



Republic of the Philippines  
Department of Finance  
**BUREAU OF CUSTOMS**  
Manila

06 April 1999

**CUSTOMS MEMORANDUM ORDER**

No. 7-99

To: All Collectors of Customs  
All Others Concerned

Subject: **AMENDMENT OF CMO 35-98-A**

In line with CMC 223-98 which circularized the decision on Anti Dumping Protest Case No. 5-97 dismissing the Anti-Dumping Protest on importation of Carbon Black from Taiwan, CMO 35-98-A is hereby amended to exclude Carbon Black from Taiwan from the list of articles subject to payment of Dumping Duty.

For strict compliance.

  
**JULITA S. MANAHAN**  
Deputy Commissioner  
Internal Administration Group

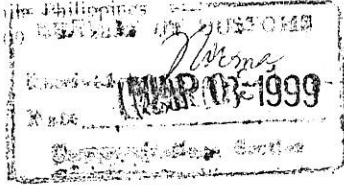
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**MITSUBOSHI BELTING PHIL. CORP.**

32 Mulawinan Rd., Bgy. Lawang Bato, Valenzuela, Metro Manila, Philippines  
Mailing Address: 757 Gandara St., Binondo, Manila, Philippines  
Tel. (632) 445-4106 Fax: (632) 445-4109



25 February 1999

**HON COMMISSIONER NELSON TAN**  
Customs Commissioner  
Bureau of Customs

*emo-7-99*

**SUBJECT: CMO 35A-98 WHICH ERRONEOUSLY INCLUDED CARBON BLACK TO LIST OF GOODS SUBJECT TO ANTI-DUMPING DUTIES**

Dear Sir:

The above captioned CMO, signed by then Commissioner Pedro Mendoza Jr., has inadvertently included carbon black from Taiwan to the list of goods subject to anti-dumping duties.

I would like to call your attention to the chronological arrangement of events, documents and decisions pertaining to this item:

- 1) Anti-dumping decision no. 5-97, on importation of carbon black from Taiwan was issued by the DOF in 1997;
- 2) A Motion for Reconsideration was filed within time with the DOF on 20 October, 1997 by First Charter Trading Corp., Titan Rubber Ind'l. Mfg., Corp., and Shoetown Int'l Ind'l. Corp.;
- 3) A follow up letter to the DOF was sent by Mr. Mario Alinea on 05 June 1998 requesting for an immediate and favorable action on the Motion for Reconsideration filed earlier by his clients First Charter Trading Corp. et al;
- 4) The Dept. of Finance reversed its earlier decision (Anti-Dumping Decision 5-97) dismissed the same on 25 June 1998, informing Mr. Alinea of the said decision dated June 1998 letter to the latter;
- 5) Finally, the Bureau of Customs circularized said Decision, Dismissing/reversing Anti-Dumping Decision no. 5-97 with CMC 223-98 signed 9 July 1998 by Dep. Com. Julita S. Manahan.

In view of the foregoing facts and events, and the erroneous inclusion of a dismissed Anti-dumping decision to the list of goods to be subjected to anti-dumping duties per CMO 35A-98, we would like to request your good office to rectify said inadvertence and delete from the said CMO carbon black from Taiwan.

Anticipating your immediate and favorable consideration of this matter.

Very truly yours,

*[Signature]*  
Jonathan Y. Chu  
Vice-President

Attachment: CMC 223-98; letter of Mario Alinea dated 5 June 1998; Decision of DOF dated 25 June 1998; letter of DOF to Alinea dated 29 June 1998.

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July 9, 1998

**CUSTOMS MEMORANDUM CIRCULAR**  
No. 223-98

To: All Collectors of Customs  
And Others Concerned

Attached for your information and ready reference is a copy of the Anti-Dumping Decision No. 5-97 Re: Importation of Carbon Black from Taiwan filed by *First Charter Trading Corporation, Titan Rubber Industrial Mfg. Corp. and Shoetown International and Ind. Corp.*

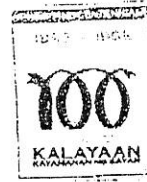
Please be guided accordingly.

  
JULITA S. MANAHAN  
Deputy Commissioner  
Internal Administration Group  
*Regis J.*  
7-9-98

*FD - Anti Dumping*



Republic of the Philippines  
**DEPARTMENT OF FINANCE**  
Roxas Boulevard Corner Vito Cruz Street  
Manila 1004



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*CNO-7-99*

29 June 1998

MR. MARIO G. ALINEA  
President  
Konsulta Philippines, Inc.  
Rm. 2403 Cityland 10, Tower I  
Ayala Avenue  
Makati City

Dear Mr. Alinea:

With reference to your letter dated 05 June 1998 relating to your clients (First Charter Trading Corporation, Titan Rubber Industrial Corporation, Shoetown International and industrial Corporation) request for reconsideration in connection with this Department's decision in Anti-dumping Case No. 5-97 re: In the Matter of Protest Against the Importation of Carbon Black from Taiwan, COLUMBIAN CARBON PHILIPPINES, INC., protestant, please find enclosed herewith is a copy of our decision dated 25 June 1998 dismissing the subject anti-dumping case for reasons stated therein.

Very truly yours,

SALVADOR M. ENRIQUES, JR.  
Secretary

*00205529*



"Tulong-tulong sa pagsulong!"

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emo-7-99

IN THE MATTER OF THE  
MOTION FOR RECONSIDERATION  
OF ANTI DUMPING DECISION NO. 5-97  
ON IMPORTATION OF CARBON BLACK FROM  
TAIWAN

FIRST CHARTER TRADING CORPORATION  
TITAN RUBBER INDUSTRIAL MFG. CORP.  
SHOETOWN INTERNATIONAL AND IND. CORP.  
PETITIONER'S

x-----x

#### DECISION

This is a motion filed by petitioners First Charter Trading Corporation, Titan Rubber Industrial Mfg. Corp. , and Shoetown International and Ind. Corp. for reconsideration of Anti-dumping Decision No. 5-97, in pursuance of the rights of the petitioners under Section 14 of Department of Finance Order No. 111-91 dated 20 September 1991 to wit:

"Section 14. Motion for Reconsideration. Any interested party of record who is dissatisfied with a decision in a dumping case, may file a motion for reconsideration with the Secretary of Finance fifteen (15) days from notice thereof, the filing of such motion shall not, however, suspend the enforcement of the dumping decision."

This Department finds that the aforesaid motion for reconsideration was filed with and officially received by this Department within the reglamentary period of fifteen (15) days from receipt by the petitioners of copies of Anti-Dumping Decision No. 5-97.

In support of their motion for reconsideration, the petitioners alleged that:

1. Certain facts, documents, and conclusions were inadvertently omitted, and consequently failed to be considered by the Tariff Commission in arriving at the conclusion that the price difference existed between the Fair Market Value (FMV) and the purchase price of carbon black imported during the period starting 7 October 1994 up to and inclusive of 7 December 1994, the 60-day period covered by the original protest.

CWO-7-99

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2. Certain facts, documents, and conclusions were inadvertently omitted, and consequently failed to be considered by the Tariff Commission in arriving at the conclusion that the importation of carbon black from Taiwan by the petitioners, during the aforesaid 60-day period covered by the protest, starting 7 October 1994 up to and inclusive of 7 December 1994, caused injury to the Protestant Columbian Carbon Philippines, Inc.; and
3. Had these certain facts, documents, and conclusions been brought to the attention of the Secretary of Finance prior to his rendering Anti-dumping Decision No. 5-97, the aforesaid anti-dumping protest would have been dismissed for lack of merit.

After an exhaustive investigation and evaluation of the veracity and validity of the justifying reasons given by the petitioners, this Department concludes:

1. The report of special Trade Representative Manuel Tayas regarding the FMV of carbon black in Taiwan did not specify whether or not the aforesaid report was referring to producer's price, or wholesale price or retail price.
2. In Anti-Dumping Case No. 10-96, in the matter of protest against importation of hubless cast iron soil pipes and fittings from the U.S.A., this Department concurred with the Tariff Commission recommendation acknowledging the export price of the U.S.A. to the Philippines as the true and correct FMV, thus arriving at the conclusion that there was no price difference.
3. The provisions of Section 8 © of Department of Finance Order No. 111-91 regarding determination of the causal link between the importation of carbon black from Taiwan and the alleged injury suffered by the Protestant, very clearly stated that it must be proven beyond any doubt that the importation of carbon black from Taiwan did directly and remotely, cause a downward trend in production, employment, sales, and profitability:

"In determining injury the following, in addition to other pertinent matters shall be considered .... (3) the foreign articles under consideration directly, not remotely, have caused or cause a downward trend of production, employment, prices, profits, and wages in the domestic industry concerned, or a decline in sales, or increase in imports (either actual or relative to domestic production), a higher or growing inventory, or a decline in the proportion of domestic producer of goods similar or identical to the imports" (Section 8 © of DOF Order No. 111-91).

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4. This necessity to prove the direct causal link between importation of carbon black from Taiwan and the alleged material injury suffered by the Protestant, is indeed, clearly echoed by the provisions of GATT:

"A determination of threat of material injury shall be based on facts and not merely on allegation, conjective or remote possibility."  
(Article 3(7) of Agreement on Implementation of Article VI of the General Agreement on Tariff and Trade, 1994).

5. In the Final Report submitted by the Tariff Commission to this Department, it has been verified that:
- a. The Tariff Commission did conclude that "in 1994 and 1995 market size contracted as demand declined due to successive closure of two tire companies major users of carbon black."
  - b. The Tariff Commission did conclude that "Despite declining importation from 1992, domestic sales continued to drop from 1993 to 1995 because of the contraction in demand by rubber tire manufacturers."
  - c. The Tariff Commission did conclude that: "Income from operations was generally decreasing as cost of sales and selling and administrative expenses continued to rise, consequently, return on sales dropped from 20.22% in 1991 to 8% in 1995."
  - d. The Tariff Commission did conclude that: "The pile of carbon black inventories in November 1994 was due to Philthreads suspension of its operation starting November 11, 1994."
  - e. The Tariff Commission did conclude that: "The partial suspension of CCPI, operations from December 15, 1994 to March 15, 1995 resulted in the decrease in the level of production of the company."
  - f. The Tariff Commission did conclude that in 1995 despite the fact that importation of carbon black was zero or nil, local sales still continued to decline.
  - g. Total importation of carbon black from Taiwan for the period 7 October 1994 to 7 December 1994 totalled only 448 MT. However, the closure of Philthread in 1994, decreased local sales of carbon black by 1,993 MT.

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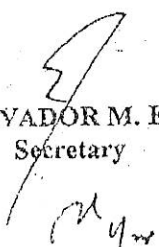
Taking full cognizance, therefore, of the aforementioned verified facts, this Department cannot be conclude that indeed certain facts, documents, and conclusions were never brought to the attention of the Secretary of Finance prior to his rendering Anti-Dumping Decision No. 5-97, thus:

1. On the matter of price difference, the report of STR Tayas is not specific enough to be legally used as the correct FMV.
2. Still in the same matter of price difference, this Department has no recourse but to adopt the export price of carbon black from Taiwan as the true, FMV, lest it be accused of undue discrimination, since this Department did concur with the Tariff Commission that in the case of imports of hubless pipes from the U.S.A., the export price of the USA to the Philippines is the correct FMV.
3. On the matter of injury allegedly suffered by the Protestant, this Department cannot be conclude that there is no direct causal link between importation of carbon black from Taiwan and the alleged injury suffered by the Protestant. This is so, because the Tariff Commission, itself had concluded that the decline in domestic sales from 1993 to 1995 was due to the closure of Philthread; that the increase in the inventory level was likewise due to the closure of Philthread and the consequent decreased in demand; that inspite of the fact that there was zero or nil importation of carbon black from Taiwan in 1995, local sales still continued to decline; that the drop on the profitability of the Protestant from 20.22% in 1991 to 8% in 1995 was due t the closure of Philthread which resulted in a drastic shrinking of the domestic market by 1,993 MT.

Wherefore, premises considered, this Department reverses its Anti-Dumping Decision No. 5-97, and renders the same to be null and void, and hereby, dismisses the anti-dumping protest against importation of carbon black from Taiwan for lack of merit.

Let copies of this decision be furnished the Petitioners, the Protestants, the Tariff Commission, the Bureau of Customs, the Bureau of Internal Revenue, Taipei Economic and cultural Office, the National Economic and Development Authority, the Department of Labor, and the Bureau of Printing for its publication in the Official Gazette and local newspaper of general circulation.

So ordered.

  
SALVADOR M. ENRIQUEZ, JR.  
Secretary

00205530

June 25, 1998  
Manila



Allen M. Jonathan  
Mitsubishi Belt

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## KONSULTA PHILIPPINES, INCORPORATED

5 June 1998

58 JUN -8 AM 10:42

The Honorable  
Salvador Enriquez  
Secretary  
Department of Finance  
Manila

Enr

\_\_\_\_\_ *Tracy Robinson*

Subject: Urgent Request for Immediate Favorable Action on the Motion for Reconsideration of Anti-Dumping Decision No. 5-97 on Importation of Carbon Black from Taiwan

Dear Secretary Enriquez:

In behalf of our Clients, FIRST CHARTER TRADING CORP., TITAN RUBBER INDUSTRIAL MFG. CORP., and SHOETOWN INTERNATIONAL INDUSTRIAL CORP., may we most urgently request for immediate favorable action on the Motion for Reconsideration filed by our Clients with the Department of Finance almost eight (8) months ago, on 20 October 1997.

It is our firm belief that the elements constituting dumping are now no longer present, nor valid, because of the present economic crisis with its attendant deleterious effects on local business and industry. We refer to the elements of price difference and injury suffered by the local industry.

Firstly, due to the economic crunch when exchange rates between the U.S. Dollar and other currencies have tumbled disastrously, it would seem superfluous to be talking of price difference between the export price of carbon black from Taiwan, and its normal value or fair market value.

Secondly, the local carbon black industry which is an American monopoly, is not, and cannot now be injured by importations of carbon black from Taiwan, simply because no importation has been made since 1997.

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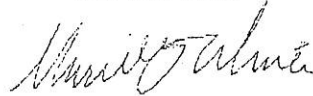
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Lastly, it is our firm belief that the cogent reasons presented by our clients in the submitted Motion for Reconsideration, fully justify a reversal of Anti-Dumping Decision No. 5-97, rendering the same null and void, and finally resulting in the dismissal of the original anti-dumping case for lack of merit.

We most firmly believe in your keen sense of justice and understanding. We most sincerely pray that favorable action on the Motion for Reconsideration of Anti-Dumping Decision No. 5-97 shall forthwith be issued by your good office.

Thank you very much for your usual most prompt and kind consideration of our request.

Very sincerely,



MARIO G. ALINEA  
President



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF CUSTOMS  
MANILA

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03 November 1998

Customs Memorandum Order  
No. 35A - 98

To All District Collectors  
Division Chiefs, FED  
All Others concerned

Subject Amendment of the List of Articles subject to Anti-Dumping Duty

The Anti-Dumping duty on Basic Refractory Bricks from Thailand had already expired and should be deleted from the list.

For inclusion in the list are the following:

- a) Magnesite Chrome Refractory Bricks from Germany
- b) Carbon Black from Taiwan

  
PEDRO C. MENDOZA, JR.  
Commissioner



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF CUSTOMS  
MANILA 1099

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September 25, 1998

**CUSTOMS MEMORANDUM ORDER**

No. 35-98

All Collectors of Customs  
All Division Chiefs  
All Chiefs, Entry Processing Division  
And All Others Concerned

Whereas, there is a need to optimize the revenue collection efforts of the Bureau of Customs, and, in order that the financial requirements of the government may be adequately met especially in this time of crisis;

Whereas, one of the potential sources of Customs revenue is the collection of dumping duties on articles that are dumped into the country which may cause injury to the local industries;

In view thereof, and in order to ensure the efficient administration of dumping duties, all entries of the articles listed below with their country of exportation shall be filed only at the Port of Manila (POM), Manila International Container Port (MICP) and the Ninoy Aquino International Airport (NAIA):

1. Towels from Hongkong and China
2. PVC Resin from Korea
3. Malleable Pipe Fittings from China
4. Magnesite Chrome Basic Refractory Bricks from Thailand
5. Newsprint from Finland

The Collectors of the three (3) Manila Ports shall copy-furnish the Director of IAS, for monitoring purposes.

This Order shall take effect immediately.

For strict compliance.

  
**PEDRO C. MENDOZA, JR.**  
Commissioner

2. CMO-35-98

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**LIST OF ARTICLES SUBJECT TO DUMPING DUTIES**

1. Towels from Hongkong and China
2. PVC Resin from Korea
3. Malleable Pipe Fittings from China
4. Magnesite Chrome Basic Refractory Bricks from Thailand
5. Newsprint from Finland

**ARTICLES SUBJECT TO DUMPING BOND (Not Yet Decided)**

1. PVC Floor Covering from Bangkok, Thailand
2. Clear Float Glass from Thailand
3. Monosodium Glutamate from Indonesia
4. Calcium Carbonate from China
5. Aluminum Foil from South Korea
6. Sodium Tripolyphosphate from China
7. Electrolytic Tinplate from South Korea