filed by all parties on January 9, 2006. On January 16, 2006, all parties filed reply submissions.

On February 10, 2006, complainant MediaTek and respondents Zoran and Oak filed a joint motion pursuant to Commission rules 210.21(a) and (b) (19 CFR 210.21(a) and (b)) to terminate the investigation as to Zoran and Oak on the basis of a settlement agreement. On the same day, MediaTek and the third respondent, Sunext, filed a joint motion pursuant to Commission rules 210.21(a) and (b) (19 CFR 210.21(a) and (b)) to terminate the investigation as to Sunext on the basis of a settlement agreement. On February 14, 2006, MediaTek and Sunext filed a joint motion for leave to file corrected versions of their joint motion to terminate. The Commission determined to grant the joint motion for leave to file corrected versions. On February 22, 2006, the IA filed a response supporting the joint motions to terminate. In their joint motions to terminate the investigation, MediaTek, Zoran, Oak, and Sunext requested that, if the Commission grants their joint motions, the Commission vacate the ALJ's final ID in its entirety. The IA supported the private parties' request to vacate the final ID.

Having examined the joint motions to terminate and the IA's response thereto, the Commission determined that the motions comply with the procedural requirements of Commission rule 210.21(b)(1) (19 CFR 210.21(b)(1)). The Commission further determined that the proposed settlement of the Commission investigation will not have an adverse effect on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. Accordingly, the Commission determined to grant the joint motion of complainant MediaTek and respondents Zoran and Oak to terminate the investigation as to Zoran and Oak, and determined to grant the joint motion of MediaTek and Sunext to terminate the investigation as to Sunext. As to vacatur, the Commission determined to vacate those portions of the final ID that are presently under review by the Commission and to deny the request for vacatur as to those portions of the final ID previously adopted by the Commission. See 70 FR 76074 (Dec. 22, 2005).

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in §§ 210.21, 210.45, and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.21, 210.45, and 210.50).

By order of the Commission.

Issued: March 31, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

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INTERNATIONAL TRADE COMMISSION

Polychloroprene Rubber From Japan: Dismissal of Request for Institution of a Section 751(b) Review Investigation

AGENCY: United States International Trade Commission.

ACTION: Dismissal of a request to institute a section 751(b) review concerning the Commission's affirmative finding in investigation No. AA1921–129: Polychloroprene Rubber from Japan.

SUMMARY: The Commission determines, pursuant to section 751(b) of the Tariff Act of 1930 (the Act) [1] and Commission rule 207.45,[2] that the subject request does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative finding in investigation No. AA1921–129, Polychloroprene Rubber from Japan.

FOR FURTHER INFORMATION CONTACT: George L. Deyman (202–205–3197), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this matter may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

Background Information

On July 31, 1973, the Treasury Department (Treasury) determined that imports of polychloroprene rubber (PCR) from Japan are being sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (38 FR 20630, August 2, 1973), and on October 31, 1973, the Commission determined that an industry in the United States is being, or is likely to be, injured by reason of imports of such LTFV merchandise. Accordingly, Treasury ordered that antidumping duties be imposed on such imports (38 FR 33593, December 6, 1973). On December 8, 1998, the Commerce Department (Commerce) determined that revocation of the antidumping finding on PCR from Japan would be likely to lead to continuation or recurrence of dumping (63 FR 67656, December 8, 1998), and on July 30, 1999, the Commission determined that revocation of the antidumping finding would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (64 FR 41458, July 30, 1999, and 64 FR 42962, August 6, 1999). Accordingly, Commerce ordered that the antidumping finding be continued (64 FR 47765, September 1, 1999). On November 4, 2004, Commerce determined that revocation of the antidumping finding on PCR from Japan would be likely to lead to continuation or recurrence of dumping (69 FR 64276, November 4, 2004), and on July 21, 2005, the Commission determined that revocation of the antidumping finding would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (70 FR 42101, July 21, 2005). Accordingly, Commerce again ordered that the antidumping finding be continued (70 FR 44893, August 4, 2005).

On November 22, 2005, the Commission received a request to review its affirmative determination in investigation No. AA1921–129 pursuant to section 751(b) of the Act (19 U.S.C. 1675(b)). The request was filed by the Gates Corp. (''Gates''). Gates alleged that the October 2005 announcement by the European PCR producer Polimeri Europa (''Polimeri'') that it was permanently closing its sole manufacturing plant is a fundamental change that constitutes changed circumstances sufficient to warrant a review of the antidumping finding. Specifically, Gates contended that this development ''represents a very important change in the status quo,'' that the loss of a supplier of this magnitude will have a major impact on the availability of supply and conditions of competition of PCR, that continuation of the antidumping finding undermines access to PCR, and that revocation of the antidumping finding is not likely to result in the continuation or recurrence

[1] 19 U.S.C. 1675(b).

[2] 19 CFR 207.45.

of material injury to the domestic PCR industry.

Pursuant to Commission rule 207.45(b),[3] the Commission published a notice in the **Federal Register** on December 27, 2005,[4] requesting comments as to whether the alleged changed circumstances warranted the institution of a review. The Commission received comments in support of Gates' request from Excel Polymers L.L.C.; Gates; The Goodyear Tire & Rubber Co.; Mark IV Industries, Inc.; the Motor & Equipment Manufacturers Association; and Tosoh Corp. The Commission received letters supporting a changed circumstances review from the following PCR purchasers: Avon Custom Mixing Service, Inc.; Blair Rubber Co.; BRC Rubber & Plastics, Inc.; Carlisle Power Transmission Products, Inc.; Chardon Rubber Co.; Custom Rubber Co.; Custom Rubber Technologies, LLC; Federal-Mogul Corp.; Mount Hope Products LLC; R-H Products Co., Inc.; Specification Rubber Products, Inc.; Standard Rubber Products, Inc.; Trostel Ltd.; and Westland Technologies, Inc. The Commission also received letters supporting the institution of a changed circumstances review from Congressman John Boozman (Arkansas); and from Senators Wayne Allard (Colorado), Blanche Lambert Lincoln (Arkansas), Ken Salazar (Colorado), and James Talent (Missouri).

The Commission received submissions opposing institution of a changed circumstances review from DuPont Performance Elastomers L.L.C., the U.S. producer of PCR, and from LANXESS Corporation, a U.S. affiliate of the German PCR producer LANXESS AG.

Analysis: After consideration of the request for review and the responses to the notice inviting comments, the Commission has determined, pursuant to section 751(b) of the Act and Commission rule 207.45, that the information available to the Commission does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative finding in investigation No. AA1921–129: Polychloroprene Rubber from Japan.

The Commission will not institute a review under section 751(b) unless it is persuaded there is sufficient information demonstrating:

(1) That there have been significant changed circumstances from those in existence at the time of the original investigation;

(2) That those changed circumstances are not the natural and direct result of the imposition of the antidumping and/or countervailing duty order, and

(3) That the changed circumstances, allegedly indicating that revocation of the order would not be likely to lead to continuation or recurrence of material injury to the domestic industry, warrant full investigation.[5]

The decision to undertake a review is ''a threshold question, * * * [which] may be made only when it reasonably appears that positive evidence adduced by the petitioner together with other evidence gathered by the Commission leads the ITC to believe that there are changed circumstances sufficient to warrant review.'' [6]

The asserted changed circumstance consists of the closure of Polimeri's PCR manufacturing plant in France. The closure of this plant and the consequent disappearance of Polimeri as a supplier of nonsubject imports (*i.e.*, imports that are not subject to the antidumping finding on PCR from Japan) does not in any significant way affect the information relied on by the Commission, including existing and projected market conditions and, thus, the Commission's reasoning in its most recent five-year review of this antidumping finding.

In finding that subject import volumes were likely to be significant if the antidumping finding were revoked, the Commission relied on factors such as: The production capacity of Japanese PCR producers, trends in worldwide demand for PCR, the export orientation of the Japanese PCR industry, and relatively high average prices in the United States as compared with other markets.[7] The closure of Polimeri's plant does not in any significant way alter the analysis underlying the Commission's likely volume finding. Indeed, it could be argued that Polimeri's withdrawal from the U.S. PCR market makes it more likely that subject imports would be significant if the finding were revoked.

In finding that revocation of the antidumping finding would be likely to lead to significant price effects, the Commission relied on factors such as: Moderately high substitutability between subject imports and the domestic like product, pricing of Japanese imports in the Commission's original investigation, and pricing practices of Japanese PCR producers in third-country markets.[8] As with the likely volume finding, Polimeri's plant closure does not in any significant way alter the analysis underlying the Commission's likely price effects finding. It is true—as Gates notes in its request for a review—that competition by nonsubject imports, such as those from Polimeri, was a factor in the Commission's analysis of likely price effects.[9] However, it was only one of a number of factors that went into the Commission's analysis. Moreover, based on Polimeri's past share of the U.S. market (the details of which are business proprietary), its withdrawal from that market is very unlikely to lead to the elimination of all nonsubject imports.

In finding that revocation of the antidumping finding would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time, the Commission noted that the condition of the domestic industry had deteriorated significantly since the first five-year review of the antidumping finding. It concluded that if the finding were revoked, a significant volume of low-priced subject imports would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry; and that this reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability and employment levels as well as on its ability to raise capital and make and maintain necessary capital investments.[10] Again, Polimeri's plant closure does not in any significant way alter the analysis underlying the Commission's likely adverse impact finding.

The Commission also notes that many of the market conditions discussed by

[3] 19 CFR 207.45(b).

[4] 70 FR 76468.

[5] See Gray Portland Cement and Cement Clinker From Mexico, 66 FR 65740 (Dec. 20, 2001); Heavy Forged Handtools from the People's Republic of China, 62 FR 36305 (July 7, 1997); Certain Cold-Rolled Carbon Steel Plate Products from Germany and the Netherlands, 61 FR 17319 (April 19, 1996); see generally, *A. Hirsh, Inc.* v. *United States,* 737 F. Supp. 1186 (CIT 1990); *Avesta AB* v. *United States,* 724 F. Supp. 974 (CIT 1989), aff'd 914 F.2d 233 (Fed. Cir. 1990); and *Avesta AB* v. *United States,* 689 F. Supp. 1173 (CIT 1988).

[6] Avesta, 689 F. Supp. at 1181 (CIT 1988); *A. Hirsh, Inc.* v. *United States,* 729 F. Supp. 1360, 1363–64 (CIT 1990), aff'd following remand, 737 F. Supp. at 1188 (CIT 1990).

[7] Polychloroprene Rubber From Japan, Inv. No. AA–1921–129 (Second Review), USITC Pub. 3786 at 9–10 (June 2005).

[8] Id. at 11–12.

[9] The Commission explained that ''[a]s demand continues to decline and the domestic industry faces greater competition from nonsubject imports, the increased and significant volumes of subject imports that would be added to the supply of PCR in the U.S. market were the finding to be revoked would likely have significant depressing or suppressing effects on prices for the domestic like product.'' Id. at 12.

[10] Id. at 12–14.

the parties supporting the institution of a changed circumstances review (for example, the closure of one of the domestic PCR producer's plants, projected increases in worldwide demand, and strong demand for Japanese PCR in China) were known at the time of the most recent five-year review, and were explicitly considered in the Commission's analysis.[11]

Finally, while short supply conditions are a relevant condition of competition, as the Commission has previously noted, ''there is no short supply provision in the statute'' and ''the fact that the domestic industry may not be able to supply all of demand does not mean the industry may not be materially injured or threatened with material injury by reason of subject imports.'' [12]

In sum, the asserted changed circumstance in this case, the closure of a non-subject producer's plant, does not have a significant bearing on either the condition of the domestic industry or the likely effect of subject imports on that industry if the finding were revoked.

In light of the above analysis, the Commission unanimously determines that institution of a review under section 751(b) of the Act concerning the Commission's affirmative finding in investigation No. AA1921–129, Polychloroprene Rubber from Japan, is not warranted.

By order of the Commission.

Issued: March 31, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–4934 Filed 4–4–06; 8:45 am]

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[11] Id. at 7–8 and 10.

[12] Softwood Lumber from Canada, Inv. Nos. 701–TA–414 and 731–TA–928 (Article 1904 NAFTA Remand) at 108, n. 310 (December 2003). See also Metal Calendar Slides from Japan, Inv. No. 731–TA–1094 (Preliminary), USITC Pub. 3792 (August 2005) at 9, n. 45 (''To the extent that Respondents claim that the Commission is legally unable to make an affirmative finding of material injury by reason of subject imports because the domestic industry is incapable of supplying domestic demand, they are incorrect.'').

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree: Civil Penalties and Natural Resource Damages Under the Oil Pollution Act of 1990

Notice is hereby given that on March 22, 2006, a proposed Consent Decree (''Decree'') in *United States and The Confederated Tribes of the Warm Springs Reservation of Oregon* v. *American Energy, Inc,* Civil Action No. 04–CV–164–AA, was lodged with the United States District Court for the District of Oregon.

In this action brought pursuant to Section 311(b)(7) of the Clean Water Act, 33 U.S.C. 1321(b)(7), and Warm Springs Tribal Code Chapter 433, the United States and the Confederated Tribes of the Warm Springs Reservation of Oregon (''Warm Springs Tribes'') sought penalties from American Energy, Inc. (''AEI'') for causing the discharge of gasoline into the shorelines and waters of Beaver Creek on the Warm Springs Indian Reservation, Wasco County, Oregon. The United States and the Warm Springs Tribes also are seeking damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing the damages, caused by the discharge under Section 1002(b)(2)(A) of the Oil Pollution Act of 1990, 33 U.S.C. 2702(b)(2)(A). The claims of penalties and natural resource damages arise out of a gasoline spill that occurred on the morning of March 4, 1999, on the Warm Springs Indian Reservation. A tanker truck and trailer owned and/or operated by AEI overturned discharging approximately 5,400 gallons (128.57 barrels) of gasoline that flowed onto the adjoining shorelines and into the waters of Beaver Creek and Beaver Butte Creek. The Federal and tribal natural resource trustees prepared an informal assessment of damage to natural resources and loss of use of natural resources occasioned by the spill for use in settlement discussions with AEI. The proposed Decree provides that AEI shall pay to the United States $80,000 in settlement of the United States' claim for civil penalties, and pay to the Warm Springs Tribes $80,000 in settlement of the Warm Springs Tribes' claim for civil penalties. To address natural resource damages, the proposed Decree provides that AEI shall pay $315,222.50 to the natural resource trustees for their development and implementation of the plan to restore natural resources damaged by the spill and to recover natural resource services lost as a result of the spill, which shall be deposited into the registry of the Court. The proposed Decree requires that the defendants reimburse $94,242.98 to the National Oceanic and Atmospheric Administration (''NOAA'') of the United States Department of Commerce, and reimburse $15,533.52 to the United States Department of the Interior for damage assessment costs. In exchange for these payments, the United States and the Warm Springs Tribes covenant not to sue the defendants for civil penalties and natural resource damages arising from the spill.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and The Confederated Tribes of the Warm Springs Reservation of Oregon* v. *American Energy, Inc,* DOJ Ref. 90–5–1–1–06871.

The proposed consent decree may be examined at the office of the United States Attorney, 1000 SW Third Avenue, Suite 600, Portland, OR 97204–2902 at U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. During the comment period, the consent decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* Copies of the consent decree also may obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $5.50 for *United States and The Confederated Tribes of the Warm Springs Reservation of Oregon* v. *American Energy, Inc,* (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 06–3270 Filed 4–4–06; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under 42 U.S.C. 9622(d)(2)(B) and 28 CFR 50.7, notice is hereby given that on March 21, 2006, a proposed consent decree in *United States* v. *Ametek, Inc. and John Evans' Sons, Inc.*, Civil Action No. 06–1200, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States is seeking injunctive relief and recovery of response costs incurred by the United States pursuant to the Comprehensive