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ITC ISSUES FINAL REPORT IN SECTION 1205 PROCEEDING-
TEXTILE OUTER SOLE SHOES

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On August 9, the ITC issued its final report in connection with the section 1205 proceeding that it was conducting with respect to the classification of textile outer sole shoes. The ITC recommended that a new US note be added to Chapter 64 of the Harmonized Tariff that would disregard textile components used on the external surface of the outer sole where they do not possess the characteristics usually required for normal use of an outer sole. Durability standards have not yet been announced, but we expect different standards for shoes depending on whether they are used indoors or out of doors. If Customs adopts the Martindale Abrasion test that is used in the EU to determine durability, then shoes with textiles molded into the sole should remain in Heading 6405, where they are currently classified.

Shoes that are excluded from Heading 6405 because of this new note will be classified in Headings 6402 and 6404 which generally provide for higher duty rates for those shoes. The ITC also recommended that breakouts be added to Headings 6402 and 6404 of the Harmonized Tariff which would continue the lower rates of duty for footwear that would be reclassified based on this new note. The breakouts that were adopted do not cover all of the shoes that currently benefit from lower duty rates from using textile outer soles, but additional lobbying will be done at the next stage to try to expand this list. A list of the breakouts recommended by the ITC can be provided upon request.

The next step in this process requires the US Trade Representative (STR) to review the ITC report and make a recommendation to Congress. We are urging the STR to conduct a complete review of the ITC decision and make changes which will benefit footwear importers. Once the STR has completed its review it will make a recommendation to Congress which must be considered by Congress for a minimum of sixty (60) "legislative days." Congress is currently scheduled to be in session from mid September until the mid October 2010, and then it is scheduled to resume its session in the middle of January, 2011. This means that the sixty (60) legislative days will not occur before the end of March, 2011. When Congress has completed its review, a final recommendation is made to the President to be incorporated into a Presidential Proclamation. Any Presidential proclamation must give a 30 day grace period before it can be effective. **Against this background, unless a lame duck session of Congress is convened, the earliest date that these tariff changes could effective would be the end of April, 2011. If the STR conducts a complete review of this matter, it will delay the implementation of this ITC proposal. The implementation of Customs durability test might also become effective after**

the date that the Presidential Proclamation is effective. We are continuing to be actively involved in this proceeding and will keep you advised as major developments occur. Please contact me if you have questions with respect to this matter.