL seconds, thus increasing its inventories of seconds. ^{24/} That increase in inventories slowed substantially in interim 1987.

(Footnote continued from previous page)
case-by-case basis and, although the data generally reveal improvements for interim year 1987, the most recent trends in economic indicators are not necessarily dispositive. See Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Invs. Nos. 731-TA-293, 294, and 296 (Final), USITC Pub. 1907 at 9 (Nov. 1986). In this case, while greater weight is given to the more recent developments in the industry, we have examined the industry's performance over the entire period of investigation.

Aside from the usual reasons for examining the industry over the entire period of investigation, several specific factors militate in favor of doing so here. First, we know from FENL from Japan (Final), supra, that the industry suffered substantial declines through 1984, most of which persisted into 1985, so that an examination of the entire period of investigation here gives us a more complete context in which to examine the magnitude of the recent improvements. Second, the data for January-June 1986 (when annualized) show substantially poorer performance than the annual data for 1985 and 1986. Thus, reliance on these data alone would appear to exaggerate the actual improvement in the condition of the domestic industry.

^{22/} Report at Tables 1 through 4.

^{23/} Commissioner Rohr notes that the same trends are apparent for the industry excluding G-231-N. See Id. at Tables 2 and 4.

^{24/} FENL from Taiwan (Preliminary), supra, at 9. Seconds consist of sheets of FENL characterized by such imperfections as wrinkles, fabric stains or color bleeding, variations in thickness. The imperfection reduces the usable area of the sheet. Sheets of seconds commanded proportionally lower prices in the market. See FENL from Taiwan (Preliminary) at 6.

Employment data show declines through 1986, with some overall rebound during the first six months of 1987.^{25/} Those declines must be viewed, however, in the context of the productivity increase over the period of investigation. Output per man hour increased substantially from 1984 through 1986, reflecting the fact that 1986 production, which was greater than 1984 production, was accomplished by a significantly smaller work force working a significantly smaller number of hours.^{26/} The same is true when January-June 1987 is compared with January-June 1986. Thus, the declines in employment data stem predominantly, if not exclusively, from improved productive efficiency of the domestic producers.

The improvement in the industry's condition is most apparent in the financial data.^{27/} Net sales declined from 1984 to 1985, partially rebounded in 1986, and then increased significantly from January-June 1986 to January-June 1987. Operating income increased substantially in 1986 from the 1984-85 levels and rose sharply again in the first six months of 1987. Cash flow also improved substantially in 1986 and the first half of 1987, as did operating income as a percentage of net sales.^{28/}

In sum, the performance of this industry has improved substantially over the course of this investigation and we conclude that the industry is not

^{25/} Report at Table 7.

^{26/} Id. at Tables 2 and 7.

^{27/} The Commission received usable financial data only from Rubatex Corp. We note that Rubatex' FENL operations are far larger than Kirkhill's FENL operations. Id. at A-12.

^{28/} Id.

experiencing material injury. ^{29/} Assuming arguendo that material injury exists, we next consider whether such injury is by reason of the subject imports.

No material injury by reason of the LTFV imports ^{30/}

In determining whether there is material injury "by reason of" the LTFV imports under investigation, the Commission considers, among other factors, the volume of imports subject to investigation, the effect of these imports on prices in the United States for the like product, and the impact of such imports on the relevant domestic industry. ^{31/}

The volume of imports (measured in thousands of square feet), starting from a low base in 1984, grew sharply in 1985 and again in 1986, before declining over fifty percent from January-June 1986 to January-June 1987. ^{32/} As a percentage of apparent domestic consumption, the volume of imports (again measured in thousands of square feet) rose sharply from 1984 to 1986, before declining by half from January-June 1986 to January-June

^{29/} We are aware that some of this improvement may have been due to the issuance of an antidumping order against imports from Japan in 1985. See 50 Fed. Reg. 29466 (July 19, 1985).

^{30/} Because there is only one exporter of FENL from Taiwan and a limited number of importers, the data concerning the effect or lack of effect of the imports on the domestic industry may be discussed only in general terms.

^{31/} 19 U.S.C. § 1677(7)(B).

^{32/} Report at Table 10. The Commission's preliminary investigation was instituted on March 15, 1987. Given the lead times for the placing of orders and the time required for shipment from Taiwan, it is extremely unlikely that the pendency of this investigation had more than a minimal impact, if any impact at all, on the volume of imports during January-June 1987.

1987. ^{33/}

However, the 1986 import data are skewed by a substantial volume of seconds. ^{34/} The usable area of the seconds was substantially less than the usable area of first quality material, so that measures of absolute area of imported FENI. overstate the real impact of the imports. Since the prices of seconds reflect the reduced usable area per sheet, the more appropriate approach is to consider the imports on a value basis. When so considered, the imports increased sharply from 1984 to 1985, but then increased more slowly from 1985 to 1986, before falling in the first half of 1987. ^{35/}

Imports from Taiwan, as a percentage of apparent domestic consumption on a value basis, increased substantially from 1984 to 1985, then increased slightly from 1985 to 1986. From January-June 1986 to January-June 1987, the percentage declined to the level of 1985. ^{36/} For all periods the import penetration by value remained low. Further, notwithstanding the fluctuations in the volume of such imports, the condition of the domestic industry continued to improve.

The same lack of impact is apparent when prices are considered. The Commission requested quarterly pricing data for four common thicknesses of

^{33/} Id. at Table 13.

^{34/} See footnote 24, supra. We further note that the relatively large volume of seconds produced by Sheico and sold in the United States was related to the start up of new production facilities in Taiwan. Tr. at 77-79.

^{35/} Report at Table 11.

^{36/} Id. at Table 13.

FENL. Domestic prices were generally above those of the imports. With one exception, prices for each of the four thicknesses increased throughout the period of investigation. ^{37/} Some of those price increases occurred at times of increasing volumes of imports from Taiwan. In addition to absolute changes in price, rising price levels are important because, when compared to costs in this industry,, they reflect increasing profitability. Moreover, the record does not support any inference of price suppression or price depression. There were no allegations of lost revenues by the domestic industry. Finally, although there were some substantial allegations of lost sales by the domestic industry, virtually none of the allegations were confirmed and even where sales were actually lost, the volume of those lost sales was quite small.

The lack of price impact is reinforced by the fact that sourcing decisions are based in part on factors other than price. Although several considerations equally favor the domestic and the imported product, the domestic product appears to have enjoyed a substantial edge in quality over the period of investigation. As we know from our past investigations and as confirmed by the record to this investigation, purchasers of FENL place a relatively high premium on quality and are particularly concerned with four kinds of defects -- delamination, color inconsistency, variation in thickness, and color fading and running. ^{38/} Discussions with purchasers by Commission

^{37/} Report at Table 14.

^{38/} Report at A-28.

staff indicate that the Taiwan producer has had quality problems, although the quality of its product has been improving. ^{39/}

Accordingly, the record does not reveal any significant effects of the subject imports on the domestic industry and we find that there is no material injury by reason of the LTFV imports from Taiwan.

No threat of material injury by reason of the LTFV imports

In determining whether there is a threat of material injury by reason of the subject imports, the Commission is directed to consider, inter alia, any existing unused foreign capacity or increase in foreign productive capacity likely to result in a significant increase in exports to the United States, any rapid increase in U.S. market penetration and the likelihood that such penetration will increase to an injurious level, the probability that imports will enter the United States at prices that will have a depressing or suppressing effect on domestic prices, any substantial increase in inventories in the United States, and the potential for product-shifting. ^{40/ 41/} A finding of threat of material injury must be based on "evidence that the threat of material injury is real and that actual injury is imminent," and such a determination may not be based on "mere conjecture or

^{39/} Report at A-28. For some applications, Taiwan quality is still viewed as inferior.

^{40/} 19 U.S.C. § 1677(7)(F)(i).

^{41/} Potential for product-shifting is not an issue in this investigation because there are no products subject to investigation or to final orders that use production facilities that can be shifted to the production of FENL. Report at A-18.

supposition." ^{42/}

The data the Commission received in this investigation reveal that Sheico increased its capacity from 1984 to 1986. ^{43/} However, throughout the period of investigation, Sheico's capacity utilization was very high. Although exports to the United States increased (except for the decline in January-June 1987), Sheico's captive consumption and sales to third-country markets increased at an equal or greater rate. ^{44/} Sheico has stated that it will not be significantly changing its productive capacity in Taiwan. ^{45/} In addition, available information suggests that Sheico will not decrease its exports to third-country markets in order to increase exports to the United States. ^{46/}

In fact, the recent decline in exports to the United States is likely to continue. In the first place, Sheico is primarily a manufacturer of wetsuits and wetsuit components and uses its own FENL production for this. ^{47/} This appears to be its preferred line of business. It has only a small inventory

^{42/} 19 U.S.C. § 1677(7)(F)(ii). See also S. Rep. No. 249, 96th Cong., 1st Sess. 88-89 (1979).

^{43/} Report at Table 10.

^{44/} Id. Sheico has provided the Commission with copies of purchase orders substantiating a significant portion of the third country sales.

^{45/} Report at A-19.

^{46/} Report at A-19-20; Sheico posthearing brief at 8.

^{47/} Report at A-19; Tr. at 65, 71-72, 80.

of FENL, of which only a part is available for export. ^{48/} Second, Go Sport, Sheico's sister company in the United States, has purchased land and is in the process of constructing facilities in South Carolina for the production of FENL and wetsuits. It expects FENL to begin production there in 1989. ^{49/} Thus, an increase in import penetration, much less an increase to injurious levels, is unlikely.

Nor do we believe that future imports will be priced at levels that would have significant adverse effects on the prices of the like product. Prices of imports from Taiwan did not significantly affect U.S. prices for the like product during the period of investigation and there is no evidence that they will do so in the foreseeable future.

Finally, the ratio of importer stocks to shipments has declined substantially since 1985. ^{50/}

Accordingly, we determine that there is no threat of material injury to the domestic industry by reason of less-than-fair-value imports of fabric and expanded neoprene laminate from Taiwan.

^{48/} Report at A-19; Sheico posthearing brief at 8.

^{49/} Report at A-20; Tr. at 81-82.

^{50/} Id. at A-19.

(Public Version)
ADDITIONAL VIEWS OF CHAIRMAN LIEBELER

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

I join my colleagues in determining that an industry in the United States is not materially injured or threatened with material injury, by reason of imports of fabric and expanded neoprene laminate (FENL) from Taiwan that the Department of Commerce has determined to be sold at less than fair value (LTFV).¹

I concur with the majority in their definition of the like product and the domestic industry, and with their discussion of the condition of the domestic industry, and their analysis of threat of material injury. I offer these additional views on causation of material injury.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a final investigation, the Commission must determine that

1

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

the dumped 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 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 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 meaning are subject to such statutory interpretation.²

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

²

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

"harm which is not inconsequential, immaterial, or

unimportant."³ 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 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 other⁴ 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."⁵

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."⁶ Since the domestic industry is no doubt worse

⁴ 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
 7
 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
 8
 price.

7
 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.⁹ 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."¹⁰

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."¹¹

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 light¹² of the cited legislative history.

11

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

12

Inv. No. 731-TA-196 (Final), USITC Pub. 1707, at 11-19 (1985) (Additional Views of Vice Chairman Liebeler).

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
 13
 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.¹⁴ 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 on a value basis increased from ---- in 1984 to ---- in 1986, but

13

Id. at 16.

14

19 U.S.C. § 1677(7)(B)-(C) (1980 & cum. supp. 1985).

fell to ---- in interim 1987, compared with ---- in

interim 1986. ¹⁵ Although import penetration increased from 1984 to 1985 the increase slowed in 1986 and declined in interim 1987 to the level of 1985. The market share is very low and consistent with a negative determination.

The second factor is a high margin of dumping. The higher the margin, ceteris paribus, the more likely it is that the product is being sold below the competitive price and the more likely it is that the domestic producers will be adversely affected. The Commerce Department determined that the weighted average dumping margin is 0.8%. This margin is very low and is consistent with a negative determination.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the

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Staff Report at A-23, Table 13. Quantity based penetration increased from ---- in 1984 to ---- in 1986, but fell to ---- in interim 1987 compared to ---- in interim 1986. Quantity based penetration overstates penetration because it includes seconds for which one sheet may be only 50% usable. This problem is eliminated in quality based data because seconds are priced to compensate for unusable portions. I note that using quantity-based penetration data would not have changed my determination in this investigation. Import penetration data are confidential and may not be cited in this opinion.

effect of any unfair practice on domestic producers. The domestic and the imported product differ in quality, appearance, and number of available grades; all factors upon which purchasers of FENL base their selection. A majority of purchasers familiar with domestic and Taiwanese FENL judge domestic FENL of equal or higher quality. In addition, the domestic industry offers several grades of FENL, while the Taiwanese offer only one. On the other hand, a majority of purchasers have stated that the Taiwanese have the edge in color selection, and that this was a major factor in choosing the imported product over the domestic product.

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There are important differences between domestic and Taiwanese FENL.

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 sizes of

fabric and expanded neoprene laminate, by quarters. U.S.

prices rose slightly from 1984-1987.¹⁷ This factor is consistent with a negative determination.

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. During the period of the investigation, Japan was the major exporter of FENL to the U.S. From 1984-86 imports, measured in quantity, from Taiwan increased, but still remained well below the level of exports from Japan. Japan accounted for more than half of apparent U.S. consumption from 1984-86, whether measured in quantity or in value terms; while Taiwanese FENL accounted for only between ---- and ---- measured in quantity terms, and ----- measured in value terms.¹⁸ Since imports from Japan account for such a large portion of total imports, I conclude that barriers to entry are low.

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Report at A-36, Table 14.

18

Report at A-21, Table 11. This data is confidential and may not be cited in this opinion.

I have examined all five factors in reaching my determination. Evidence on homogeneity is mixed. Market share, the dumping margin, barriers to entry and prices support a negative determination.

Conclusion

Therefore, I conclude that an industry in the United States is not materially injured or threatened with material injury by reason of dumped imports of FENL from Taiwan.

ADDITIONAL VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

Fabric and Expanded Neoprene Laminate from Taiwan
Investigation 731-TA-371 (Final)

November 12, 1987

I join with my colleagues in the unanimous determination that a domestic industry is not materially injured or threatened with material injury by reason of dumped imports of fabric and expanded neoprene laminate (FENL) from Taiwan. I also concur with my colleagues on the issues of domestic like product, domestic industry, condition of the domestic industry, and threat of material injury.¹ I offer these additional views to explain my reasoning on the issue of causation.

My analysis of the information on record in this case leads me to conclude that dumped imports of FENL from Taiwan did not have an appreciable effect on the domestic industry during the period of investigation. In particular, I find that the dumped imports did not significantly suppress or depress prices of the domestic like product. Nor did they significantly reduce the volume of domestic industry shipments. As a consequence, the

¹
See Views of the Commission, *supra*.

sales revenue lost by the domestic industry as a result of dumped imports is also very small.

To determine the maximum possible adverse effects on domestic prices and volumes in this case, I considered first the absolute and relative amounts of the subject imports. While the precise data are confidential, it is possible to discuss the maximum possible magnitudes of the price suppression/price depression and domestic volume effects in general terms. The quantity of dumped FENL imports increased nearly ten-fold from 1984 to 1986 [*****²*****]. The market penetration of dumped imports on a quantity basis behaved similarly [*****³*****]. The greatest adverse impact of the subject imports on the domestic industry would have occurred in 1986 because it was then that the Taiwanese import penetration was highest. [*****⁴*****]

In order to assess these maximal effects it is important to have information about the price sensitivity of domestic demand

² Report at A-21 (Table 11).

³ Id. at A-23 (Table 13).

⁴ Id. at A-7 (Table 1).

and the price sensitivity of domestic supply.⁵ Evidence prepared by the Office of Economics indicates that domestic demand is inelastic and domestic supply is highly elastic.⁶ The figure reported for the demand elasticity of FENL is between -0.2 and -1.0.⁷ Thus, if the average price of FENL declines by 10 percent, other things remaining the same, quantity demanded would increase between 2 and 10 percent. The figure reported for supply elasticity is at least 5.⁸ Thus, if the average domestic price obtained by U.S. producers increases by 1 percent, other things remaining the same, quantity supplied by domestic firms would increase by at least 5 percent. On the other hand, if domestic shipments increase by 5 percent, the domestic supply price would increase by no more than 1 percent.

To assess the maximum possible adverse volume effect on the domestic industry caused by the dumped imports, I make two

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For my views on the importance of elasticities in causation analysis see Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. 731-TA-349 (Final), USITC Pub. 1994 (July 1987) at 55-63 (Additional Views of Vice Chairman Brunsdale).

6

Memorandum from the Office of Economics, EC-K-428 (November 3, 1987) ("Economics Memo"). The evidence on elasticity numbers was prepared by the Office of Economics and incorporates comments and evaluations offered by parties in this case.

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Id. at 3.

8

Id.

assumptions. First, I assume that the total volume of these imports replaces an equal volume of domestic shipments. This assumption is clearly very favorable to the domestic industry.⁹ Second, I assume that the total size of the market was little affected by the lower price of the dumped FENL so that the dumped FENL completely supplanted domestic FENL on a one-for-one basis. This latter assumption is not unreasonable given that the overall demand for FENL in the U.S. market is inelastic.

Under these assumptions, the volume effect in 1986, the year when the imports were greatest, would have caused a contraction in domestic industry shipments of roughly 20 percent. [*****

 *****] A contraction of this size is not inconsequential, but, as explained below, it is far too large to be a realistic conclusion in this case. However, even if we were to accept this

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Note that this line of analysis implicitly assumes that (1) no other foreign supplier is adversely affected by dumped imports, (2) FENL is a highly fungible product, and (3) the price advantage enjoyed by dumped imports as a result of dumping was so large that the entire volume of FENL imports from Taiwan can be attributed to dumping. I will take up these matters below.

approximate magnitude for the relative volume effect, the extent of price suppression/price depression is relatively small. Its maximum extent is equal to the percentage decrease in the domestic supply price as result of the decline in domestic shipments caused by dumped imports. Since domestic shipments were at most about 20 percent lower and since the supply elasticity is greater than 5, price suppression/price depression would be, at most, 4 percent (that is, 20 percent divided by 5).

[*****

 *****] I do not find this relative magnitude for the domestic price effect caused by dumped imports to be significant, particularly in light of the health and improving condition of the domestic industry.¹⁰

A realistic assessment of the degree to which the dumped imports reduced shipments is much, much smaller than 20 percent. There are three reasons why this is so.

First, heretofore, I have ignored the fact that there is another player in the domestic market. Once again the exact data

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See Views of the Commission, supra.

are confidential.¹¹ But we can say that, throughout the period of investigation, Japan was not only an important supplier of FENL but was also the largest source of FENL in the U.S. market.

[*****]

*****¹²] When Taiwan dumps in the domestic market it takes away business from Japanese suppliers as well as from domestic suppliers. Therefore, the contraction in domestic shipments resulting from Taiwanese dumping would have been substantially less than 20 percent.

Second, I have also ignored the fact that domestic and Taiwanese FENL are not perfect substitutes, that is, not highly fungible products. In this case the Taiwan producer supplies only one grade of FENL while the domestic industry supplies several grades.¹³ Moreover, the quality of the Taiwanese product is at the low end of the spectrum.¹⁴ Thus, it is not reasonable to assume, as I did above, that the Taiwanese product

¹¹ Report at A-23 (Table 13).

¹² Id.

¹³ Id. at A-24-25.

¹⁴ The Office of Economics has estimated that the degree of substitutability -- the elasticity of substitution -- between Taiwanese FENL and domestic FENL is greater than 4. The higher the elasticity of substitution the closer the two products are to being highly fungible. Economics Memo at 1.

would displace the domestic like product on a one-for-one basis. The appropriate rate of displacement is less, very likely much less, than one-for-one. As a consequence, the adverse volume effect of dumped imports would have been considerably smaller than 20 percent.

Finally, to this point I have assumed that the price advantage gained by Taiwanese imports as a result of dumping was so large that the entire amount of Taiwanese imports can be attributed to the unfair act. However, the final dumping margin in this case is only 0.80 percent.¹⁵ Even if the full dumping margin were passed through to the price of Taiwanese FENL, that price in the U.S. market would be lowered by less than 1 percent.¹⁶ Given the quality differences between Taiwanese and domestic FENL, it is not very likely that this very small price advantage would have an appreciable effect on the domestic industry or on the volume of imports that enter the U.S. market from Taiwan.

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Report at A-2.

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For a discussion of the role of the dumping margin in assessing harm to a domestic industry, see Memorandum from the Office of Economics, EC-J-010 (January 7, 1986), at 29-31. For a discussion of the propriety of the Commission's consideration of this factor, see Hyundai Pipe Co., Ltd., et. al. v. U.S. International Trade Commission, et. al., slip op. 87-18 (CIT February 23, 1987).

For the foregoing reasons, I determine that dumped imports of FENL from Taiwan are not a cause of material injury to the domestic industry.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On May 14, 1987, the U.S. Department of Commerce published in the Federal Register (52 F.R. 18258) its preliminary determination that there is a reasonable basis to believe or suspect that fabric and expanded neoprene laminate 1/ from Taiwan is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Tariff Act of 1930. Accordingly, effective May 14, 1987, the U.S. International Trade Commission instituted investigation No. 731-TA-371 (Final) under section 735(b) of the act (19 U.S.C. § 1673d(b)) to determine whether 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 such imports from Taiwan.

Notice of the institution of the Commission's final investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of June 10, 1987 (52 F.R. 22010). 2/ The Commission's hearing was held in Washington, DC, on October 6, 1987. 3/

The statutory deadline for reporting the Commission's final injury determination to Commerce is November 12, 1987. The briefing and vote were held on November 6, 1987.

Background

On December 23, 1986, petitions were filed with the Commission and Commerce by Rubatex Corp. (Rubatex), Bedford, VA, alleging that 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 was 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 is materially retarded, by reason of such imports. On February 5, 1987, the

1/ The products covered by its determination are described by Commerce as materials used primarily in the manufacture of wet suits and similar products for the scuba diving and recreational markets, currently reported for statistical purposes in the Tariff Schedules of the United States Annotated (TSUSA) under items 355.8100, 355.8210, 355.8220, 359.5000, and 359.6000.

2/ Copies of the Commission's Federal Register notices are presented in app. A; copies of Commerce's Federal Register notices are presented in app. B. On June 5, 1987, Commerce published in the Federal Register (52 F.R. 21339), a notice extending its final LTFV determination in this investigation from July 22, 1987, to Sept. 28, 1987. Consequently, on July 1, 1987, the Commission published in the Federal Register (52 F.R. 24537) a notice of revised schedule, which conformed to Commerce's schedule.

3/ A calendar of witnesses who appeared at the Commission's hearing is presented in app. C.

Commission notified Commerce of its affirmative determination 1/ with respect to its preliminary investigation. As a result, Commerce continued its investigation on alleged LTFV sales of fabric and expanded neoprene laminate from Taiwan.

Previous Investigation

Fabric and expanded neoprene laminate has been the subject of one other statutory investigation conducted by the Commission, also instituted in response to a petition filed by Rubatex. In July 1985 the Commission determined 2/ 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). 3/

Nature and Extent of the LTFV Sales

Commerce made its final determination with respect to the LTFV imports on September 28, 1987. In order to determine whether sales of the subject merchandise from Taiwan were made in the United States at LTFV, Commerce compared the U.S. price with the foreign-market value for the company under investigation 4/ using data provided in questionnaire responses. SHEICO had insufficient home-market sales of fabric and expanded neoprene laminate; therefore, Commerce calculated the foreign-market value based on prices to unrelated purchasers in a third country (Australia). The weighted-average LTFV margin was 0.80 percent. 5/ Commerce has directed the U.S. Customs

1/ Commissioners Eckes, Lodwick, and Rohr determined that there is a reasonable indication that an industry is materially injured or threatened with material injury. Vice Chairman Brunsdale determined that there is a reasonable indication that an industry is threatened with material injury. Chairman Liebeler made a negative determination.

2/ Commissioners Eckes, Lodwick, and Rohr determined that an industry was materially injured. Chairwoman Stern and Vice Chairman Liebeler dissented.

3/ In its original determination Commerce found LTFV margins only with respect to one of the four firms it investigated--Yamamoto Corp. Three other firms had either no margins or had de minimis margins. On Sept. 28, 1987, Commerce published in the Federal Register (F.R. 36295) the final results of its administrative review of the antidumping duty order concerning imports from Japan. The review included two manufacturers/exporters of the subject merchandise to the United States and covered the period Mar. 15, 1985, through June 30, 1986. As a result of its review, Commerce found a LTFV margin of 3.09 percent ad valorem with respect to imports from Yamamoto but a de minimis margin (0.29 percent) with respect to Heiwa Rubber Industries (which was not included in Commerce's original LTFV determination).

4/ Commerce made comparisons on approximately 97 percent of the sales by Shei Chung Hsin Industrial Co. Ltd. (SHEICO) of fabric and expanded neoprene laminate to the United States during July 1 through Dec. 31, 1986. SHEICO accounted for over 70 percent of all sales of this merchandise from Taiwan. Commerce's final determination, as published in the Federal Register (52 F.R. 37193) of Oct. 5, 1987, is presented in app. B.

5/ Total sales by SHEICO to the United States during the period examined by Commerce were * * *, of which * * *, or about * * * percent, were found to have LTFV margins. LTFV margins ranged from * * * percent to * * * percent.

Service to suspend liquidation of all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after May 14, 1987.

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 such items as kayak cockpit covers, weight-reducing belts, handlebar grips for bicycles, ski masks, wet suit hoods, boots, and gloves. Relatively small quantities are used for sports medicine items (e.g., knee braces), bottle and can holders, eyeglass cases, table mats, and miscellaneous novelty products.

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, the Taiwan producer, manufactures it, although the company does import some nylon from Japan. 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 that, 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 activates 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 (since the gas-forming

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.

actions of the blowing agents continue after cooling), the sheets are split into thicknesses ranging from about 1/32 inch (or about 0.8 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 each sheet 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.

In addition to having differing thicknesses 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 most wet suits are purchased by individuals for sport and recreation purposes. Both the U.S.- and Taiwan-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 Taiwan 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 a function not only 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 that 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--sheets with known defects--are sometimes sold at discount prices. 1/ Secondary material produced by the petitioner accounts for a small share of its total production and, for the most part, it is consumed at its plant in the manufacture of other products, such as soles for shoes and boots. 2/ Secondary material produced in Taiwan, listed as having either 50 percent or 70 percent usable surface, accounted for * * * percent of SHEICO's exports to the United States in 1986.

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

U.S. tariff treatment

Imports of fabric and expanded neoprene laminate are classified in items 355.81, 355.82, 359.50, or 359.60 of the TSUS, depending on their

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/ Second quality material accounted for * * * percent of total shipments by Rubatex in 1984, * * * percent in 1985, * * * percent in 1986, and * * * percent in January-June 1987.

composition. 1/ If the product weighs over 44 ounces per square foot and contains 50 percent or less, by weight, of textile fibers, 2/ it is classified in TSUS item 359.50. All other products, pursuant to headnote 2(c), part 4C of schedule 3, are classified in either 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 covered by 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 cents per pound plus 18 percent ad valorem, respectively. 3/ The column 1 duty rates for TSUS 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 TSUS item 359.50 will be reduced to 16 percent ad valorem on January 1, 1988.

U.S. Producers

In addition to Rubatex, which produces fabric and expanded neoprene laminate at a single plant in Bedford, VA, 4/ one other firm manufactures fabric and expanded neoprene laminate in the United States: Kirkhill Rubber Co., at a single plant in Brea, CA. 5/ Rubatex, a wholly-owned subsidiary of Great American Industries, Binghamton, NY, accounted for * * * percent of U.S. production in 1986. Both Rubatex and Kirkhill are medium-sized corporations, and both manufacture several types of rubber products other than fabric and expanded neoprene laminate, many at the same plant and with 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.

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

2/ 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 context to the contrary in tariff items, superior headings, or headnotes.

3/ 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, Poland, 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 (duty-free entry) under TSUS item 355.81 as a result of competitive need limits; articles in the other tariff items are not designated as eligible for GSP treatment.

4/ Rubatex has shipping warehouses in Atlanta, GA; St. Louis, MO; Houston, TX; Denver, CO; Los Angeles, CA; and Kent, WA.

5/ Kirkhill is in support of the petition.

U.S. Importers

The largest importer of fabric and expanded neoprene laminate from Taiwan is an affiliate of SHEICO, Go Sport, Inc., located in Spartanburg, SC. * * *, a trading company * * *, purchased small quantities from Taiwan beginning in 1986 for resale, and two firms that produce wet suits, * * *, also began the importation of fabric and expanded neoprene laminate from Taiwan in 1986. A third U.S. producer of wet suits, * * *, began importing the subject merchandise from Taiwan during January-June 1987. * * * imports fabric and expanded neoprene laminate only when it receives an order from its client, * * *.

The U.S. Market

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. In 1986, the proportion of fabric and expanded neoprene laminate sold by U.S. producers to wet-suit manufacturers was about * * * percent of total sales. About * * * percent of that sold in the United States by SHEICO is sold to its wholly-owned subsidiary, Go Sport Inc., * * *. Most of the remaining * * * percent of SHEICO's exports to the United States are sold to * * * trading companies and product fabricators on the west coast.

U.S. consumption

Demand for fabric and expanded neoprene laminate is derived principally from the demand for articles used in water sports, such as wet suits, surf suits, and related aquatic apparel, and to a lesser extent from the demand for such diverse articles as knee braces used in sports medicine, insulators for beverage containers, and bicycle handle-bar grips. Apparent U.S. consumption dropped by 12.8 percent from * * * in 1984 to * * * in 1985, then rose to * * * in 1986, 3.4 percent below consumption in 1984. The market share supplied by U.S. producers dropped annually, from * * * percent in 1984 to * * * percent in 1986, a decline of 5.5 percentage points (table 1). 1/

Consideration of Alleged Material Injury

Two firms accounted for all known U.S. production of fabric and expanded neoprene laminate during the period January 1, 1984, to June 30, 1987. Both firms supplied data in response to Commission questionnaires. A summary of that data is presented in table 2 and discussion of the data follows.

1/ On the basis of value, the market share lost by U.S. producers from 1984 to 1986 was 10.0 percentage points.

Table 1

Fabric and expanded neoprene laminate: U.S. producers' shipments, imports for consumption, and apparent consumption, 1984-86, January-June 1986, and January-June 1987

Period	Producers' shipments	Imports	Apparent consumption	Ratio to consumption	
				Producers' shipments	Imports
			Quantity (1,000 square feet)	Percent	
1984.....	***	***	***	***	***
1985.....	***	***	***	***	***
1986.....	***	***	***	***	***
January-June--					
1986.....	***	***	***	***	***
1987.....	***	***	***	***	***
			Value (1,000 dollars) 1/	Percent	
1984.....	***	***	***	***	***
1985.....	***	***	***	***	***
1986.....	***	***	***	***	***
January-June--					
1986.....	***	***	***	***	***
1987.....	***	***	***	***	***

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

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.

Table 2

Fabric and expanded neoprene laminate: Summary of overall experience of U.S. producers, 1984-86, January-June 1986, and January-June 1987

Item	1984	1985	1986	January-June--	
				1986	1987
Production.....1,000 sq. ft..	***	***	***	***	***
Capacity.....do....	***	***	***	***	***
Capacity utilization....percent..	***	***	***	***	***
Domestic shipments.1,000 sq. ft..	***	***	***	***	***
Inventories.....do....	***	***	***	***	***
Employment:					
Production workers.....number..	***	***	***	***	***
Hours worked.....1,000 hours..	***	***	***	***	***
Average hourly wage.....	***	***	***	***	***
Average hourly total compensation.....	***	***	***	***	***
Financial experience: 1/					
Net sales.....1,000 dollars..	***	***	***	***	***
Cost of goods sold.....do....	***	***	***	***	***
Net profit.....do....	***	***	***	***	***
Ratio to net sales:					
Cost of goods sold..percent..	***	***	***	***	***
Net profit.....do....	***	***	***	***	***
Cash flow.....1,000 dollars..	***	***	***	***	***

1/ Data are for Rubatex only. * * *

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

U.S. capacity, production, and capacity utilization

The capacity of the two U.S. producers to manufacture fabric and expanded neoprene laminate remained unchanged at slightly more than * * * during 1984-86 (table 3). 1/ Producers were asked if their firms are scheduled to add, expand, curtail, or close production facilities and to indicate the amount that would be added or subtracted from the present capacity. Rubatex responded that * * *. Kirkhill responded that * * *.

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, accounts for about * * * percent of the equipment's time.

Table 3

Fabric and expanded neoprene laminate: U.S. capacity, production, and capacity utilization, by firms, 1984-86, January-June 1986, and January-June 1987

Item and firm	1984	1985	1986	January-June--	
				1986	1987
	1,000 square feet				
Capacity: <u>1/</u>					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Total.....	***	***	***	***	***
Production:					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Total.....	***	***	***	***	***
	Ratio, production to capacity (percent)				
Capacity utilization:					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Average.....	***	***	***	***	***

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.

Aggregate U.S. production of fabric and expanded neoprene laminate declined by 6.4 percent from * * * in 1984 to * * * in 1985, then rose by 9.5 percent to * * * in 1986. Production totaled * * * during January-June 1987, 46.3 percent more than the * * * produced during January-June 1986. * * *. Kirkhill could not supply data for its production by grades, but such data were provided by Rubatex and are presented in table 4. 1/

In the aggregate, capacity utilization increased irregularly from * * * percent in 1984 to * * * percent in 1986 and to * * * percent in January-June 1987. * * *.

1/ Producers, importers, and purchasers were asked to identify which grades they view as close substitutes. Rubatex G-231-N, the most dense, resilient, and durable grade, had no close substitutes in several major water-sports applications. Rubatex R-1400-N and R-131-N were found broadly comparable with Kirkhill LM-300 and S-400. Rubatex 008 and the imported merchandise from Taiwan, the two softest materials, were found comparable in use and perceived as direct competitors by market participants.

Table 4

Fabric and expanded neoprene laminate: U.S. production by Rubatex, 1/ by grades, 1984-86, January-June 1986, and January-June 1987

(In thousands of square feet)

Grade	1984	1985	1986	January-June--	
				1986	1987
G-231-N.....	***	***	***	***	***
R-1400-N.....	***	***	***	***	***
R-131-N.....	***	***	***	***	***
008.....	***	***	***	***	***
Total.....	***	***	***	***	***

1/ Kirkhill could not supply production data by grade.

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

U.S. producers' domestic shipments

U.S. producers' domestic shipments declined by 17.0 percent from * * * in 1984 to * * * in 1986 (table 5). Shipments in January-June 1987 totaled * * *, an increase of 47.3 percent from shipments of * * * in January-June 1986.

The Commission requested the U.S. producers to provide separate data on their shipments of first-quality and second-quality 1/ fabric and expanded neoprene laminate. * * *.

Inventories

From 1984 to 1986, U.S. producers' end-of-period inventories increased from * * *, or * * * percent of total shipments, to * * *, or * * * percent of total shipments (table 6). The net result for both producers combined was a 73.8 percent increase in inventories and a 32.1 percentage-point increase in the ratio of inventories to shipments.

Employment and wages

The average number of production workers employed in the manufacture of fabric and expanded neoprene laminate declined by 13.1 percent from * * * in 1984 to * * * in 1986 (table 7). Total hours worked by production workers also declined, dropping by 12.7 percent from * * * hours in 1984 to * * * hours in 1986, but output per hour increased by 17.5 percent from 1984 to 1986. Hourly wages and total hourly compensation both rose by 6.6 percent from 1984 to 1986. * * *.

1/ For purposes of this report, second quality is defined as fabric and expanded neoprene laminate that was reduced in price because of defects. Defects include blemishes, discolorations, wrinkles, or irregular thickness or size, which reduces the usability of the sheet below normal levels.

Table 5

Fabric and expanded neoprene laminate: U.S. producers' domestic shipments of first-quality and second-quality material, 1/ by firms, 1984-86, January-June 1986, and January-June 1987

Item and firm	1984	1985	1986	January-June--	
				1986	1987
<u>1,000 square feet</u>					
Rubatex:					
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Kirkhill:					
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Value (1,000 dollars)</u>					
Rubatex:					
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Kirkhill:					
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Grand total.....	***	***	***	***	***
<u>Average unit value (per square foot)</u>					
Rubatex:					
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Average.....	***	***	***	***	***
Kirkhill:					
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Average.....	***	***	***	***	***
Grand average.....	***	***	***	***	***

1/ Second quality is fabric and expanded neoprene laminate that was reduced in price because of defects.

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

Table 6

Fabric and expanded neoprene laminate: U.S. producers' end-of-period inventories and shipments, by firms, 1984-86, January-June 1986, and January-June 1987

Firm	1984	1985	1986	January-June--	
				1986	1987
<u>Inventories (1,000 square feet)</u>					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Shipments (1,000 square feet)</u>					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Ratio, inventories to shipments (percent)</u>					
Rubatex.....	***	***	***	1/ ***	1/ ***
Kirkhill.....	***	***	***	1/ ***	1/ ***
Average.....	***	***	***	1/ ***	1/ ***

1/ On the basis of annualized shipments.

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

U.S. producers were asked to report any reductions in the number of production and related workers if such reductions involved at least 5 percent of the work force or 50 workers. Both firms reported such layoffs. * * *

* * * * *

Financial experience of U.S. producers

The dominant producer, Rubatex Corp., furnished usable income-and-loss data on its operations producing fabric and 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 * * *. Kirkhill's sales of fabric and expanded neoprene laminate averaged * * * percent of its overall establishment sales during 1984-86.

Operations producing fabric and expanded neoprene laminate.--As a percentage of Rubatex's overall sales during the period 1984-86, fabric and expanded neoprene laminate represented * * * percent. Rubatex's net sales of the subject product declined from * * * in 1984 to * * * in 1985, or by * * * percent, and then recovered by * * * percent to * * * in 1986 (table 8). Operating income improved from * * * in 1984 to * * * in 1985 and * * * in

Table 7

Fabric and expanded neoprene laminate: Number of production and related workers, hours worked by such workers, wages and total compensation paid, and output per hour, by firms, 1984-86, January-June 1986, and January-June 1987

Item	1984	1985	1986	January-June--	
				1986	1987
Number					
Production workers:					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Total.....	***	***	***	***	***
1,000 hours					
Hours worked:					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Total.....	***	***	***	***	***
Dollars					
Hourly wages:					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Average.....	***	***	***	***	***
Total hourly compensation:					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Average.....	***	***	***	***	***
Square feet					
Output per hour:					
Rubatex.....	***	***	***	***	***
Kirkhill.....	***	***	***	***	***
Average.....	***	***	***	***	***

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

1986. The improved profitability, as indicated by a Rubatex official, 1/ resulted from increased sales of higher graded products, which have greater profit margins than the lower graded products that are directly affected by the imported products. The operating margin was * * * percent in 1984, and operating margins of * * * percent and * * * percent were experienced in 1985 and 1986, respectively. 2/

Data for the interim period ended June 30, 1987, show continued improvement over the comparable period in 1986. Sales increased from * * * in 1986 to * * * in 1987, or by * * * percent; operating income rose from * * * to * * *; and operating income margins rose from * * * percent to * * * percent.

1/ Mr. Milton Tsoleas, Controller.

2/ An analysis of Rubatex's fabric and expanded neoprene laminate gross profit variance and gross profit by grade are presented in app. D.

Table 8

Income-and-loss experience of Rubatex on its operations producing fabric and expanded neoprene laminate, accounting years 1984-86 and interim periods ended June 30, 1986, and June 30, 1987

Item	1984	1985	1986	Interim period ended June 30--	
				1986	1987
Net sales.....1,000 dollars..	***	***	***	***	***
Cost of goods sold.....do....	***	***	***	***	***
Gross profit.....do....	***	***	***	***	***
General, selling, and administrative expenses.....do....	***	***	***	***	***
Operating income or (loss).....do....	***	***	***	***	***
Interest expense.....do....	***	***	***	***	***
Other income or (expense), net.....1,000 dollars..	***	***	***	***	***
Net income before income taxes.....1,000 dollars..	***	***	***	***	***
Depreciation and amortization expense...do....	***	***	***	***	***
Cash flow.....do....	***	***	***	***	***
Ratio to net sales of--					
Cost of goods sold..percent..	***	***	***	***	***
Gross profit.....do....	***	***	***	***	***
General, selling, and admin- istrative expenses percent..	***	***	***	***	***
Operating income or (loss).....do....	***	***	***	***	***
Net income before income taxes.....percent..	***	***	***	***	***

1/ * * *.

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

Overall establishment operations.--In addition to fabric and expanded neoprene laminate, Rubatex manufactures related rubber and vinyl products such as joint fillers, insulation in rolls and sheets made from reclaimed products, and extruded products used primarily for insulation in window and door applications. Overall, net sales were at the same level in 1984 and 1985 at * * *, then improved by * * * percent to * * * in 1986. Operating income fell from * * * in 1984 to * * * in 1985, or by * * * percent, then rose by * * * percent to * * * in 1986. The operating income margins during 1984-86 were * * * percent, * * * percent, and * * * percent, respectively (table 9).

Table 9

Income-and-loss experience of Rubatex on its overall operations producing fabric and expanded neoprene laminate, accounting years 1984-86 and interim periods ended June 30, 1986, and June 30, 1987

Item	1984	1985	1986	Interim period ended June 30--	
				1986	1987
Net sales.....1,000 dollars..	***	***	***	***	***
Cost of goods sold.....do....	***	***	***	***	***
Gross profit.....do....	***	***	***	***	***
General, selling, and administrative expenses.....do....	***	***	***	***	***
Operating income.....do....	***	***	***	***	***
Interest expense.....do....	***	***	***	***	***
Other income or (expense), net.....1,000 dollars..	***	***	***	***	***
Net income before income taxes.....1,000 dollars..	***	***	***	***	***
Depreciation and amortization expense...do....	***	***	***	***	***
Ratio to net sales of--					
Cost of goods sold..percent..	***	***	***	***	***
Gross profit:.....do....	***	***	***	***	***
General, selling, and admin- istrative expenses percent..	***	***	***	***	***
Operating income.....do....	***	***	***	***	***
Net income before income taxes.....percent..	***	***	***	***	***

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

Data for the interim period ended June 30, 1987, show significant improvement from the corresponding period in 1986. Sales increased from * * * to * * * and operating income rose from * * * to * * *. The operating income margins were * * * percent in interim 1986 and * * * percent in interim 1987. Profitability data for fabric and expanded neoprene laminate and all other Rubatex products are shown below:

Item	1984	1985	1986	Interim period ended June 30--	
				1986	1987
Net sales:					
Fabric and expanded neoprene laminate.....1,000 dollars..	***	***	***	***	***
Other.....do....	***	***	***	***	***
Operating income or (loss):					
Fabric and expanded neoprene laminate1,000 dollars..	***	***	***	***	***
Other.....do....	***	***	***	***	***
Operating income or (loss) margin:					
Fabric and expanded neoprene laminate.....percent..	***	***	***	***	***
Other.....do....	***	***	***	***	***

1/ * * *

Value of property, plant, and equipment.--Rubatex's investment in productive facilities employed in the manufacture of all products of its establishment and fabric and expanded neoprene laminate is shown in the following tabulation (in thousands of dollars): 1/

	<u>Value of property, plant, and equipment</u>	
	<u>Original value</u>	<u>Book value</u>
All establishment products:		
1984.....	***	***
1985.....	***	***
1986.....	***	***
Fabric and expanded neoprene laminate:		
1984.....	***	***
1985.....	***	***
1986.....	***	***

Capital expenditures and research and development expenses.--Rubatex reported no capital expenditures for buildings, machinery, or equipment used in the production of fabric and 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): 1/

1/ Data were not furnished for the interim periods ended June 30, 1986, and June 30, 1987.

All establishment products:	<u>Capital expenditures</u>
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>Period</u>	<u>Research and development expenses</u>
1984.....	***
1985.....	***
1986.....	***
Interim period ended June 30, 1986..	***
Interim period ended June 30, 1987..	***

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 are in appendix E. * * *

Consideration of Alleged Threat of Material Injury

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors 1--

1/ Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, and

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation.

The available information on the Taiwan producers' operations (items (II) and (VI) above) is presented in a subsequent section entitled "Capacity of foreign producers to generate exports," and information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between the LTFV Imports and the Alleged Material Injury." The potential for "product-shifting (item VIII) is not an issue in this investigation since there are no known products subject to investigation or to final orders that use production facilities that can be shifted to produce fabric and expanded neoprene laminate. The available information on U.S. inventories of the subject products (item (V)) follows.

U.S. importers' inventories

Yearend inventories of imports from Taiwan held by Go Sport 1/ increased annually from * * * in 1984 to * * * in 1986. The ratio of inventories to shipments increased from * * * percent in 1984 to * * * percent in 1985, then dropped to * * * percent in 1986, as presented in the following tabulation:

<u>Period</u>	<u>Inventories</u> -----1,000 sq. ft.-----	<u>Shipments</u>	<u>Ratio of</u> <u>inventories</u> <u>to shipments</u> <u>Percent</u>
1984.....	***	***	***
1985.....	***	***	***
1986.....	***	***	***
January-June--			
1986.....	***	***	***
1987.....	***	***	***

1/ Based on annualized shipments.

Capacity of foreign producers to generate exports

Trade data provided by counsel for SHEICO 2/ show that the firm's capacity to produce fabric and expanded neoprene laminate increased annually from * * * in 1984 to * * * in 1986 (table 10). Capacity in January-June 1987 was reportedly the same as in January-June 1986 and, according to the data submitted, no changes in capacity are expected through June 1988. Production increased annually from * * * in 1984 to * * * in 1986; capacity utilization increased from * * * percent in 1984 to * * * percent in 1985, then dropped to * * * percent in 1986.

SHEICO manufactures wet suits in Taiwan, and for this production the firm captively consumes about 50 percent of the fabric and expanded neoprene laminate it produces. 3/ Home-market sales by SHEICO, which began in 1985, were small, increasing from * * * in 1985 to * * * in 1986. 4/ Exports to the United States increased annually, from * * * in 1984 to * * * in 1986. Exports to the United States in January-June 1987 were * * *, representing a decline of 49.9 percent from the * * * exported in January-June 1986. Counsel states that exports to the United States by SHEICO will continue to decline

1/ * * *, as stated previously, only imports the subject merchandise after receiving an order. * * * had no inventories; * * *.

2/ According to Commerce, SHEICO accounts for 70 percent of the fabric and expanded neoprene laminate exported from Taiwan.

3/ Posthearing brief on behalf of SHEICO, p. 6; complete data with respect to inventories of fabric and expanded neoprene laminate held in Taiwan by SHEICO were not provided, but SHEICO currently has an inventory of 29,863 sheets (806,000 square feet), only part of which is available for export, Posthearing brief, p. 8.

4/ Commerce found that SHEICO had insufficient home-market sales to make price comparisons, so the foreign-market value in Commerce's determination was based on SHEICO's prices to unrelated purchasers in Australia.

Table 10

Fabric and expanded neoprene laminate: Capacity, production, captive consumption, home-market sales, and exports by SHEICO, 1984-86, January-June 1986, and January-June 1987

Item	1984	1985	1986	January-June--	
				1986	1987
Capacity.....1,000 sq. ft..	***	***	***	***	***
Production.....do....	***	***	***	***	***
Capacity utilization...percent..	***	***	***	***	***
Captive consumption					
1,000 sq. ft..	***	***	***	***	***
Home-market sales.....do....	***	***	***	***	***
Exports to:					
United States...1,000 sq. ft..	***	***	***	***	***
Australia.....do....	***	***	***	***	***
Canada.....do....	***	***	***	***	***
Others.....do....	***	***	***	***	***
Total.....do....	***	***	***	***	***
Exports to the United States					
as a share of:					
Production.....percent..	***	***	***	***	***
Total exports.....do....	***	***	***	***	***

Source: Compiled from data supplied by counsel for SHEICO.

because its subsidiary, Go Sport, has purchased 18 acres in South Carolina and intends to manufacture fabric and expanded neoprene laminate in the United States by 1989. ^{1/} Australia and Canada are SHEICO's other principal markets for fabric and expanded neoprene laminate. As a share of production, exports to the United States by SHEICO declined annually from * * * percent in 1984 to * * * percent in 1986. As a share of total exports, those to the United States also declined annually, from * * * percent in 1984 to * * * percent in 1986.

Consideration of the Causal Relationship Between the 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. ^{2/} From 1984 to 1986, total estimated U.S. imports of fabric and expanded neoprene laminate rose irregularly, from * * *, valued at * * *, to * * *, valued at * * *, an increase of 5.2 percent in terms of quantity. Imports from Taiwan increased nearly ten-fold in this period, from * * *, or * * * percent of imports, to * * *, or * * * percent of imports. As shown in table 11, the unit value of fabric and expanded neoprene laminate from Taiwan

^{1/} SHEICO's posthearing brief, p. 8.

^{2/} According to industry sources, small quantities of fabric and expanded neoprene laminate were imported from the Republic of Korea in 1986.

Table 11

Fabric and expanded neoprene laminate: U.S. imports, by sources, 1984-86, January-June 1986, and January-June 1987

Source	1984	1985	1986	January-June--	
				1986	1987
Quantity (1,000 sq. ft.)					
Japan.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Value (1,000 dollars) 1/					
Japan.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Average unit value (per sq. ft.)					
Japan.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Average.....	***	***	***	***	***

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

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, 1986, and 1987 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.

dropped markedly in 1986, primarily as a result of the sale of a substantial volume of secondary material, none of which was sold in 1984-85 or January-June 1987. 1/

At the Commission's hearing, counsel for the petitioners stated 2/ that "Our experience in the marketplace shows that the Japanese presence has been substantially reduced and it has been supplanted and exceeded by the Taiwanese." In response to that statement, the staff has reexamined the methodology it used in estimating imports from Japan (using data for 1984 submitted by importers during the Commission's previous investigation

1/ SHEICO contends (in its posthearing brief, p. 7) that its sales of second-quality material were a one-shot deal. Because SHEICO is a new producer of neoprene, some of its earlier production runs had minor quality problems. Accordingly, it had a supply of seconds to sell. Go Sport sold seconds in early 1986 to a single customer, and is now in litigation with that customer. Go Sport has no present plans to sell seconds in the U.S. market .

2/ Transcript, p. 4.

concerning imports from Japan, with estimates made for subsequent periods using information from Custom's Net Import File) and recomputed the numbers, and has no significant revisions to the import statistics presented in the prehearing report. 1/

U.S. importers' shipments

Domestic shipments of fabric and expanded neoprene laminate from Taiwan by Go Sport, the major importer, increased annually from * * * in 1984 to * * * in 1986. Shipments in January-June 1987 totaled * * *, representing a decline of * * * percent from shipments of * * * in January-June 1986. As shown in table 12, second-quality material accounted for a large share (* * * percent) of total sales by Go Sport in 1986. Go Sport reported no shipments of second quality material in 1984, 1985, or in January-June 1987. All shipments by * * *, the only other importer that did not manufacture wet suits, were of first quality material. 2/

U.S. market penetration

U.S. market penetration by imports from all sources increased annually from * * * percent in 1984 to * * * percent in 1986. Imports from Taiwan also increased their market share, rising from * * * percent of U.S. consumption in 1984 to * * * percent in 1986. Market penetration by the imports from Taiwan dropped to an estimated * * * percent in January-June 1987, compared with an estimated * * * percent in January-June 1986 (table 13). 3/

1/ Petitioner's assumption in making the above statement (i.e., that after dumping duties were imposed on imports of fabricated and expanded neoprene laminate from Japan, imports of such merchandise from that source were replaced in their entirety by imports from Taiwan) ignores the fact that only 1 or 2 of the Japanese producers (out of 5 or 6 investigated by Commerce) are subject to antidumping duties, the others having been found to have either no or de minimis LTFV margins. Moreover, petitioner based its assumption on three major wet suit accounts that were cited in the lost sales section of its questionnaire and which, in the aggregate, reportedly accounted for \$10 million in annual purchases of fabric and expanded neoprene laminate. However, respondent SHEICO testified that its worldwide sales were far less than this amount (transcript, pp. 97-98). All 3 of these firms returned purchaser's questionnaires, and the lost-sales allegations concerning each are discussed in the "Lost sales" section of the report. Purchases of imports by each firm during the period covered by the Commission's investigation, by country of origin, are shown in app. F.

2/ * * *, which began importation of the subject merchandise in 1986, had shipments of * * * in 1986, * * * in January-June 1986, and * * * in January-June 1987.

3/ The ratio of imports from Taiwan to U.S. production increased annually from * * * percent in 1984 to * * * percent in 1985, and to * * * percent in 1986. For January-June 1987, the ratio was * * * percent, down from * * * percent in the year-earlier period.

Table 12

Fabric and expanded neoprene laminate: Domestic shipments of first- and second-quality imports from Taiwan by Go Sport, 1984-86, January-June 1986, and January-June 1987

Item	1984	1985	1986	January-June--	
				1986	1987
	Quantity (1,000 sq. ft.)				
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Total.....	***	***	***	***	***
	Value (1,000 dollars)				
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Total.....	***	***	***	***	***
	Average unit value (per square foot)				
First quality.....	***	***	***	***	***
Second quality.....	***	***	***	***	***
Average.....	***	***	***	***	***

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

Table 13

Fabric and expanded neoprene laminate: Apparent U.S. consumption and ratio of imports to consumption, 1984-86, January-June 1986, and January-June 1987.

Period	Apparent U.S. consumption	Ratio (percent) of imports to consumption--		
		For Taiwan	For Japan	Total
	Quantity (1,000 sq. ft.)			
1984.....	***	***	***	***
1985.....	***	***	***	***
1986.....	***	***	***	***
January-June--				
1986.....	***	***	***	***
1987.....	***	***	***	***
	Value (1,000 dollars) 1/			
1984.....	***	***	***	***
1985.....	***	***	***	***
1986.....	***	***	***	***
January-June--				
1986.....	***	***	***	***
1987.....	***	***	***	***

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

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

Market demand.--The demand for final products in the water-sports and sports-medicine industries is the primary determinant of the demand for fabric and expanded neoprene laminate. The water-sports industry consumes approximately 90 percent of domestic and imported Taiwan fabric and expanded neoprene laminate in the manufacture of wet suits, surf suits, and related aquatic apparel. The sports-medicine industry accounts for approximately 8 percent of total demand in the manufacture of knee braces, knee and elbow pads, and similar products. The residual is divided among miscellaneous products, including bicycle handlebar grips and insulators for beverage containers.

Evidence from the water-sports industry, the largest end user of fabric and expanded neoprene laminate, suggests that demand has been growing during the period of this investigation. The Diving Equipment Manufacturers Association (DEMA) estimates a yearly compounded industry growth rate of 12 percent between 1984 and 1986. A recent DEMA survey suggests a growth rate in the 16-percent range for 1987. Conversations with producers of surface water-sports apparel indicate that their portion of the market is also expanding. 1/

Competition among firms.--Purchasers, importers, and producers agree that fabric and expanded neoprene laminates are differentiated products. Consequently, price is only one factor purchasers consider when choosing a supplier. Other significant factors include: (1) technical specifications, (2) quality, (3) physical appearance, and (4) service. Depending on the needs of the purchaser, these attributes may be of equal or greater importance than price.

Technical comparison of domestic and Taiwan fabric and expanded neoprene laminate.--Three complementary methods were used to compare different grades of domestic and Taiwan fabric and expanded neoprene laminate. First, producers and importers were asked to supply the following technical specifications for each grade of neoprene in their product line: average density, average modulus at 100-percent elongation (softness), average ultimate elongation in percentage increases (stretchability), average compression-deflection (resiliency), average ozone deterioration (durability), and average percentage of closed cells (water resistance). Second, producers, importers, and purchasers were asked to specify the major end use(s) of each particular grade of fabric and expanded neoprene laminate. Third, producers, importers, and purchasers were asked to identify which grades of fabric and expanded neoprene laminate they view as close substitutes.

The three methods of grade comparison reached similar conclusions. Rubatex G-231-N, the most dense, resilient, and durable product, had no close substitutes in several major water-sports applications. Rubatex R-1400-N and R-131-N were found broadly comparable to Kirkhill LM300 and S-400. Rubatex 008 and the imported Taiwan fabric and expanded neoprene laminate, the two softest materials, were found comparable in use and perceived as direct competitors by market participants.

1/ Rubatex sells approximately * * * percent of its material to the surface-sports market and * * * percent to the below-surface market. * * *.

Whereas Rubatex 008 is the closest substitute to the Taiwan material, Rubatex R-1400-N and R-131-N are also substitutes. Evidence of their substitutability is found in the end uses of the materials. Rubatex supplies approximately * * * percent of the 'R' series material to wet-suit manufacturers, the primary market for Taiwan fabric and expanded neoprene laminate. Further, purchasers report substituting between sources and grades of fabric and expanded neoprene laminate in the manufacture of wet-suits. Many of these purchasers do not identify their sources of material to wet suit purchasers; so they can freely substitute between suppliers. Consequently, the Rubatex 'R' series can be considered similar to the Taiwan product, although less similar than 008.

Price trends and comparisons.--Domestic and imported fabric and expanded neoprene laminate is priced according to neoprene grade, neoprene thickness, type of fabric surface, and customer discount agreements. In general, the price increases with the density of the grade, as a consequence of increased costs in the production process. Price also increases with thickness, since a greater amount of raw materials are embodied in the product. Fabric costs are another element that affect price. Prices increase when lightweight nylon fabric is replaced with nylon plush, lycra, or striped lycra. Customer agreements and discounts for volume purchases and prompt payment can lower prices by several percentage points. Finally, firms offer discounts for damaged material or "seconds."

The Commission requested that U.S. producers and importers provide the quantity and f.o.b. selling price of their largest quarterly sale for each grade of fabric and expanded neoprene laminate in four thicknesses:

- Thickness 1: over 1/16 inch thru 3/32 inch
- Thickness 2: over 3/32 inch thru 1/8 inch
- Thickness 3: over 1/8 inch thru 3/16 inch
- Thickness 4: over 3/16 inch thru 1/4 inch

Respondents were instructed to classify each sale as first- or second-quality fabric and expanded neoprene laminate, indicate whether volume or prompt-payment discounts were applicable, and list the type of fabric associated with the sale. Information on fabric was collected by both questionnaire and telephone interviews. Firms were requested to supply information for the period beginning January 1984 and ending June 1987. Domestic firms responding to the questionnaire accounted for * * * percent of producer shipments. Importer questionnaires were received from firms supplying over * * * percent of imported Taiwan fabric and expanded neoprene laminate. Thirteen of 35 purchasers responded.

Prices for comparable grades of domestic and Taiwan two-sided standard nylon fabric and expanded neoprene laminate are presented in table 14. The U.S. prices are for products that accounted for * * * percent of total U.S. producers' shipments in 1986 and * * * percent of total U.S. producers' shipments in the first half of 1987. The Taiwan prices are for products that represent * * * percent of Taiwan shipments. The table lists prices for four thicknesses of first- and second-quality material. In all but two instances, the domestic product was more expensive than the imported good. The relative price of first-quality Taiwan fabric and expanded neoprene laminate was

Table 14

Fabric and expanded neoprene laminate: U.S. producers' and importers' f.o.b. selling prices for first- and second-quality two-sided standard nylon fabric and expanded neoprene laminate, by thicknesses 1 through 4 and by quarters, July 1984-June 1987

(Dollars per square foot)

Period	Thickness 1		Thickness 2		Thickness 3		Thickness 4	
	U.S. price	Taiwan price						
First quality								
1984:								
July-Sept...	***	***	***	***	***	***	***	***
Oct.-Dec....	***	***	***	***	***	***	***	***
1985:								
Jan.-Mar....	***	***	***	***	***	***	***	***
Apr.-June...	***	***	***	***	***	***	***	***
July-Sept...	***	***	***	***	***	***	***	***
Oct.-Dec....	***	***	***	***	***	***	***	***
1986:								
Jan.-Mar....	***	***	***	***	***	***	***	***
Apr.-June...	***	***	***	***	***	***	***	***
July-Sept...	***	***	***	***	***	***	***	***
Oct.-Dec....	***	***	***	***	***	***	***	***
1987:								
Jan.-Mar....	***	***	***	***	***	***	***	***
Apr.-June...	***	***	***	***	***	***	***	***
Second quality								
1986:								
Jan.-Mar....	***	***	***	***	***	***	***	***
Apr.-June...	***	***	***	***	***	***	***	***
July-Sept...	***	***	***	***	***	***	***	***
Oct.-Dec....	***	***	***	***	***	***	***	***

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

between * * * and * * * percent of the domestic product price. The largest differentials occur in the two cases in which the price of domestic and Taiwan second-quality fabric and expanded neoprene laminate can be compared.

In general, the price of domestic fabric and expanded neoprene laminate remained relatively stable throughout the period covered by the investigation. Taiwan fabric and expanded neoprene laminate prices showed greater variance but fell, on average, after the third quarter of 1985. The price ratio between second- and first-quality Taiwan fabric and expanded neoprene laminate also showed large fluctuations, varying between * * * and * * * percent.

Quality.--End users of fabric and expanded neoprene laminate consider quality a major determinant in selecting their supplier. Of the 13 purchasers responding to questionnaires or telephone interviews, 12 ranked quality as the first or second factor. Four defects affect the quality of fabric and expanded neoprene laminate, given similar grade, thickness, and fabric: (1)

variance in thickness of the neoprene sheets, (2) delamination of fabric from neoprene, (3) inconsistency of fabric colors within and across lots, and (4) fading and running of fabric colors. In each case, either production costs increase for purchasers or the value of their final product decreases. Purchasers also fear that low-quality fabric and expanded neoprene laminate will damage their reputation. This consideration is particularly important in the water-sports industry, where name brands compete.

Both domestic producers and importers sell second-quality fabric and expanded neoprene laminate. By definition, second-quality fabric and expanded neoprene laminate is sold at a discount. For domestic and foreign producers, the term "second-quality" generally implies that some portion of the sheet or roll is unuseable. "Seconds" can be caused by holes or pits in the neoprene; holes, rips or wrinkles in the fabric; adhesive bleed-thru on fabric; and short sheets.

Purchasers were asked by questionnaire and telephone to make quality comparisons between domestic and Taiwan fabric and expanded neoprene laminate. The responses from firms in the sports-medicine industry that were familiar with both the domestic and foreign product were relatively uniform: domestic fabric and expanded neoprene laminate was preferred to imports from Taiwan. Reasons cited include durability, lack of odor, and stiffness. However, their comparisons were generally conducted between Taiwan fabric and expanded neoprene laminate and Rubatex G-231-N or R-1400. Consequently, the distinctions appear to be due to differences in the grade of fabric and expanded neoprene laminate rather than quality.

Respondents in the water-sports industry were asked to directly compare the quality of Rubatex 008 and Taiwan fabric and expanded neoprene laminate. Several generalizations can be made, although some ambiguity remains. First, all purchasers familiar with domestic and Taiwan fabric and expanded neoprene laminate stated that domestic neoprene is of equal or higher quality than the import. Second, four purchasers noted that the quality of the imported Taiwan product has been improving. Third, the quality of domestic fabric and expanded neoprene laminate relative to Taiwan fabric and expanded neoprene laminate is considered higher by diving-suit manufacturers than by surface suit manufacturers. Specifically, five diving-suit manufacturers claim that the cell structure of Taiwan neoprene collapses more quickly than the domestic product when placed under stress. This quality flaw first appears on the knees and elbows of sport-diving wet suits.

Several quality complaints were common to both domestic producers and importers. Three purchasers indicated that the fabric on imported fabric and expanded neoprene laminate runs and that the color consistency within lots was poor. However, one purchaser made similar complaints against domestic producers.

Appearance of fabric.--The color, brightness, and hand of the fabric used in fabric and expanded neoprene laminate is of major importance to a large segment of end users. In fashion-oriented markets such as surf suits, ski suits, and swim suits, fabric appearance ranks equal or near price and quality considerations. Consequently, producers and importers of domestic fabric and expanded neoprene laminate offer a wide range of fabrics, colors, and patterns. However, differences between available fabrics and colors serve to differentiate their products.

Rubatex, the petitioner, offers seven different types of fabrics: lightweight nylon, bright nylon, heavyweight nylon, plush nylon, terry nylon, lycra, and unbroken loop nylon. SHEICO, the Taiwan producer, offers four types of fabrics: standard (lightweight) nylon, shiny (Japanese) nylon, plush nylon, and lycra. Domestic and Taiwan lightweight nylon are similar, although the domestic material stretches slightly more and has a looser weave. Consequently, the domestic fabric appears less bright when laminated to black neoprene. There is, also, a difference between the brightness of domestic bright nylon and the Taiwan shiny (Japanese) nylon. Domestic manufacturers are unable to profitably obtain this fabric from Japan because of high import duties.

Purchasers responding to questionnaires or interviewed by telephone stated that importers of Taiwan fabric and expanded neoprene laminate offered an equal or wider variety of fashionable colors than the domestic producers. However, several purchasers also stated that domestic producers have recently improved their selection. Rubatex, as of June 1987, offered 25 solid colors and 1 camouflage pattern in lightweight nylon. SHEICO offered 34 solid colors (including 5 florescent colors) and 2 camouflage patterns in a similar material. ^{1/} The importer also had an advantage in special orders: custom colors were free on orders over * * * sheets, but Rubatex required orders of over * * * sheets. Whereas purchasers stated that SHEICO had an edge in color selection, others felt Rubatex had caught up in the solid colors. However, the importer still has an advantage in patterns and stripes. Several large purchasers and direct importers stated that color selection, including stripes and patterns, was a major factor in choosing the imported product over the domestically produced good. Several purchasers of domestic fabric and expanded neoprene laminate indicated that the superiority of the imported colors did not compensate for the lower quality of the neoprene.

Service.--The level of service offered in the fabric and expanded neoprene laminate industry depends upon delivery time, response time to special requests, general availability of service, and firm reliability. Purchasers generally ranked service below price, quality, and fabric appearance as a determinant in selecting a supplier. Delivery time is particularly important to purchasers with strict deadlines and seasonal demand peaks. Reliability plays an important role for similar reasons.

The Commission received purchaser complaints directed at both importer and domestic-producer service. Most of the complaints involved delays in specific deliveries and increases in the average length of delivery time. These complaints were distributed equally among users of the domestic and foreign product. Several purchasers indicated that visits by domestic sales representatives were less frequent than those of the importer and foreign producer.

Lost sales

The Commission received three lost-sales allegations from the petitioner, Rubatex. The alleged lost sales, occurring during January 1985, totaled * * * and were valued at * * *. Kirkhill, Inc., the other domestic producer, registered no specific claims. * * *.

^{1/} Most of the fabric and expanded neoprene purchased consists of six to eight different colors.

Rubatex alleged that it lost sales of * * * of fabric and expanded neoprene laminate, valued at * * *, to * * *, of * * *. * * * verified that small purchases, approximately * * *, were made from Taiwan. Purchases were discontinued because of the poor cell structure of the neoprene and the tendency for fabric delamination. He also cited problems with shipping. The last purchase occurred in * * *.

In a second allegation, Rubatex claimed sales were lost to * * * totaling * * * of fabric and expanded neoprene laminate valued at * * *. * * * supplied purchasing records for the period covered by this investigation. The records indicate that * * * began purchasing fabric and expanded neoprene laminate directly from Taiwan in * * *, with purchases totaling * * * in 1986 and * * * through the first half of 1987. The records also indicate that purchases of Taiwan fabric and expanded neoprene laminate were at the expense of Japanese manufacturers. Conversations with * * *, revealed three principle reasons for purchasing from Taiwan: price, fabric (especially color), and service. * * *.

In the final allegation, Rubatex claimed lost sales of * * *, valued at * * *, to * * *. Information garnered from the purchaser questionnaire and confirmed in a telephone conversation with * * * showed one small purchase in * * *, totaling * * *, with a value of * * *. * * * noted that the quality of Taiwan fabric and expanded neoprene laminate has improved substantially over the last 3 years but, nonetheless, his firm does not plan to increase purchases from Taiwan. * * * has increased its purchases from Rubatex this year because of the rising Japanese yen.

Exchange rates

Between January 1984 and May 1987, the nominal value of the United States dollar depreciated 21.6 percent against the New Taiwan dollar (table 15). After adjusting for relative deflation, the real depreciation was 11.7 percent.

Table 15

Nominal-exchange-rate equivalents of the New Taiwan dollar in U.S. dollars, real-exchange-rate equivalents, and producer price indices in Taiwan and the United States, 2/ indexed by quarters, January 1984-May 1987

(January-March 1984=100.0)				
Period	U.S. producer price index	Taiwan		
		Producer price index	Nominal-exchange-rate index	Real-exchange-rate index 3/
-----US dollars/NT\$-----				
1984:				
Jan.-Mar.....	100.0	100.0	100.0	100.0
Apr.-June.....	100.7	100.6	101.0	100.9
July-Sept.....	100.4	99.9	102.4	101.9
Oct.-Dec.....	100.2	99.3	102.0	101.2
1985:				
Jan.-Mar.....	100.0	98.4	102.1	100.5
Apr.-June.....	100.1	97.7	100.9	98.4
July-Sept.....	99.4	97.0	99.6	97.2
Oct.-Dec.....	100.0	96.4	100.4	96.8
1986:				
Jan.-Mar.....	98.5	95.6	102.3	99.2
Apr.-June.....	96.6	94.5	104.6	102.3
July-Sept.....	96.2	93.3	107.3	104.1
Oct.-Dec.....	96.5	92.9	110.6	106.4
1987:				
Jan.-Mar.....	97.7	92.0	114.9	108.2
Apr.-May.....	99.0	90.9	121.6	111.7

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

2/ Producer price indices are based on end-of-period quarterly indices presented on line 63 of the International Financial Statistics.

3/ The indexed real exchange rate represents the nominal exchange rate adjusted for relative inflation rates as measured by the Producer Price Index in the United States and Taiwan. Producer prices in the United States decreased 1.0 percent during the interval January 1984-May 1987, compared with a 9.1-percent decrease in Taiwan prices for the same period.

Sources: International Monetary Fund, International Financial Statistics; Central Bank of China, Financial Statistics.

APPENDIX A

COMMISSION'S FEDERAL REGISTER NOTICES

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

Fabric and Expanded Neoprene Laminate From Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-371 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether 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, that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before July 22, 1987, and the Commission will make its final injury determination by September 10, 1987 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

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

EFFECTIVE DATE: May 14, 1987.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202-523-0369), Office of Investigations, U.S. International Trade Commission, 701 E Street N.W., Washington, DC 20438. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002. Information may also be obtained via electronic mail by calling the Office of Investigations' remote bulletin board system for personal computers at 202-523-0103. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination

by the Department of Commerce that imports of fabric and expanded neoprene laminate from Taiwan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on December 23, 1986, by Rubatex Corporation, Bedford, VA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of the subject merchandise (52 FR 5200, February 19, 1987).

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 twenty-one (21) days after the 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.

Staff report.—A public version of the prehearing staff report in this investigation will be placed in the public record of July 21, 1987, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on August 6, 1987, at the U.S. International Trade Commission Building, 701 E Street N.W., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of

business (5:15 p.m.) on July 24, 1987. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on July 30, 1987, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 31, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on August 13, 1987. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 13, 1987.

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 Commission's 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 § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: June 2, 1987.

Kenneth R. Mason,
Secretary.

[FR Doc. 87-13138 Filed 6-9-87; 8:45 am]

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bulletin board system for personal computers at 202-523-0103. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION: Effective May 14, 1987, the Commission instituted the subject investigation and established a schedule for its conduct (52 FR 22010, June 10, 1987).

Subsequently, the Department of Commerce extended the date for its final determination in the investigation from July 22, 1987, to September 28, 1987 (52 FR 21339, June 5, 1987). The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 29, 1987; the prehearing conference will be held in room 117 of the U.S. International Trade Commission Building at 9:30 a.m. on September 30, 1987; the public version of the prehearing staff report will be placed on the public record on September 15, 1987; the deadline for filing prehearing briefs is September 30, 1987; the hearing will be held in room 331 of the U.S. International Trade Commission Building at 9:30 a.m. on October 6, 1987; and the deadline for filing all other written submissions, including posthearing briefs, is October 13, 1987.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's rules of practice and procedure, part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.
Issued: June 25, 1987.

Kenneth R. Mason,
Secretary.

[FR Doc. 87-14967 Filed 6-30-87; 8:45 am]

BILLING CODE 7020-02-M

(Investigation No. 731-TA-371 (Final))

Fabric and Expanded Neoprene Laminate From Taiwan; Revised Schedule

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: June 22, 1987.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202-523-0369); Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002. Information may also be obtained via electronic mail by calling the Office of Investigations' remote

APPENDIX B

COMMERCE'S FEDERAL REGISTER NOTICES

Determinations 1987-88 Marketing Year

Accordingly, the following determinations have been made for barley tobacco for the marketing year beginning October 1, 1987:

(a) *Domestic manufacturers' intentions.* Manufacturers' intentions to purchase for the 1987 year totaled 293.7 million pounds.

(b) *3-year average exports.* The 3-year average of exports is 152.2 million pounds, based on exports of 141.3 million pounds, 164.6 million pounds and 150.8 million pounds for the 1984, 1985, and 1986 crop years, respectively.

(c) *Reserve stock level.* The reserve stock is 74 million pounds, based on 15 percent of 1986's national marketing quota of 493.5 million pounds.

(d) *Adjustment for the reserve stock level.* The adjustment for the reserve stock level is 33.7 million pounds, based on a reserve stock level of 74 million pounds and anticipated loan holdings of 107.7 million pounds.

(e) *National marketing quota.* The national marketing quota is 483.9 million pounds.

(f) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms has been determined to 250,000 pounds.

(g) *National acreage factor.* The national factor is determined to be 0.94.

(h) *Price support level.* The level of support is 148.8 cents per pound based on a 1986 support level of 148.8 cents per pound with no adjustment. This is based on 2.0 cents per pound increase in the market price component ($\frac{3}{8}$ weight) and 3.9 cents per pound decrease in the cost component ($\frac{1}{8}$ weight).

(Secs. 301, 313, 317, 375, 52 Stat. 38, as amended 47, as amended, 79 Stat. 66, as amended, 52 Stat. 66, as amended [7 U.S.C. 1301, 1313, 1314c, 1375]; Secs. 106, 401, 74 Stat. 6, as amended, 63 Stat. 1054, as amended [7 U.S.C. 1445, 1421])

Signed at Washington, DC on May 8, 1987.
Milton J. Hertz,

Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.
{FR Doc. 87-11060 Filed 5-13-87; 8:45 am}

BILLING CODE 3410-05-M

Soil Conservation Service**Tensed/Lolo Watershed, ID; Finding of No Significant Impact**

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tensed/Lolo Watershed, Benewah County, Idaho.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345 Boise, Idaho 83702, telephone (208) 334-1601.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Stanley N. Hobson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns land treatment measures to be applied on critically eroding cropland to control sheet, rill and gully erosion and the subsequent off-site sedimentation problems.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address on the previous page. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Stanley N. Hobson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of

Federal Domestic Assistance under No. 10.804—Watershed Protection and Flood Prevention—and is subject to provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: May 5, 1987.

Rodney M. Alt,

Deputy State Conservationist.

{FR Doc. 87-10968 Filed 5-13-87; 8:45 am}

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE**International Trade Administration**

(A-583-607)

Fabric and Expanded Neoprene Laminate From Taiwan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that fabric and expanded neoprene laminate (FENL) from Taiwan is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend the liquidation of all entries of FENL from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimate dumping margins as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by July 22, 1987.

EFFECTIVE DATE: May 14, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-4136 or 377-5288.

SUPPLEMENTARY INFORMATION: Preliminary Determination

We have preliminarily determined that FENL from Taiwan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On December 23, 1986, we received a petition filed in proper form from Rubatex Corporation of Bedford, Virginia, on behalf of domestic manufacturers of FENL. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise 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 Act, and that these imports are materially injuring, or threaten material injury to, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on January 12, 1987 (52 FR 2133, January 20, 1987), and notified the ITC of our action. On February 6, 1987, the ITC determined that there is reasonable indication that imports of fabric and expanded neoprene laminate from Taiwan are materially injuring a U.S. industry (US ITC Pub. No. 10445).

On January 26, 1987, we presented an antidumping duty questionnaire to Shei Chung Hsin Industrial Co., Ltd. (SHEICO) and requested a response in 30 days. On February 11, 1987, respondent requested an extension of the due date for the questionnaire response. We granted the respondent a two-week extension. We received a response to the sales questionnaire on March 11, 1987. Between March 20 and April 8, 1987, the Department requested supplemental information. Supplemental responses were received on March 27 and April 15, 1987.

Scope of Investigation

The product covered by this investigation is fabric and expanded neoprene laminate, as provided for in items 355.8100, 355.8210, 355.8220, 359.50900 and 359.6000 of the *Tariff Schedules of the United States Annotated* (TSUSA). This material is used primarily in the manufacture of wet suits and similar products for the scuba diving and recreational markets.

Fair Value Comparisons

We made Comparisons on approximately 99 percent of the sales of FENL to the United States during the period of investigation, July 1 through December 31, 1986. Because SHEICO accounted for over 70 percent of all sales of this merchandise from Taiwan, we limited our investigation to this company.

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value for the company under investigation using data provided in the responses.

United States Price

For certain sales by SHEICO, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act, since the sale to the first unrelated purchaser took place in the United States. For those sales by SHEICO made directly to unrelated parties in the United States prior to importation, we based the United States price on purchase price in accordance with section 772(b) of the Act.

For sales which were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the most appropriate indicator of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;
2. This was the customary commercial channel for sales of this merchandise between the parties involved; and
3. The related selling agent located in the United States acted only as the processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Where all the above elements are met we regard the routine selling functions of the exporter as having been merely relocated geographically from the county of exportation to the United States, where the sales agency performs them. Whether these functions are done in the United States or abroad does not change the substance of the transactions of the functions themselves.

In instances where merchandise is ordinarily diverted into the related U.S. selling agent's inventory, we regard this factor as an important distinction

because it is associated with a materially different type of selling activity than the mere facilitation of a transaction such as occurs of a direct shipment to an unrelated U.S. purchaser. In situations where the related party places the merchandise into inventory, he commonly incurs substantial storage and financial carrying costs and has added flexibility in this marketing. We also use the inventory test because it can be readily understood and applied by respondents who must respond to Department questionnaires in a short period of time. It is objective in nature, as the final destination of the goods can be established from normal commercial documents associated with the sale and verified with certainty.

We calculated purchase price and exporter's sales price based on the packed, f.o.b., c.&i., c.&f. duty unpaid, or c.i.f. duty paid prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, brokerage and handling charges, ocean freight, marine insurance, U.S. duty and U.S. inland freight. Where we used exporter's sales price, we made additional deductions for credit expenses, other U.S. selling expenses, and commissions. We made additions to both purchase price and exporter's sales price for duty drawback (i.e., import duties which were rebated, or not collected, by reason of the exportation of the merchandise to the United States) pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on sales for export to a country other than the United States (a "third country"), since SHEICO had insufficient home market sales of FENL. We calculated foreign market value based on the packed, c.i.f., f.o.b., c.&f., or c.&i., duty unpaid prices to unrelated purchasers in Australia. We made deductions where appropriate for brokerage and handling, foreign inland freight marine insurance, and ocean freight.

When we compared foreign market value to purchase price sales, we made adjustments for differences in credit and warranty expenses, in accordance with § 353.15 of the regulations (19 CFR 353.15).

When we compared foreign market value with exporter's sales price, we treated credit and warranty expenses as deductions, pursuant to section 772(e)(2) of the Act, instead of adjusting foreign market value for the differences. We made an additional deduction to

foreign market value for commissions. We also used indirect selling expenses in the Australian market to offset United States selling expenses, in accordance with § 353.15(c) of our regulations.

In order to adjust for differences in packing between the two markets, we deducted Australian packing costs from foreign market value and added U.S. packing costs.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16) of the Act, on the basis of thickness fabric type and foam type. Where there were no identical products in the Australian market with which to compare product sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based of differences in the costs of materials, labor and directly related factory overhead.

Currency Conversion

We made currency conversions from new Taiwan dollars to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. For exporter's sales price Comparisons, we used the official exchange rate on the date of sale, since using the exchange rate as of the date of sale is consistent with section 615 of the Trade and Tariff Act of 1984 (the 1984 Act.) We followed section section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, because the later law supersedes that section of the regulations.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of the company under investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of FENL from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market of the merchandise subject to this

investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percentage
SHEICO	1.02
All Others	1.02

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry, before the later of 120 days after our preliminary affirmative determination or 45 days after our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties and opportunity to comment on this preliminary determination at 1:00 p.m. on June 4, 1987, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 21, 1987. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, not less than 30 days before the final determination, or, if a hearing is held, within 7 days after the hearing transcript is available, at the above address in at least 10 copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,
Deputy Assistant Secretary for Import Administration.

May 8, 1987.

[FR Doc. 87-11056 Filed 5-13-87; 8:45 am]

BILLING CODE 3510-08-M

[Docket Nos. 6675-01, 6675-02]

**Actions Affecting Export Privileges;
Edward King et al.**

Order

On March 19, 1987, I issued an order in the above captioned proceeding. I hereby clarify that order as follows: Edward F. King, individually and doing business as Printemps Corporation, formerly with an address at 5122 Grandview Avenue, Yorba Linda, California 92688, and presently with an address at 1613 Old Fashion Way, Anaheim, California 92804 is denied for a period of 10 years from the date of the original order dated March 19, 1987.

Dated: May 11, 1987.

Paul Freedenberg,
Assistant Secretary for Trade Administration.

[FR Doc. 87-11057 Filed 5-13-87; 8:45 am]

BILLING CODE 3510-07-M

**Applications for Duty-Free Entry of
Scientific Instruments; Lawrence
Berkeley Laboratory et al.**

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-304R. Applicant: Lawrence Berkeley Laboratory, Division of Biology and Medicine, 1 Cyclotron Road, Berkeley, CA 94720. Instrument: Circular Dichroism Spectropolarimeter, Model J-600A. Manufacturer: JASCO.

(19 U.S.C. 1673d(a)(2)(A)). Based on this request, we are postponing our final determination as to whether sales of fabric and expanded neoprene laminate from Taiwan have occurred at less than fair value until not later than September 28, 1987.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, (202-377-4136 or 377-5288), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On January 20, 1987, we published a notice in the *Federal Register* (52 FR 2133) that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether fabric and exported neoprene laminate from Taiwan was being, or was likely to be, sold at less than fair value. On February 6, 1987, the International Trade Commission determined that there is a reasonable indication that imports of fabric and expanded neoprene laminate from Taiwan are materially injuring a U.S. industry. On May 14, 1987, we published a preliminary determination of sales at less than fair value with respect to this merchandise (52 FR 18258). The notice stated that if the investigation proceeded normally, we would make our final determination by July 22, 1987.

On May 18, 1987, Shei Chung Hsin Industrial Co., Ltd., respondent in this investigation, requested a postponement of the final determination until not later than the 135th day after publication of our preliminary determination, pursuant to section 735(a)(2)(A) of the Act. Respondent accounts for a significant proportion of exports of the merchandise to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request.

We are postponing the date of the final determination until not later than September 28, 1987.

The United States International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act.

This notice is published pursuant to section 735(d) of the Act.

[A-583-607]

Postponement of Final Antidumping Duty Determination; Fabric and Expanded Neoprene Laminate From Taiwan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondent in this investigation to postpone the final determination, as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act)

21340

Federal Register / Vol. 52, No. 108 / Friday, June 5, 1987 / Notices

June 1, 1987.

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import
Administration.*

[FR Doc. 87-12868 Filed 6-4-87; 8:45 am]

BILLING CODE 3510-03-M

DEPARTMENT OF COMMERCE
International Trade Administration
[A-583-607]

Fabric and Expanded Neoprene Laminate From Taiwan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that fabric and expanded neoprene laminate (FENL) from Taiwan is being, or is likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening material injury to, a United States industry.

EFFECTIVE DATE: October 5, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4136 or 377-5288.

SUPPLEMENTARY INFORMATION:
Final Determination

We have determined that FENL from Taiwan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). The margin found for the company investigated is listed in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On May 8, 1987, we made an affirmative preliminary determination (52 FR 18258, May 14, 1987).

On May 18, 1987, we received a request from Shei Chung Hsin Co., Ltd. (SHEICO), sole respondent in this investigation, to extend the period for the final determination to no later than 135 days after publication of our "Preliminary Determination" notice in the Federal Register, in accordance with section 735(a)(2)(A) of the Act. We granted this request and postponed the final determination until no later than September 28, 1987 (52 FR 21339, June 5, 1987).

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments. Since no requests were received for a public hearing, written comments on the issues arising in this investigation were

submitted between July 23 and August 31, 1987, in lieu of the public hearing.

Scope of Investigation

The product covered by this investigation is fabric and expanded neoprene laminate, as provided for in items 355.8100, 355.8210, 355.8220, 359.5000 and 359.6000 of the *Tariff Schedules of the United States Annotated* (TSUSA). This material is used primarily in the manufacture of wet suits and similar products for the scuba diving and recreational markets.

Fair Value Comparisons

We made comparisons on approximately 97 percent of the sales by SHEICO of FENL to the United States during the period of investigation (P.O.I.), July 1 through December 31, 1986. Because SHEICO accounted for over 70 percent of all sales of this merchandise from Taiwan, we limited our investigation to this company.

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value for the company under investigation using data provided in the responses.

United States Price

For certain sales by SHEICO, we based United States prices on exporter's sales price (ESP), in accordance with section 772(c) of the Act, since the sale to the first unrelated purchaser took place after importation into the United States. For those sales by SHEICO made directly to unrelated parties in the United States prior to importation, we based the United States price on purchase price in accordance with section 772(b) of the Act.

For sales which were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we used purchase price as the basis for determining United States price. For those sales, the Department determined that purchase price was the most appropriate indicator of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;
2. This was the customary commercial channel for sales of this merchandise between the parties involved; and
3. The related selling agent located in the United States acted only as the processor of sale-related documentation and a communication link with the unrelated U.S. buyer.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely

relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or aboard does not change the substance of the transactions or the functions themselves.

In instances where merchandise is ordinarily diverted into the related U.S. selling agent's inventory, we regard this factor as an important distinction because it is associated with a materially different type of selling activity than the mere facilitation of a transaction such as occurs on a direct shipment to an unrelated U.S. purchaser. In situations where the related party places the merchandise into inventory, it commonly incurs substantial storage and financial carrying costs and has added flexibility in his marketing. We also use the inventory test because it can be readily understood and applied by respondents who must respond to Department questionnaires in a short period of time. It is objective in nature, as the final destination of the goods can be established from normal commercial documents associated with the sale and verified with certainty.

We calculated purchase price and exporter's sale price based on the packed, f.o.b., c&i., c&f. duty unpaid, or c.i.f. duty paid prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, brokerage and handling charges, ocean freight, marine insurance, U.S. duty and U.S. inland freight. Where we used exporter's sales price, we made additional deductions for credit expenses, other U.S. selling expenses, and commissions. We made additions to both purchase price and exporter's sale price for duty drawback (i.e., import duties which were rebated, or not collected, by reason of the exportation of the merchandise to the United States) pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on sales for export to a country other than the United States (a "third country"), since SHEICO had insufficient home market sales of FENL. We calculated foreign market value based on the packed, c.i.f., f.o.b., c&f., or c&i., duty unpaid prices to unrelated purchasers in Australia. We selected Australia because it is the largest third country market and sales were made in similar quantities to that of the United States. We made deductions, where appropriate, for brokerage and handling, foreign inland freight, marine insurance, and ocean freight.

When we compared foreign market value to purchase price sales, we adjusted foreign market value for differences in credit expenses between the two markets, in accordance with § 353.15 of the Department's regulations (19 CFR 353.15). When we compared foreign market value with exporter's sales price, we deducted credit expenses in Australia from foreign market value. We also used indirect selling expenses in the Australian market to offset United States selling expenses and commissions, in accordance with § 353.15(c) of our regulations.

SHEICO's claim for warranty expenses in the Australian market was disallowed since this information could not be verified.

In order to adjust for differences in packing between the two markets, we deducted Australian packing costs from foreign market value and added U.S. packing costs.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16) of the Act, on the basis of thickness, fabric type and foam type. Where there were no identical products in the Australian market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, labor and directly related factory overhead.

Interested Parties' Comments

Comment 1: Petitioner asserts that the Department should base its final determination exclusively on verified information and should reject information submitted after the verification, including the amended computer tape. Petitioner also urges the Department to assign zero sales prices to the six unreported U.S. sales found during verification.

Respondent disagrees with petitioner's suggested that the Department should reject the amended computer tape submitted by SHEICO since all data in the amended tape have been verified. Respondent further contends that the tape was submitted in accordance with the Department's request that SHEICO amend its sales listing. Respondent also explains that the six sales reported at verification were not, as petitioner suggests, intentionally omitted from SHEICO's original response. Therefore, no adverse action should be taken against SHEICO with respect to these sales.

DOC Position: We agree with petitioner that the final determination should be based exclusively on verified

information. We have used information contained in SHEICO'S amended computer tape since it was verified and was submitted in response to a request from the Department. Additionally, we have excluded in our fair value comparisons the six transactions unreported prior to verification for the reasons discussed in the Department's response to Comment 2.

Comment 2: Respondent urges the Department not to consider in its calculations certain U.S. sales made to a customer who has yet to pay Go-Sport, SHEICO's U.S. subsidiary. Respondent claims that these sales were not made in the ordinary course of trade and, because payment for the goods was never made, that a basic component of the sales transaction has not yet taken place. Respondent also contends that if these transactions are not deferred until an annual review, it would punish respondent unfairly with dumping duties simply because it is involved in litigation to recoup all monies owed, plus interest and punitive damages.

Respondent further argues that if the Department decides to use these transactions for the final determination, then the entire one-year period of non-payment should not be considered a credit expense since Go-Sport has no control over the payment time. Instead, respondent claims that credit expenses should be imputed based on the terms of each invoice. Respondent also urges the Department to impute indirect selling expenses based on the "bad debt" from the date on which payment was due on each invoice to the date of the final determination in this investigation.

DOC Position: We agree with respondent that all sales where the customer has yet to pay respondent's U.S. subsidiary should not be included in our fair value comparisons. This includes the six transactions unreported prior to verification. We have not included these sales because we were not able to calculate an accurate credit adjustment for them at this time. Moreover, they comprise less than one percent of the total value of FENL sold to the United States during the P.O.I. and the unusual circumstances surrounding these sales indicate that they are not representative of the respondent's selling practices in the U.S. market.

Comment 3: Petitioner claims that the Department should either correct errors found at verification on the reported credit expenses of Go-Sport on exporter's sales price transactions or apply the highest verified credit expense to those U.S. sales where respondent understated its credit costs.

Respondent, however, claims that Go-Sport did not understate certain credit expenses, as claimed by petitioner.

Respondent explains that the credit expenses associated with those sales where the customer never paid were intentionally left blank because of SHEICO's argument that credit expenses could not be calculated on these sales. Therefore, respondent states that use of best information available to calculate credit expenses on these sales is inappropriate.

DOC Position: We agree with petitioner that these errors should be corrected for the final determination, and the Department has done so. However, the Department disagrees with petitioner's contention that it should apply, as best information otherwise available, the highest verified credit expense where errors were found since most of these discrepancies occurred on sales which we excluded from our final calculations as described above. Errors found on other U.S. sales were not of the type or magnitude that would cause the Department to use best information available.

Comment 4: Petitioner claims that brokerage and handling expenses and certain claims related to U.S. inland freight charges on exporter's sales price transactions could not be verified. Consequently, petitioner states that the Department should adjust U.S. prices.

Respondent counters that, contrary to petitioner's assertions, brokerage and handling on the Go-Sport sales was verified by the Department, and should, therefore, be used in the final determination.

DOC Position: We disagree with petitioner that U.S. brokerage and handling could not be verified. Although some discrepancies were found, they were not of a magnitude to consider the use of best information available. As for U.S. inland freight, the reported amounts were verified, with the exception of two invoices. For these two sales, we have applied the highest verified U.S. inland freight charge as the best information otherwise available.

Comment 5: Petitioner asserts that the Department must disallow SHEICO's claim for warranty expenses in the Australian market since it could not be verified. Respondent, however, claims that warranty expenses were verified and should be allowed.

DOC Position: Since warranty expenses claimed on Australian sales was not verified to the satisfaction of the Department, we have disallowed warranty expenses on those Australian sales where SHEICO made this claim.

Comment 6: Petitioner urges the Department to base credit expenses for Australian and U.S. purchase price sales on verified data because respondent

inaccurately reported credit on some sales.

DOC Position: We agree and have based credit expenses claimed on Australian and U.S. purchase price sales on verified information. Credit expenses on most purchase price sales were under-reported because respondent made a mathematical error in failing to convert one component of the credit expense from U.S. dollars to New Taiwan dollars before totalling credit charges. This has been corrected in respondent's revised sales listing.

Comment 7: Petitioner contends that reported quantity discounts in both markets should be disallowed since this claim could not be verified.

DOC Position: We agree. No documentation could be produced at verification showing quantity discounts.

Comment 8: Petitioner claims that fumigation charges associated with Australian packing costs contain errors, which must be corrected in the final determination.

DOC Position: We agree that packing was understated on Australian sales because SHEICO made a mathematical error in calculating fumigation expenses. We have used the verified amounts in the final determination.

Comment 9: Petitioner claims that the verification report shows that duty drawback was overstated on four Australian sales. Therefore, these discrepancies should be corrected for the final determination.

DOC Position: We disagree. The calculations in the verification report only included drawback associated with the chemical blowing agent, and do not include the second component of drawback for nylon jersey. Therefore, we find no discrepancies in the reported drawback amounts when both components are added together. Respondent confirmed that the drawback amounts reported in the response are correct.

Comment 10: Respondent claims that virtually all of Go-Sport's operating expenses are not related to FENL sales and are not indirect selling expenses. Respondent argues that the indirect selling expenses properly allocable to Go-Sport's U.S. sales are only those indirect selling expenses incurred on the sales of FENL sheets, and should not include expenses related to wet suits and other accessories as well as those expenses not related to the selling function. Respondent further explains that the corporate officer's salary should be excluded to be consistent with the Department's policy in past investigations.

DOC Response: Since no assembly or

further manufacturing took place during the review period, we have considered all of Go-Sport's operating expenses, with the exception of those allocated to repair and maintenance, to be selling expenses. We agree with respondent that those selling expenses found at verification to be directly related to products other than FENL sheets should not be included as indirect selling expenses. These include show costs, advertising, commissions, sales promotion, travel expenses, and sample costs. We also disregarded bad debt expenses since these expenses relate to sales of products other than FENL.

The Department considered all remaining operating expenses of Go-Sport to be indirect selling expenses including portions of rent and supplies allocated to the selling, warehouse and office administration categories. We also allocated a portion of the president's salary to repair and maintenance, but included the remaining portion in the pool of indirect selling expenses. Total indirect selling expenses were allocated over sales of all products.

Comment 11: Respondent contends that the total amount claimed by SHEICO for indirect selling expenses on Australian sales was verified and should be used by the Department as an offset to U.S. selling expenses on exporter's sales price transactions. This includes rental on SHEICO's Lo Tung sales office and any expenses put on the books during the P.O.I., even if paid outside the P.O.I.

Petitioner counters by requesting that the Department correct discrepancies found at verification on Australian indirect selling expenses.

DOC Position: As petitioner suggests, Australian indirect selling expenses used in our final calculations are based on verified data. Furthermore, we agree with respondent that indirect selling expenses should include rent on the Lo Tung sales office and other indirect selling expenses accrued during the P.O.I., even if paid outside the P.O.I. since SHEICO uses the accrual method of accounting. The Department has, however, disallowed (1) the portion of the interest expense attributable to the claimed credit expenses on Australian and U.S. sales, because credit expenses have already been claimed as a circumstance-of-sale adjustment; and (2) expenses associated with a trip to Taiwan by the president of Go-Sport, because this did not relate to Australian sales.

Currency Conversion

For exporter's sales price

comparisons, we used the official exchange rate in effect on the date of sale, in accordance with section 773 (a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984 (1984 Act). For purchase price comparisons, we used the exchange rate described in § 353.56(a)(1) of our regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(a) of the Act, we verified all information relied upon in making this final determination. We used standard verification procedures, including examination of all relevant accounting records and original source documents provided by the respondent on relevant sales and financial records.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of FENL from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 0.80 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on FENL from Taiwan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

A44

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

September 28, 1987.

Lee W. Mercer,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 87-22943 Filed 10-2-87; 8:45 am]

BILLING CODE 3510-02-M

APPENDIX C
CALENDAR OF WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject : Fabric and Expanded Neoprene Laminate
from Tawan

Inv. No. : 731-TA-371 (Final)

Date and time: October 6, 1987 - 9:30 a.m.

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

In support of the imposition of antidumping duties

Beveridge & Diamond, P.C.--Counsel
Washington, DC
on behalf of

Rubatex Corporation
Bedford, Virginia

Milton G. Tsoleas, Controller
Glen DeLong, Director of Quality Control

Alexander W. Sierck--OF COUNSEL

In opposition to the imposition of antidumping duties

Klayman & Gurley, P.C.--Counsel
Washington, DC
on behalf of

Shei Chung Hsin Industrial Company, Ltd. (SHEICO)

Shink Shei, President, Go Sport, Inc.,
Spartanburg, South Carolina

John Gurley--OF COUNSEL

APPENDIX D

RUBATEX'S FABRIC AND EXPANDED NEOPRENE LAMINATE
GROSS PROFIT VARIANCE ANALYSIS AND GROSS PROFIT BY GRADE

Rubatex Gross Profit by Fabric-and-Expanded-Neoprene-Laminate Grades

	<u>1984</u>	<u>1985</u>	<u>1986</u>
Net sales:			
G231-N.....1,000 dollars..	***	***	***
008.....do....	***	***	***
R5000 + R6000.....do....	***	***	***
R131-N + R1400-N.....do....	***	***	***
Total net sales <u>2/</u>do....	***	***	***
Cost of sales:			
G231-N.....do....	***	***	***
008.....do....	***	***	***
R5000 + R6000.....do....	***	***	***
R131-N + R1400-N.....do....	***	***	***
Total cost of sales.....do....	***	***	***
Gross profit or (loss):			
G231-N.....do....	***	***	***
008.....do....	***	***	***
R5000 + R6000.....do....	***	***	***
R131-N + R1400-N.....do....	***	***	***
Total gross profit <u>2/</u>do....	***	***	***
Gross profit or (loss) as a share of net sales:			
G231-N.....percent..	***	***	***
008.....do....	***	***	***
R5000 + R6000.....do....	***	***	***
R131-N + R1400-N.....do....	***	***	***
Total gross profit <u>2/</u>do....	***	***	***

1/ Poor quality inventory was sold at scrap prices.

2/ Totals may differ from table 8 totals due to rounding.

Source: Letter of Oct. 14, 1987, from Milton Tsoleas, Controller, in response to information requested by the Commission's staff.

APPENDIX E
PRODUCERS' REMARKS

Rubatex Corp.---* * *

Kirkhill Rubber Co.---* * *

APPENDIX F

PURCHASES OF IMPORTED FABRIC AND EXPANDED NEOPRENE
LAMINATE BY THREE MAJOR WET SUIT ACCOUNTS

Fabric and expanded neoprene laminate: Purchases of imports by three major wet suit accounts, by country or origin, 1984-86, January-June 1986, and January-June 1987

(In thousands of square feet)

Item	1984	1985	1986	January-June--	
				1986	1987
* * *:					
Japan.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Total.....	***	***	***	***	***
* * *:					
Japan.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Total.....	***	***	***	***	***
* * *:					
Japan.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Total.....	***	***	***	***	***

1/ * * *.

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

