

# **FIREPLACE MESH PANELS FROM TAIWAN**

**Determination of the Commission  
in Investigation No. 701-TA-185  
(Preliminary) Under the  
Tariff Act of 1930, Together  
With the Information Obtained  
in the Investigation**

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# UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. These deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

Investigation No. 701-TA-185 (Preliminary)

FIREPLACE MESH PANELS FROM TAIWAN

Determination

On the basis of the record 1/ developed in investigation No. 701-TA-185 (Preliminary), the Commission unanimously determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury 2/ by reason of imports from Taiwan of fireplace mesh panels 3/, which are alleged to be subsidized by the Government of Taiwan.

Background

On July 20, 1982, Justesen Industries, Inc., Pacific Fireplace Furnishings, Inc., and Fall River Fireplace Co., Inc., filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured and is threatened with material injury by reason of imports from Taiwan of fireplace mesh panels upon which bounties or grants are alleged to be paid. Accordingly,

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1/ The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 F.R. 6190, Feb. 10, 1982).

2/ Commissioner Haggart determines that there is a reasonable indication of material injury and therefore does not reach the issue of reasonable indication of threat of material injury.

3/ For the purposes of this investigation, fireplace mesh panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplaces. Fireplace mesh panels are provided for either in item 642.87 or item 654.00 of the Tariff Schedules of the United States depending on their stage of processing.

effective July 20, 1982, the Commission instituted a preliminary investigation under section 703(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on July 29, 1982 (47 F.R. 32808). The conference was held in Washington, D.C. on August 12, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## VIEWS OF THE COMMISSION

On the basis of the record in investigation No. 701-TA-185 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured 1/ or threatened with material injury by reason of imports of fireplace mesh panels from Taiwan upon which bounties or grants are alleged to be paid. 2/ Our determination in the present case is based on the considerations set forth below.

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 3/ A "like product" 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 under this subtitle." 4/

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1/ Commissioner Haggart determines only that there is a reasonable indication of material injury, and therefore does not reach the issue of threat of material injury.

2/ Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination which reasonably indicates that an industry in the United States could possibly be suffering injury, threat thereof or material retardation. H.R. Rep. No. 96-317, 96th Cong., 1st sess., 52. (1979). See also Commissioner Frank's Views in Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom and West Germany, Vol. 1. Investigations Nos. 701-TA-86 through 144, 146 and 147 (Preliminary) and 731-TA-53 through 86 (Preliminary) USITC Publication 1221 (February 1982) pp. 121-129.

3/ 19 U.S.C. § 1677(4)(A).

4/ 19 U.S.C. § 1677(10).

The imported articles subject to this investigation are pre-cut panels of fireplace mesh. These imported panels generally have rings attached for mounting, are finished with black oxide, and are constructed of 19-to-21 gage wire. Imported fireplace mesh panels are incorporated into fireplace screens or zero-clearance fireplaces by manufacturers of those items.

The domestic fireplace mesh panels typically have rings attached for mounting, are constructed from wire which ranges from 19-to-21 gage, and are finished with black enamel. 5/ Like the imported panels, they are incorporated into fireplace screens and zero clearance fireplaces. We find that the domestic products that are like the imported fireplace mesh panels are fireplace mesh panels of any size, with or without rings, with black oxide or black enamel finish, and of any gage wire which may vary from 19-to-21 gage. Based on the above, we have determined that the industry in this investigation is composed of domestic producers of fireplace mesh panels. 6/

#### Material Injury or Threat of Material Injury by Reason of Subsidized Imports

Section 771(7)(B) of the Act directs that the Commission in making its material injury determination shall consider, among other factors, the impact of the imports on the domestic industry, the volume of these imports, and their impact on domestic prices.

During the period covered by this investigation, the fireplace mesh panel industry has experienced a decline in key indicators. Between 1978 and 1981, domestic production declined 72 percent from 10.6 to 2.9 million square feet.

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5/ Report at A-3.

6/ Our conclusion regarding the definition of "domestic industry" in this case is the same as that contained in Fireplace Mesh Panels from Taiwan, Inv. No. 731-TA-49 (Final) USITC Pub. No. 1250 (May 1982) at 3-4. For a full discussion of this issue, see the above-referenced opinion.



Production also declined by 39 percent in January-June 1982 relative to the corresponding period of 1981. Capacity utilization dropped from 87 percent in 1978 to 27 percent in 1981, and then declined to 11 percent in January-June 1982. 7/ Commercial shipments fell by 78 percent from 4.6 to 1.0 million square feet between 1978 and 1981, and declined significantly during January-June 1982 as compared with the corresponding period in 1981. 8/ Since 1978, six producers ceased manufacturing fireplace mesh panels. The average number of production and related workers engaged in the production of fireplace mesh panels declined rapidly, from 91 in 1978 to 16 in 1981, and to 6 in January-June 1982 compared with 14 in the corresponding period in 1981. 9/ Inventories of domestic producers, which are generally negligible in this industry, were larger than usual in 1981 and even larger in January-June 1982 compared with the corresponding period in 1981. 10/

Profit and loss data further confirm the problems confronting U.S. producers of fireplace mesh panels. The profit and loss experience of the U.S. producers on their fireplace mesh panel operations has sharply declined during the period under investigation. 11/ Net sales declined 83 percent from

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7/ Report at A-14, A-9 and A-10.

8/ Report at A-15. The figures for January-June 1982 are confidential.

9/ Report at A-24. Data cited in the Report and in this opinion represent varying numbers of domestic producers and various percentages of domestic production depending upon the completeness of questionnaire responses. This is the best available information. Available data on employment and hours worked represent companies which accounted for 51 percent of U.S. production in 1981. Report at A-23.

10/ Report at A-17. These figures are confidential.

11/ During investigation 731-TA-49 (Final) profit and loss data on fireplace mesh panel operations alone was provided by four firms which accounted for 24 percent of production in 1981. In this investigation, only one firm provided such data. Nevertheless, these data are not inconsistent with the other economic indicators provided by this industry during the interim periods of 1981 and 1982. The specific figures are confidential information.

\$2.7 million in 1978 to \$445,000 in 1981. Net operating profits and losses followed the same trend with U.S. producers showing a profit on their fireplace mesh operations of \$522,000 in 1978 and a loss of \$50,000 in 1981.

The available profit and loss data for January-March 1982 on overall establishments 12/ in which fireplace mesh panels are produced indicate a continued deteriorating position. Net operating losses increased significantly in January-June 1982 compared with the corresponding period of 1981. 13/ The ratio of net operating losses to net sales also increased significantly in January-June 1982 compared with the corresponding period in 1981. 14/

Both apparent U.S. consumption and apparent open-market consumption of fireplace mesh panels declined between 1978 and January-June 1982. 15/ The eroding position of the U.S. fireplace mesh panel industry coincides with a dramatic downturn in consumption related to the drop in housing starts and saturation of the glass-door fireplace screen market.

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12/ Three firms accounting for 46 percent of production in January-June 1982 provided profit and loss data on overall establishments producing fireplace mesh panels for January-June 1982. However, for one of these producers, which accounts for a substantial share of domestic production of fireplace mesh panels, its fireplace mesh panel sales in 1982 accounted for a substantial share of its total net sales. Therefore, these figures closely approximate data for fireplace mesh operations alone.

13/ Report at A-21 (Table 11). The specific figures are confidential information.

14/ Id.

15/ The report presents data on apparent U.S. consumption of fireplace mesh panels and on apparent U.S. open-market consumption. Apparent U.S. consumption includes U.S. producers' captive consumption of fireplace mesh panels, whereas apparent open-market consumption reflects only open-market transactions. In this case, imports have displaced some captive production, thus competing in the captive market as well as in the open market. Thus, the Commission has focused on the data on apparent U.S. consumption since they reflect the full impact of the imported product.

The volume of the imports from Taiwan during the period under investigation presents an irregular pattern, but generally shows a decline. However, the ratio of imports from Taiwan to apparent U.S. consumption declined between 1978 and 1979, but increased substantially between 1979 and 1980, 16/ and increased to 44 percent in 1981 compared with 35.9 percent in 1980. The trend presented by the ratio of imports to apparent open-market consumption is similar. These increases in market penetration made during a period of decreasing consumption indicate that the injury experienced by domestic producers by reason of imports from Taiwan was in addition to that resulting from general declines in demand.

Figures for January-June 1982 indicate that imports from Taiwan declined substantially in this period compared with the corresponding period of 1981. Similarly, the ratio of imports from Taiwan to apparent consumption and to apparent open-market consumption have declined significantly during this period. If this trend continues, it may well impact upon the Commission's determination of material injury or threat of material injury should a final investigation be conducted on this matter. 17/

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16/ The specific figure is confidential.

17/ Commissioner Frank notes that in making a determination of threat material injury, the Commission considers, among other factors: (1) the rate of increases of subsidized or dumped imports into the U.S. market (and the impact of these imports on domestic producers), (2) the capacity in the exporting country to generate exports, and (3) the availability of home or other export markets. It is his opinion that the decreased volume and penetration of imports from Taiwan alone would not influence his decision in a final investigation because a decrease such as that in the first half of 1982 might be the result of changing seasonal plunges in demand for the product. Alternatively, it might be based on a decision of U.S. importers to accumulate inventories in the United States during 1981 and/or a decision by Taiwan exporters to expand inventory in 1981 and 1982 and to curtail shipments to the United States during the first half of 1982 in light of the Commission's affirmative preliminary determination of September 1981 in the dumping investigation, and the Department of Commerce's preliminary determination of LTFV sales in the dumping investigation on January 22, 1982.

In addition, the margin of underselling was significant throughout the period covered by this investigation. Imports from Taiwan undersold U.S. products by weighted average margins of 45 percent in 1979, 45 percent in 1980, and 33 percent in 1981. Margins of underselling were equally significant in January-June 1982. 18/

In analyzing these margins of underselling, we are mindful of the fact that competition in this industry is often based upon a combination of factors including price, availability, and quality. Further, margins of underselling are based on data for comparable, but not always identical, merchandise. As we had already observed, fireplace mesh panels possess a considerable number of variable product characteristics, such as the gage of wire used, spiral diameter and pitch, type of finish, panel size, pleating, and the attachment of pull tassels or rings for mounting the panel. This diversity of characteristics has made price comparisons of the panels subject to this investigation difficult. For example, the Commission staff estimates that the cost of the metal content of the mesh could vary by \$4 per 100 square feet, based on using wire ranging from 19-to-21 gage, and enamel panel finish commands a premium of roughly \$5 per 100 square feet over black oxide. 19/ However, regardless of these variable product characteristics, the data provide a clear indication that significant underselling is taking place.

Lost sales information further demonstrates the results of price undercutting. For instance, a U.S. manufacturer of fireplace screens which accounts for a significant share of apparent open-market consumption of

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18/ Report at A-35. The figures for the margins of underselling in January-June 1982 are confidential.

19/ Report at A-23.

fireplace mesh panels, switched entirely from the domestic product in 1978 to the imported product from Taiwan in 1981. 20/ Another important consumer of domestic fireplace mesh panels also shifted almost entirely to imports from Taiwan during this period. 21/

Already suffering from a serious decline in the market, the problems of the domestic fireplace mesh panel industry have been compounded by competition from allegedly subsidized imports from Taiwan. The information before the Commission on import penetration, underselling and lost sales indicates that there is a reasonable indication of material injury to the domestic industry by reason of the allegedly subsidized imports from Taiwan.

In addition, there is a reasonable indication that imports of allegedly subsidized fireplace mesh panels from Taiwan threaten to cause material injury to the domestic industry. 22/ Data on production, shipments, capacity utilization, employment, and profitability all indicate that the deterioration of the domestic industry is accelerating. This is further evidenced by the fact that yet another domestic producer went out of business in the January-June 1982 period. 23/ Thus the domestic industry has become increasingly vulnerable to underselling by imports from Taiwan.

Inventory levels also declined slightly in January-June 1982 compared with the corresponding period in 1981. 24/ Nevertheless, inventory levels for this period are approximately 20 times the level of domestic inventories for

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20/ Report at A-27.

21/ Id.

22/ See n. 1 *supra*.

23/ Report at A-7.

24/ Report at A-13.

this period, 25/ and approximately 20 times the amount of imports entered during this period. 26/ This suggests that the overhang of imports from Taiwan pose a threat of material injury despite the recent drop in the level of imports. 27/

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25/ Id.

26/ Report at A-13 and A-10.

27/ There is no information currently available on the foreign producers' capacity to produce fireplace mesh panels or on their ability to increase the level of exports. However, the United States is apparently the major export market for these exports. Report at A-5. If this investigation returns to the Commission for a final determination, an attempt will be made to develop information on these other issues.

Commissioner Stern notes that, given the previous levels of imports which were substantially higher than levels for the January-June 1982 period, and given the fact that no information indicating a reduction in capacity has been provided, it is reasonable to assume that producers in Taiwan have the ability to increase the level of exports.

## ADDITIONAL VIEWS OF COMMISSIONER PAULA STERN

In previous preliminary antidumping and countervailing duty cases, I have often noted, "I must base my determination as much on what information the Commission has not been able to gather (but has expectations of developing in a full scale investigation) as on the information I have before me." 1/ In the case before us now, Fireplace Mesh Panels, the record remains insufficiently developed for me to preclude that the subject goods are causing material injury through underselling and/or price depression made possible by the alleged subsidies. Should this case return, I would base my final determination on more complete information and analysis of the extent and impact of the alleged subsidies.

In Certain Steel Wire Nails from the Republic of Korea (March 1982) 2/, the issue arose as to what the Commission should examine in determining causation in countervailing duty cases. In Carbon Steel Wire Rod from Brazil, Belgium, France, and Venezuela 3/ that concern was broadened to antidumping

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1/ See Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands and the United Kingdom, Inv. Nos. 731-TA-18-24 (Preliminary), USITC Pub. 1064 (May 1980), "Statement of Reasons of Commissioner Paula Stern" at 41. Also see Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, Inv. No. 701-TA-86-144, 146 and 147 (Preliminary) and Inv. No. 731-TA-53-86 (Preliminary), USITC Pub. 1221, Vol. 1 (January 1982), "Additional Views of Commissioner Paula Stern" at 119-20; Carbon Steel Wire Rod from Brazil, Belgium, France, and Venezuela, Inv. Nos. 701-TA-148-150 (Preliminary) and Inv. No. 731-TA-88 (Preliminary) USITC Pub. 1231 (March 1982), "Additional Views of Commissioner Paula Stern" at 21.

2/ Certain Steel Wire Nails from the Republic of Korea, Inv. No. 701-TA-145 (Preliminary), USITC Pub. No. 1223 (March 1982). See "Additional Views of Commissioner Paula Stern".

3/ Carbon Steel Wire Rod from Brazil, Belgium, France, and Venezuela, Inv. Nos. 701-TA-148-150 (Preliminary) and Inv. No. 731-TA-88 (Preliminary) USITC Pub. 1231 (March 1982), "Additional Views of Commissioner Paula Stern".

cases as well. This investigation takes us a step further to a situation in which we are considering the effects of subsidized imports where there is already a final dumping finding in place on the same imports.

Because the subject is so important and because of the potential relationship between the dumping and these alleged export subsidies, I shall discuss further the arguments enunciated in my above cited "Additional Views". Discussion of the issue of what the Commission should examine in determining countervailing duty cases has focused on two interpretations of the phrases, "the effects of the subsidized imports" 4/ and "by reason of imports" 5/: (1) judging the full impact of the subject imports, which happen to benefit from a subsidy or are being sold at less than fair value, or (2) judging the impact of the subject imports in connection with the subsidy or margin of dumping in causing the injury. The language of the Trade Agreements Act 6/ on this subject is not clear on its face and therefore merits careful examination.

The conceptual difference between these two approaches cannot be underestimated. The first alternative would attach no weight to whether, for instance, a subsidy was 0.5 percent or 50 percent. Any imports benefitting from a subsidy -- no matter how insignificant -- would be equally tainted for purposes of causality analysis. By contrast, the second formulation would require the causality analysis to trace, to whatever extent possible, the

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4/ E.g., section 771(4)(D) uses this phrase.

5/ E.g., section 701(a), 703(a) and 705(b) -- which deal with the countervailing duty determinations of the Commission -- employ such a phrase. The same phrase is found in sections 731(a), 733(a), and 735(b) which concern antidumping determinations.

6/ 19 U.S.C. § 1671(b).



effect of the subsidy or dumping in determining the impact of the imports on the U.S. industry.

The statute in section 771(C)(ii) mandates that the Commission consider certain factors in "evaluating the effect of imports of such merchandise." But how these factors should be evaluated to determine causality is not explicit in this phrase. I believe that the statute, the legislative history, and the relevant international agreements taken together clearly demonstrate that the second alternative is the proper basis for assessing causality in the Commission's countervailing duty and antidumping investigations and is true to the intended meaning of the phrases "the effects of the subsidized imports" and "by reason of imports."

The Senate Finance Committee's "Report on the Trade Agreements Act" (Senate Report) directs the Commission to continue its practice of looking to the effects of the net subsidy in its countervailing duty determinations:

In determining whether injury is "by reason of" subsidized imports, the ITC now looks at the effects of such imports on the domestic industry. The ITC investigates the conditions of trade and competition and the general condition and structure of the relevant industry. It also considers, among other factors, the quantity, nature, and rate of importation of the imports subject to the investigation, and how the effects of the net bounty or grant relate to the injury, if any, to the domestic industry. Current ITC practice with respect to which imports will be considered in determining the impact on the U.S. industry is continued under the bill.  
(Emphasis added.) 7/

The Senate Report employs the identical language in directing the Commission with regard to antidumping deliberations, replacing only the phrase "net

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7/ Senate Comm. on Finance, Trade Agreements Act of 1979, S. Rept. No. 96-249, 96th Cong., 1st Sess. (1979) at 57. See also U.S. Office of Special Trade Representative, Background Papers on MTN, Subsidies and Countervailing Duties (May 2, 1979).

bounty or grant" with "margin of dumping." 8/ The "by reason of imports" language of the Trade Agreements Act tracks similar language in the Antidumping Act, 1921. The statutory repetition of this causality language in the absence of any criticism of the Commission's prior practice constitutes implicit approval by Congress of the Commission's causality methodology.

The Commission's longstanding practice under the 1921 Act was to link the dumping margin to the injury. This precedent was repeated in its first countervailing duty investigation conducted by the Commission under section 303(b) of the Tariff Act, Certain Zoris from the Republic of China (1976).

The Commission noted:

. . . the bounty or grant paid on the subject imports of zoris would amount to only about 1.3 cents per pair. Such a bounty or grant would account for only a fraction of the margin of underselling which the subject imports enjoy over casual footwear produced in the United States. 9/

In a later antidumping case, Welded Stainless Steel Pipe and Tube from Japan (1978), the Commission found in the negative also because the dumping margins accounted for only a small part of the amount by which the imports undersold the U.S. product. 10/ In Certain Fish from Canada (1978), a unanimous

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8/ Ibid., at 74.

9/ Certain Zoris from the Republic of China (Taiwan), Inv. No. 303-TA-1, USITC Pub. No. 787 (September 1976) at 7.

10/ Welded Stainless Steel Pipe and Tube from Japan, Inv. No. AA-1921-180, USITC Pub. No. 899 (July 1978). In the majority opinion, Chairman Joseph O. Parker, and Commissioners George M. Moore and Catherine Bedell concluded: ". . . the dumping margin accounted for only a small part of the amount by which the Japanese pipe and tubing undersold any sales that U.S. producers might have lost to Japanese imports or any price suppression that might have been experienced by U.S. producers cannot be attributed to the LTFV margins applicable to the imports from Japan." ("Views" at 7.) In the concurring "Reasons for Negative Determination," Commissioners Bill Alberger and Daniel Minchew adopted similar reasoning and came to an identical conclusion. ("Reasons" at 11-12.)

Commission found in the negative. It concluded that there was no likelihood of injury due to the subject imports because those subsidies not scheduled for immediate elimination "are not likely to have any injurious impact on the U.S. industry." 11/

In Unlasted Leather Footwear Uppers from India (1980) 12/, the first countervailing duty case decided after the Trade Agreements Act of 1979 took effect, the Commission majority relied in large part on the "inconsequential" size of the subsidy in coming to a negative determination. In our "Statement of Reasons," Chairman Bedell and Commissioners Moore and I noted:

. . . the impact of a subsidy of 1.01 percent ad valorem on the price of finished nonrubber footwear is inconsequential . . . . If the Indian subsidies had any effect on U.S. nonrubber footwear prices, it was to make them more competitive with prices of imported footwear, since it is U.S. nonrubber footwear producers which purchase the Indian shoe uppers. 13/

In their concurring views, then Vice Chairman Alberger and Commissioner Calhoun also relied on an analysis of the subsidy in making the Commission's determination unanimous. 14/

In a subsequent preliminary antidumping case, Certain Iron-Metal Castings from India (1981), Vice Chairman Calhoun and Commissioners Moore and Bedell spoke of a reasonable indication of material injury "beyond, and entirely

11/ Certain Fish from Canada, Inv. No. 303-TA-3, USITC Pub. No. 919 (September 1978). "Statement of Reasons of Chairman Joseph O. Parker, Vice Chairman Bill Alberger and Commissioners George M. Moore, Catherine Bedell, and Italo H. Ablondi," at 8.

12/ Unlasted Leather Footwear Uppers from India, Inv. No. 701-TA-1 (Final), USITC Pub. No. 1045 (March 1980).

13/ Ibid., "Statement of Reasons of Chairman Catherine Bedell, Commissioners George Moore and Paula Stern" at 6.

14/ Ibid., "Views of Commissioners Alberger and Calhoun" at 14.

separate from, any injury caused by the export subsidies already found to exist on Indian castings." 15/ In my concurring opinion and in Chairman Alberger's dissenting opinion, we both referred to the LTFV margins and the countervailing duty in examining causation. 16/ 17/

Thus, it has been a long and continuous Commission practice in both antidumping and countervailing duty cases to require a causal nexus between the offending act -- the subsidy or margin of dumping -- and any impact of the imports on the domestic industry. When the net subsidy or margin of dumping has accounted for only a small portion of the margin of underselling, the Commission has reasoned when appropriate that the injury could not be remedied by a countervailing or antidumping duty and found in the negative.

In preliminary investigations the Commission is usually unable to assess precisely the effects of the subsidization or dumping because at this stage their exact nature and extent is often unknown. Thus, in judging causation in a preliminary case, it has often not been possible to perform a substantial

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15/ Certain Iron-Metal Castings from India, Inv. No. 731-TA-37 (Preliminary), USITC No. 1122 (January 1981), "Statement of Reasons for the Affirmative Determination of Vice Chairman Michael J. Calhoun and Commissioners George M. Moore and Catherine Bedell" at 5.

16/ Ibid., "Views of Commissioner Paula Stern" at 9 and "Views of Chairman Bill Alberger" at 10.

17/ See also Certain Iron-Metal Castings from India, Inv. No. 303-TA-13 (Final), USITC Pub. No. 1098 (September 1980). In this investigation the Commission dealt with the issue of the impact of a subsidy on the domestic industry. I noted in my views, "My analysis shows that subject imports caused price suppression as a result of the subsidies despite the fact that margins of underselling were larger than the levels of subsidy." ("Statement" at 24) Chairman Alberger also observed in his views: "The margin of underselling by the importers' product was more than twice the amount of the subsidy . . . ." ("Views at 34) Though we reached different conclusions, both Chairman Alberger and I recognized the importance of analyzing the effect of the subsidy.

analysis of the alleged subsidy or margins of dumping. This does not mean that information on subsidies or margins should be ignored in preliminary investigations. A demonstration at any stage that the subsidies or margins of dumping cannot possibly result in material injury would be a persuasive argument for a negative determination. For example, in my preliminary findings in Hot-Rolled Carbon Steel Sheet from France 18/, I noted that such a demonstration had not been made. I analyzed subsidy information in coming to the conclusion that "[t]here is no reasonable basis for denying the potential impact such subsidies could be having . . . ." That case had been initiated by the Department of Commerce (Commerce), which is responsible for determining the extent of subsidies. The information provided by Commerce on the nature and extent of the alleged subsidies was substantial.

I do not believe that an affirmative determination critically depends on an exact, quantitative tracing of the impact of the subsidies and dumping margins on the domestic market. We are required to base our determinations on the best available information. The process is not unnecessarily burdensome to the Commission. Indeed, the Commission is accustomed to making detailed analyses of market phenomena. This is clearly illustrated by the past Commission practice discussed above.

I have always been of the view that the concepts of the Act (e.g., material injury, by reason of, industry), have a single meaning common to both preliminary and final cases. Indeed, the definitions of such terms are found in section 771 which applies to preliminary and final antidumping and

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<sup>18/</sup> Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701-TA-85 (Preliminary), USITC Pub. No. 1206 (January 1982), "Views of Commissioner Paula Stern" at 27.

countervailing duty cases alike. But there is a fundamental, inescapable difference between preliminary and final cases -- the evidentiary standards. In preliminary cases, a reasonable indication must be shown; in final cases, material injury due to subsidized or LTFV imports must be proven. Using more complete information on subsidies or dumping margins in final cases imposes no double standard other than the different evidentiary requirements.

In the present investigation, I am unable to conclude with any reasonable degree of precision that the alleged subsidies are not impacting the domestic industry with material injury. 19/ There is no indication on the record that these export subsidies improve the exporter's competitive position in ways other than reducing price, such as advertising or allowing for greater volume or efficiencies of production. It is conceivable that the impact of these subsidies is to make possible the dumping that was the subject of the prior investigation. 20/ However, one of the two Taiwanese producers, Fuan Da Industrial Co., Ltd., which would be a recipient of the alleged subsidies has been found to have LTFV margins of zero. It is not clear from the record for what percentage of its production Fuan Da is the exporter of record. Therefore there remains on the basis of these facts a reasonable indication of material injury to the domestic industry by the allegedly subsidized imports.

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19/ See Fireplace Mesh Panels from Taiwan, Inv. No. 731-TA-49 (Final), USITC Pub. 1250 (May 1982) at 6, n. 15.

20/ The sorting out of such a question is greatly simplified when the subsidy case precedes the dumping case.

## ADDITIONAL VIEWS OF COMMISSIONER CALHOUN

I concur with the majority in its outcome and reasoning in this preliminary investigation because I believe a finding of reasonable indication of material injury is supported by a reasonable, though debatable, legal theory and by adequate information on the record. As I expressed in Subway Cars, 1/ an affirmative determination in a preliminary investigation need only be supported by a palpable legal theory coupled with adequate and complementary information on the record. Such a view of the standard for assessing preliminary cases allows for, inter alia, closer examination in the final investigation of novel issues of law supporting the petition but issues of law which are not patently frivolous.

I wish to observe, however, that the legal theory which seems to be implicit in the majority's reasoning raises, for me, rather serious underlying questions. Simply put, I understand the majority has relied, in large part, on indicators of material injury which were also relied upon in our prior affirmative determination regarding this product in the context of less than fair value sales. 2/ Reliance on those indicators is made without differentiating between indicators which establish material injury by reason of imports of LTFV merchandise and indicators which establish material injury by reason of imports of subsidized merchandise.

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1/ See Additional Views of Commissioner Calhoun in Certain Rail Passenger Cars and Parts Thereof from Canada, Investigation No. 701-TA-182 (Preliminary), USITC Pub. 1277 (August 1982), at p. 11.

2/ The bulk of the imports of fireplace mesh panels from Taiwan is from one producer. Panels from this producer were found to be causing material injury pursuant to section 731. In this investigation, the data relied upon covers largely the same period reviewed in the LTFV case, and to a great extent is based upon the same imports found to be violating section 731.

The fundamental legal issue posed by such an approach to causality in this case seems to me to be as follows: Whether or to what extent the statute requires us to establish a discrete nexus between material injury and imported subsidized merchandise when the same imported merchandise has already been found to have been causing material injury in the context of being imported merchandise sold at less than fair value. This question arises, it seems to me, because the Trade Agreements Act of 1979 provides, in this connection, for two parallel but presumably distinct causes of action. The first arises under section 701, et. seq., affording domestic industries remedy for material injury caused by imports of merchandise found to be subsidized. The second arises under section 731, et seq., which allows remedy for material injury caused by imports of merchandise found to be sold at less than fair value. Having established two discrete, though parallel, legal rights, it ought to follow that the statute contemplates, if not requires, distinct showings of nexus between the imported merchandise in question and the harm caused by it.

This would seem to be especially so when, as here, a petitioner files a claim under one section regarding merchandise already having been found in violation of the other. The plain implication of such a filing is that the petitioner is alleging that the merchandise in its alternative character is causing material injury which is distinct from that associated with the injury for which a remedy is already in place. With respect to such an allegation, I would think we are required by the separate provisions of the statute and by requirements of due process to make a determination by finding causality based upon the terms under which the allegation is made.



My understanding of the legal argument supporting the apparent majority position that a separate causality showing is not required with regard to merchandise already having a dumping duty in place, but which is subsequently charged with harm under section 701 is, simply stated, as follows: Title VII of the 1979 Act only requires that the impact of the particular merchandise in question and not the impact of the unlawful practice be relied upon as the basis for establishing causality for purposes of finding material injury. Since it is the merchandise that is at issue and not the underlying unfair practice and since, as is the circumstance here, the dumped merchandise is the same as the allegedly subsidized merchandise, the adverse impact of the merchandise has already been determined by the LTFV finding. Thus, essentially, the only matter that remains to be resolved is whether material injury by reason of the merchandise still exists and how to apportion the remedial duty between a countervailing duty and a dumping duty. The former problem is before us now. The latter problem is largely the function of the Department of Commerce.

Since, on its face, there is a compelling and inherent logic to this reasoning, I have supported an affirmative preliminary determination based on it. But such a legal view is subject to a number of counter arguments. First, while in some cases 3/ Commerce can and will apportion remedial duties so as to avoid so-called "double counting", there are cases, such as this one, where petitioner seems to be claiming two distinct harms: one harm caused by the LTFV character of the imported merchandise and the other caused by its subsidized character. 4/

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3/ Generally cases involving export subsidies. See GC Memo GC-F-290, August 27, 1982 at pp. 8-11.

4/ It must be noted, however, that since few, if any, mesh panels are sold in Taiwan, the alleged subsidy is, in effect, very similar to an export subsidy to which Department of Commerce "offsets" might apply.

Second, despite the practice of the Department of Commerce to "offset" certain types of subsidies, Commerce's responsibility for fashioning a remedy is quite distinct from our responsibility to establish a nexus between material injury and subsidized and/or dumped imports. Commerce's offsets can in some cases have the effect of increasing or decreasing the level of duties. Since offsetting can only occur after an appropriate finding by us, our task is not a mere formality. It has a measurable impact on the level of benefit to the domestic industry and the level of burden to the importer. Thus, a petitioner and importer are entitled to an assessment of whether harm is caused by two separate wrongs or only by one wrong.

Third, merchandise from only one of the two known Taiwanese producers was found to be causing material injury pursuant to section 731. Thus, to apply the reasoning described above and argue that the merchandise under investigation here has already been found to be causing material injury, making separate causality analysis unnecessary, is arbitrarily to ascribe to one group of imported merchandise harm for which it ought not to be held accountable.

It is possible here, however, to make separate causality findings as between harm under section 731 and harm under section 701 without doing violence, to the extent this is a desired objective, to the view that Title VII does not, in general, require us to link a harmful practice to material injury. There is a dilemma posed because it would seem that to make separate causal findings ultimately turns upon the ability to distinguish impact associated with the subsidized character of the imported merchandise from that associated with the dumped character of the imported merchandise.

Even though such an undertaking may smack of the kind of tracing I have questioned whether the statute compells us to make in the normal process of reaching determinations under Title VII 5/, if the application of the language of the statute to the peculiar facts of a case suggests it ought to be done, then so be it. Inherent in the legislative history of the 1979 Act seems to be the belief that the Commission's expertise resides largely in the application of law to different fact situations, many of which may be unique. That the language of the statute, in general, directs us to focus only on the impact of the imported merchandise cannot be read to preclude the interaction of fact and language, as a practical matter, calling for focus on the impact of the subsidy or of the practice of LTFV sales. 6/ Indeed, consistency in the application of language to fact need not render the same analytical process in all instances. The application of our understanding of the law is made variable by virtue of the differing fact situations we confront, thus, variations that may arise in the analytical process, while maintaining consistency in the application of statutory language, ought not to be surprising or disturbing. In contrast, compelling the analytical process to be the same each time certain statutory language is used in the context of differing facts seems to run much too close to analytical rigidity.

The plain language in the statute that we are to find material injury by reason of the particular merchandise under investigation as it

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5/ See Additional Views of Vice Chairman Calhoun, Investigation No. 701-TA-145(P), Certain Steel Wire Nails from the Republic of Korea, (USITC Pub. 1223) March 1982.

6/ As I observed in my Additional Views in Nails, a nexus standard which focuses on the relationship between merchandise and harm is a lower standard than that requiring a nexus between subsidy/LTFV sales and harm. It follows<sup>23</sup>, however, that if the latter nexus can be shown, the former nexus must exist. Thus, while the statute may not require a showing of causality between subsidy and harm, the statute must be satisfied if such causality is in fact established.

is applied in the context of an investigation characterized by (a) an allegation of material injury by reason of imports of subsidized merchandise, (b) a pre-existing finding of material injury by reason of imports of merchandise sold at less than fair value and (c) the merchandise in question being largely identical to that having the pre-existing finding, would seem to compel an analytical process in which we are to distinguish those factors of causation related to the former finding from those related to the instant allegation.

The best way I can see at this point to meet this obligation is to analyze the instant allegation on a basis of those features which are different in the two investigations. It may be that conditions in the marketplace are different, that the nature of the domestic industry is different, that factors related to the imports are different or that, indeed, the subsidized aspect of the merchandise has an impact different from that of the less than fair value sales aspect.

Whatever the distinction, if our finding here is to be by reason of the merchandise under investigation, to wit subsidized fireplace mesh panels from Taiwan, then it seems to me we must be able to identify how the subsidized character of the merchandise and not the LTFV character of the merchandise is causing material injury. To undertake this kind of analytical process given the fact situation here seems to me only to be logical. Moreover, it does not seem to be a disturbing inconsistency when compared to the use of a different analytical process when applying the language to a situation in which the merchandise in question has not been found otherwise to be in violation of Title VII.

As I have said before, resolving complex issues of law or fact or complex mixed questions is best left for final investigations if less complex bases for finding a reasonable indication can be relied upon. In this connection, I repeat my concurrence with the majority, but heartily invite parties to address the issue I have raised here.



## INFORMATION OBTAINED IN THE INVESTIGATION

## Introduction

On July 20, 1982, Justesen Industries, Inc. (Justesen), Pacific Fireplace Furnishings Inc. (Pacific Fireplace), and Fall River Fireplace Co., Inc. (Fall River) filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured and is threatened with material injury by reason of imports from Taiwan of fireplace mesh panels, provided for in items 642.87 or 654.00 of the Tariff Schedules of the United States (TSUS), upon which bounties or grants are alleged to be paid. Accordingly, effective July 20, 1982, the Commission instituted a preliminary investigation under section 703(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States. The statute directs that the Commission make its determination within 45 days after its receipt of a petition, or in this case, by September 3, 1982.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on July 29, 1982 (47 F.R. 32808). 1/ The conference was held in Washington, D.C., on August 12, 1982. 2/ The Commission voted on this investigation on August 31, 1982.

## Other Investigations Concerning Fireplace Mesh Panels

On August 11, 1981, a petition was filed with the Commission and Commerce by International Management Service Associates, Inc., alleging that fireplace mesh panels imported from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), and the Commission instituted investigation No. 731-TA-49 (Preliminary). On September 18, 1981, the Commission unanimously determined that there was a reasonable indication that an industry in the United States was being materially injured by reason of imports of fireplace mesh panels from Taiwan which were allegedly being sold at LTFV.

On April 9, 1982, Commerce made a final determination of sales at less than fair value and calculated the weighted average margin of dumping for the two known manufacturers of the product in Taiwan to be 4.7 percent. On May 21, 1982, the Commission unanimously determined that an industry in the United States was materially injured by reason of imports of fireplace mesh panels from Taiwan sold in the United States at less than fair value. Accordingly, on June 7, 1982, an antidumping duty order was issued by Commerce (47 F.R. 24616).

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1/ A copy of the Commission's notice of investigation and conference is presented in app. A. The Department of Commerce's notice of initiation of its countervailing duty investigation is presented in app. B.

2/ A copy of the calendar of the public conference is presented in app. C.

## The Product

### Description

Fireplace mesh panels are precut, flexible panels of interlocking spirals of steel wire. This mesh is manufactured primarily for use in fireplace screens and is produced within a narrow range of specifications. The diameter of the wire used must be large enough so that the mesh will retain its shape and not deteriorate under constant exposure to heat. On the other hand, the wire must be thin enough to maintain the flexibility of the mesh. Similarly, the size of the openings in the panels must be small enough to provide adequate protection from the sparks given off by the fire and yet be large enough to maintain the flexibility of the panel.

Because the area to be covered by the panel in a fireplace screen is not standard, a panel may be any of a wide variety of sizes and is usually made to order. The dimensions of a panel are typically about 2 feet by 2 feet. However, each user generally has its own specifications for the size of the panels.

Virtually all panels are finished with either a black oxide or a black enamel finish. The black oxide finish is less expensive, but there is some difference of opinion as to which is more durable. The majority of domestic producers use black enamel and advise that it is superior.

### The product imported from Taiwan

Fireplace mesh imported from Taiwan is primarily in the form of precut panels with rings attached for mounting. The panels are generally finished with black oxide and constructed from wire ranging from 19 to 21 gage, or from approximately 0.041 to 0.032 inch in diameter. \* \* \*.

A substantial portion of the imported panels are alleged by the petitioner to be produced manually. 1/ In the manual production process, a machine which forms the spirals of steel wire is cranked by hand, and the wire is cut to the appropriate length by the use of a foot pedal. The spirals are then woven together and the ends are turned over (knuckled) by hand. The finish is applied by dipping the panels in a hot sodium hydroxide solution. The reaction of the chemical on the surface of the wire produces a black oxide. Some producers in Taiwan may also use high-speed weaving machines, as is the practice in the United States.

### The domestic product

U.S.-produced fireplace mesh is sold primarily in the form of precut panels. 2/ These panels typically have rings attached for mounting, are

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1/ Transcript of the conference in investigation No. 731-TA-49 (Preliminary), p. 60.

2/ It is estimated that more than 90 percent of domestically produced fireplace mesh is converted from rolls to precut panels before it is sold or used by the manufacturer in producing more advanced products.



finished with black enamel, and (like the imported panels) are constructed from wire which ranges from 19 to 21 gage. Roughly 40 percent of the panels produced domestically during 1978-81 were constructed from 19.5-gage wire (approximately 0.038 inch in diameter), and approximately 70 percent of U.S. producers' commercial shipments were constructed from this gage wire. Panels are occasionally sold without rings, and some domestic producers use a black oxide finish on their panels. A very small amount of the fireplace mesh is sold without a finish.

The standard machine used to manufacture the mesh is a high-speed weaving machine imported from West Germany and manufactured by Wafios Machinery Corp. This machine, working from a large spool of wire, automatically forms the steel spirals, cuts the spirals to a specified length, weaves the wire into the mesh, and then knuckles the ends. The resulting product is a roll of mesh which is degreased, painted and dried or finished with black oxide, and "cut" to size.<sup>1/</sup> The rings may be attached either manually or automatically to either the finished panels or the uncut rolls.

The degree of automation involved in the production process varies. Some producers have constructed their own machines, which are not as automated as the Wafios machines. Others have made significant modifications to the Wafios equipment, so that the production process is more automated. Thus, for one firm, the production process may require a significant amount of manual labor, whereas for another, very little labor is required.

The machines used to weave the mesh are only suitable for use in producing flexible fireplace mesh. They vary in price; a new machine will generally cost at least \$100,000. This machine is the only significant investment required to produce fireplace mesh other than the raw materials.

#### U.S. tariff treatment

Fireplace mesh panels are classifiable under item 642.87 if cut to shape and under item 654.00 if cut to shape and further processed (e.g., with mounting rings attached).<sup>2/</sup> Both of these items are "basket" categories and include many items other than fireplace mesh panels. Item 642.87 encompasses wire cloth, gauze, fabric, screen, netting, and fencing products that are cut to shape and constructed of base metals other than copper. The column 1 (most-favored-nation) rate of duty for item 642.87 is 6.1 percent ad valorem.<sup>3/</sup>

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<sup>1/</sup> This mesh is not literally cut since the process involves only the removal of a spiral at the appropriate place in the roll.

<sup>2/</sup> Effective Apr. 1, 1981, to take into account changes under the Generalized System of Preferences, TSUS item 654.01 was superseded and the subject articles were covered by new item 654.00.

<sup>3/</sup> The col. 1 rates are applicable to imported products from all countries except those Communist countries enumerated in general headnote 3(f) of the TSUS. However, such rates do not apply to products of developing countries which are granted preferential tariff treatment under the Generalized System of Preferences or enter under the rate for least developed developing countries. A-3

This rate became effective on January 1, 1982, and is the third in a series of progressive duty reductions effective on January 1 of each year. These reductions will occur annually until 1987, when the final rate of 4.7 percent ad valorem will be reached. These annual duty reductions are the result of concessions granted in the Tokyo round of Multilateral Trade Negotiations (MTN). From January 1972 through December 1979, the column 1 rate of duty for item 642.87 was 7.0 percent ad valorem and represented concessions granted in the Kennedy round of trade negotiations.

The column 2 rate of duty for item 642.87 is 35 percent ad valorem. 1/ Imports from least developed developing countries (LDDC's) are dutiable at 4.7 percent ad valorem. 2/ Imports from all designated beneficiary developing countries, including Taiwan, are eligible for duty-free entry under the Generalized System of Preferences (GSP). 3/

TSUS item 654.00 encompasses articles not specially provided for of a type used for household, table, or kitchen use, of iron or steel, not coated or plated with precious metals. The column 1 rate of duty for this item is 6.6 percent ad valorem. This rate is also the third in a series of progressive annual rate reductions which are effective on January 1 of each year and were the result of concessions granted in the MTN. A final rate of 3.4 percent ad valorem will be reached in 1987. From January 1972 through December 1979, articles now covered by item 654.00 were assessed a column 1 duty rate of 8.5 percent ad valorem.

The column 2 rate of duty for item 654.00 is 40 percent ad valorem. The preferential LDDC rate of duty is 3.4 percent ad valorem. Imports from all designated beneficiary developing countries, including Taiwan, are eligible for duty-free entry under the GSP.

#### The Alleged Bounties or Grants

According to the petitioners, the Government of Taiwan allegedly subsidizes the export of fireplace mesh panels by providing low-cost labor and income tax abatement. Petitioners estimate the value of the low-cost labor subsidy at roughly 10 percent, 4/ but they do not provide an estimate of the value of the income tax abatement subsidy.

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1/ The rates of duty in col. 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

2/ The LDDC rate is a preferential rate (reflecting the full U.S. MTN concession rate for a particular item without staging) and is applicable to products of the LDDC's designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the Generalized System of Preferences.

3/ The GSP, under title V of the Trade Act of 1974, provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. Implemented by Executive Order No. 11888 of Nov. 24, 1975, it applies to merchandise imported on or after Jan. 1, 1976, and is expected to remain in effect until Jan. 4, 1985.

4/ See petition, p. 6.

## U.S. Market and Channels of Distribution

Although there are no published data available, there is a general consensus among domestic producers that the United States is by far the largest market for fireplace mesh in the world. This is primarily because of the unique style of U.S. housing and fireplaces. Fireplace mesh is especially suited for fireplace screens because of its flexible, curtainlike nature. Although many rigid products, such as glass, wire cloth, and metal sheets, can arrest sparks as well as fireplace mesh can, they do not provide the same easy accessibility to the fire.

U.S. producers and importers of fireplace mesh panels were requested to supply data on the end use of their merchandise in 1981. The results of this survey are shown in the following tabulation:

<u>End use</u>	<u>Percent of total</u>
Glass-door fireplace screens-----	61.7
Zero-clearance fireplaces <u>1</u> /-----	21.7
Simple fireplace screens-----	16.0
Woodburning stoves and/or fireplace inserts <u>2</u> /-----	.4
Miscellaneous-----	.2
	<u>100.0</u>

1/ A zero-clearance fireplace is a prefabricated fireplace constructed in such a way that it can be placed into the structure of the house with zero clearance, i.e., it can be in direct contact with the floors and walls and does not require insulation such as brick or stone.

2/ Fireplace inserts are similar to zero-clearance fireplaces. They have an inner chamber made of a steel jacket lined with firebrick. In the fireplace insert, the wood is not burned in an open fire, but rather oxidized in the sealed inner chamber. The heated air surrounding the inner chamber is transmitted to the room by blowers. An insert is designed to sit in a fireplace.

These data indicate that more than 99 percent of all fireplace mesh is used in the manufacture of fireplace screens and zero-clearance fireplaces. The remainder is used in a variety of miscellaneous applications, such as woodburning stoves, fireplace inserts, decorative drapery walls, fireproof buildings, and fence guarding for machines which send off sparks, splinters, or filings. The market for fireplace mesh is thus dependent on the market for fireplace screens and zero-clearance fireplaces.

Demand for fireplace screens and zero-clearance fireplaces normally follows the trend set by housing starts, the basic incentive to purchase a fireplace screen historically being ownership of a new fireplace. Housing starts declined each year during 1979-81, from 1.8 million units to 1.1 million units, or by 39 percent. Housing starts totaled .5 million units during the first half of 1982, or 26 percent less than those in the corresponding period of 1981.

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There have been a number of factors affecting demand for fireplace mesh other than housing starts since the early 1970's, when the development and

sale of zero-clearance fireplaces began to grow. The opening of this type of fireplace is usually smaller than that of the typical masonry fireplace, and therefore it uses a smaller screen.

The rising cost of energy has also played an important role in the demand picture. Since 1974, there has been considerable research into alternative methods of home heating. This research exposed the typical fireplace as being an inefficient source of heat because it allows the heated air in the home to escape up the chimney. One answer to this problem was a glass-door fireplace screen. These screens usually include two panels of the fireplace mesh which is the subject of this investigation. In this way, the doors can be kept open to allow the normal enjoyment of the fireplace when a fire is burning, but when the doors are closed, heat is prevented from escaping from the home through the chimney.

Sales of glass-door fireplace screens increased dramatically from 1976 to 1978, but have declined precipitously since then for several reasons. First, the market became saturated with glass-door screens very quickly. Second, there has been a steady decline in housing starts. Third, several other products entered the market and effectively cut into the demand for glass-door fireplace screens--zero-clearance fireplaces, wood-burning stoves, and fireplace inserts. Zero-clearance fireplaces are displacing masonry fireplaces in new houses because they are considerably less expensive and easier to install. Wood-burning stoves and fireplace inserts are much more efficient generators of heat than fireplaces and provide cost-conscious homeowners with better methods of heating.

#### U.S. Producers

The industry has undergone major changes in recent years. The number of producers, their ownership and organization, and their relative importance in the industry varied significantly during the period under consideration.

There are currently nine known producers of fireplace mesh in the United States. The company names and their locations are as follows:

Manufacturer	Location	Manufacturer : of fireplace : screens	Participant in : the commercial : market for mesh
Bennett-Ireland-----	Norwich, N.Y.	: Yes	: Yes.
DeSoto, Inc-----	Chattanooga, Tenn.	: Yes	: No.
Fall River Fireplace Co., Inc.	Syosset, N.Y.	: Yes	: Yes.
Hearth Craft-----	Portland, Oreg.	: Yes	: Yes.
Heatilator-----	Mt. Pleasant, Iowa	: Yes	: No.
Justesen Industries, Inc-----	Blaine, Wash.	: No	: Yes.
Pacific Fireplace Furnishings Inc.	Tualatin, Oreg.	: Yes	: Yes.
Portland Willamette-----	Portland, Oreg.	: Yes	: Yes.
Thermo-Rite Manufacturing-----	Akron, Ohio	: Yes	: No.

Three companies--Justesen, Fall River, and Pacific Fireplace--support the petition. Collectively, they accounted for approximately \*\*\* percent of total U.S. production in January-June 1982. Hearth Craft, a subsidiary of Mobex Corp., opposes the petition. 1/ The producers are located throughout the country--there are three in Oregon, two in New York, and one each in Washington, Iowa, Ohio, and Tennessee.

Since 1978, six producers have ceased producing fireplace mesh panels--Wilshire Industries, United Fireplace, Knickerbocker Guild, Inc., Hart Firplace Furnishings, Hardesty-Quittner, and International Management Service Associates, Inc. (IMSA). With the exception of \* \* \*, data on the operations of ex-producers are not currently available. \* \* \*. Hardesty-Quittner, the predecessor of IMSA, ceased operations in November 1980. IMSA began its more limited operations in December 1980 and ceased operations in April 1982. 2/ The ownership of Hearth Craft, \* \* \*, has changed twice since 1978. Justesen Industries, formerly part of Justesen Products & Manufacturing, moved its mesh-producing operations from Canada to the United States in August 1980.

Many of the large producers of fireplace mesh use all or a substantial portion of their fireplace mesh production internally in the manufacture of fireplace screens. These companies include \* \* \*. Fireplace mesh operations are typically a minor part of these producers' overall operations, and in some cases, detailed information concerning production, sales, profitability, and employment on fireplace mesh operations are not available.

#### U.S. Importers

Some of the producers of fireplace mesh panels have also imported the product from Taiwan. These include \* \* \*. Other importers \* \* \* are manufacturers of zero-clearance fireplaces. The remaining importers--\* \* \*--are generally dealers and distributors which sell primarily to manufacturers of zero-clearance fireplaces and fireplace screens.

#### Foreign Producers

Fireplace mesh is reportedly produced in several countries other than the United States, including Canada, Taiwan, the United Kingdom, and Japan. However, the only known U.S. imports of fireplace mesh in recent years have come from Canada and Taiwan. The only Canadian producers known to have exported to the United States are \* \* \*. There are numerous trading companies in Taiwan from which fireplace mesh can be obtained. However, the only known producers in Taiwan are Fuan Da Industrial Co., Ltd., and Yeh Sheng Wire Mesh & Screen Co. \* \* \*.

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1/ See letter dated Aug. 6, 1982, from Mr. Douglas Greene, vice president of Hearth Craft.

2/ IMSA was the petitioner in antidumping investigations Nos. 731-TA-49 (Preliminary) and 731-TA-49 (Final) and ceased operations prior to the conclusion of the latter.

## The Question of Injury

U.S. production, capacity, and capacity utilization

The data on U.S. production of fireplace mesh panels are somewhat understated because of the lack of information from three of the six companies that have gone out of business since 1978; however, the data reflect the operations of all known current producers and three former producers (\* \* \*). U.S. production of fireplace mesh panels declined precipitously during the period under consideration, from 10.6 million square feet in 1978 to 2.9 million square feet in 1981, or by 72 percent (table 1). U.S. production then declined by another 39 percent in January-June 1982 relative to production in the corresponding period of 1981.

Table 1.--Fireplace mesh panels: U.S. production, by firms, 1978-81, January-June 1981, and January-June 1982

Firm	1978	1979	1980	1981	January-June--	
					1981	1982
Quantity (1,000 square feet)						
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
Total-----	10,600	8,060	4,895	2,927	1,285	785
Percent of total						
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
Total-----	100.0	100.0	100.0	100.0	100.0	100.0

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

The capacity of U.S. firms to produce fireplace mesh panels also declined during the period, though not as rapidly as U.S. production (table 2). U.S. capacity declined from 12.2 million square feet in 1978 to 11.0 million square feet in 1981, or by 10 percent, although it remained steady at 7.0 million

Table 2.--Fireplace mesh panels: U.S. production, capacity, and capacity utilization, by firms, 1978-81, January-June 1981, and January-June 1982

Item and firm	1978	1979	1980	1981	January-June--	
					1981	1982
Production:						
* * *---1,000 square feet--:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
Total-----do-----:	10,600	8,060	4,895	2,927	1,285	785
Capacity: <sup>1/</sup>						
* * *---1,000 square feet--:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
Total-----do-----:	12,186	11,927	11,098	10,955	6,955	6,955
Capacity utilization:						
* * *-----percent--:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
* * *-----do-----:	***	***	***	***	***	***
Total-----do-----:	87.0	67.6	44.1	26.7	18.5	11.3

<sup>1/</sup> Capacity is defined as the normal sustained production that can be achieved on an annual basis, making allowance for anticipated maintenance and downtime.

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

square feet in January-June 1982 compared with that in the corresponding period of 1981.

As a result, utilization of domestic firms' capacity to produce fireplace mesh panels declined steadily, to very low levels, during the period under consideration. Capacity utilization declined from 87 percent in 1978 to 27 percent in 1981 and again to 11 percent in January-June 1982.

### U.S. producers' commercial shipments

In general, U.S. producers' commercial shipments of fireplace mesh panels represented a significant part of the domestic industry's fireplace mesh operations during the period under consideration (table 3). Such shipments accounted for 44 percent of U.S. production in 1978 and 34 percent in 1981 and increased to \* \* \* percent in January-June 1982.

Shipments of fireplace mesh panels declined more rapidly than U.S. production during 1978-81, from 4.6 million square feet in 1978 to 1.0 million square feet in 1981, or by 78 percent. Shipments continued to decline in January-June 1982, falling \* \* \* percent relative to those in the corresponding period of 1981.

The value of U.S. producers' commercial shipments also declined throughout the period under consideration, from \$3.9 million in 1978 to \$1.2 million in 1981, or by 69 percent. It declined by \* \* \* percent in January-June 1982 relative to the value of shipments made in the corresponding period of 1981.

The average unit value of U.S. producers' commercial shipments increased from \$84 per 100 square feet in 1978 to \$118 per 100 square feet in 1981, or by 41 percent. In January-June 1982, however, the average unit value declined to \* \* \* per 100 square feet.

U.S. producers' exports and the ratio of such exports to U.S. producers' total commercial shipments during the period were as follows:

\*            \*            \*            \*            \*            \*            \*

U.S. producers' exports declined from \* \* \*. However, as a share of total commercial shipments, U.S. producers' exports increased sharply from 1978 to 1981. Exports declined both absolutely and relative to commercial shipments in January-June 1982 compared with those in the corresponding period of 1981.

### U.S. imports

There are no official statistics on U.S. imports of fireplace mesh panels. There were only two known sources of imported panels during the period under consideration--Canada and Taiwan. The major supplier of imports from Canada was \* \* \*.

Available data on U.S. imports of fireplace mesh panels from Taiwan present an irregular pattern, but generally show a decline during the period under consideration (table 4). Imports of fireplace mesh panels from Taiwan declined from \* \* \* square feet in 1978 to \* \* \* square feet in 1979, \* \* \*. Imports then increased to 2.7 million square feet in 1980, \* \* \*, before declining by 17 percent to 2.3 million square feet in 1981. Imports then dropped sharply, declining \* \* \* in January-June 1982 compared with those in the corresponding period of 1981.



Table 3.--Fireplace mesh panels: U.S. producers' commercial shipments, by firms, 1978-81, January-June 1981, and January-June 1982

Firm	1978	1979	1980	1981	January-June--	
					1981	1982
Quantity (1,000 square feet)						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	4,605	3,407	1,383	995	529	***
Value (1,000 dollars)						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	3,873	2,836	1,405	1,178	352	***
Unit value (per 100 square feet)						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Average	84	83	102	118	67	***
Percent of total quantity						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0	100.0

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

Table 4.--Fireplace mesh panels from Taiwan: Imports of specified U.S. firms, 1978-81, January-June 1981, and January-June 1982

Firm	1978	1979	1980	1981	January-June--	
					1981	1982
Quantity (1,000 square feet)						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	***	***	2,747	2,285	1,562	***
Value (1,000 dollars)						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	***	***	956	785	552	***
Unit value (per 100 square feet)						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Average	***	***	35	34	35	***
Percent of total quantity						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0	100.0

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

The average unit value (landed and duty-paid) of U.S. imports of fireplace mesh panels from Taiwan increased from 1978 to 1979, but declined in 1980 and 1981. The average unit value increased from \* \* \* per 100 square feet in 1978 to \* \* \* per 100 square feet in 1979, or by \* \* \* percent, but then declined to \$34 per 100 square feet in 1981, or by \* \* \* percent. However, in January-June 1982, the average unit value increased to \* \* \* per 100 square feet.

### Inventories

Because of the variety of possible sizes, fireplace mesh panels are generally made to order. Very little is held in inventory. Thus, the yearend inventory levels of U.S. producers were insignificant until 1981. U.S. producers' inventories and the ratio of these inventories to production were as follows:

\* \* \* \* \*

U.S. producers' inventories of fireplace mesh panels held as of December 31 declined from \* \* \*. However, inventories held as of December 31, 1981, \* \* \*. As a share of production, U.S. producers' inventories changed little from 1978 to 1980, remaining at less than \* \* \*. However, inventories held as of December 31, 1981, increased to \* \* \* of U.S. production. Inventories held rose to \* \* \* of U.S. production as of June 30, 1982.

Only two U.S. importers, \* \* \*, reported inventories of fireplace mesh panels from Taiwan. However, those inventories have been significant, especially those of \* \* \* whose inventories accounted for \* \* \* of all inventories reported in 1981 and for \* \* \* of inventories in January-June 1982. \* \* \* indicated that inventories \* \* \*. The yearend inventories of fireplace mesh panels from Taiwan, as well as the ratio of those inventories to imports from Taiwan, are shown in the following tabulation:

\* \* \* \* \*

These data show that inventories declined from \* \* \* square feet in 1978 to \* \* \* square feet in 1979, \* \* \*, before increasing in both 1980 and 1981 by \* \* \* and \* \* \*, respectively. Inventories declined by \* \* \* in January-June 1982 relative to those held in the corresponding period of 1981. As a share of imports from Taiwan, yearend inventories increased from \* \* \* in 1978 to \* \* \* in 1981. Yearend inventories rose to \* \* \* in January-June 1982 as the level of imports dropped sharply relative to the modest decline in inventories.

Apparent U.S. consumption

Data on apparent U.S. consumption are understated because of the lack of information from some of the firms which have gone out of business since 1978. Nonetheless, the available data show a precipitous decline in consumption (table 5). Apparent U.S. consumption of fireplace mesh panels, including captive consumption, declined from 17.0 million square feet in 1978 to 5.2 million square feet in 1981, or by 69 percent, and then declined by another 70 percent in January-June 1982 compared with apparent consumption for the corresponding period of 1981.

Table 5.--Fireplace mesh panels: U.S. production, imports for consumption, net change in inventories, exports, and apparent consumption, 1978-81, January-June 1981, and January-June 1982

(In thousands of square feet)							
Item	1978	1979	1980	1981	January-June--		
					1981	1982	
Production-----	10,600	8,060	4,895	2,927	1,285		785
Imports-----	***	***	3,124	2,285	1,562		***
Net change in inventories-----	***	***	***	***	***		***
Exports-----	***	***	***	***	***		***
Apparent consumption <u>1</u> /--	17,016	11,797	7,652	5,199	2,736		831

1/ Includes captive consumption.

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

Apparent open-market consumption has accounted for about 54 to 65 percent of total U.S. consumption until January-June 1982, when it represented \* \* \*. The data on apparent U.S. open-market consumption of fireplace mesh panels show a declining pattern, similar to that for total apparent U.S. consumption (table 6). Apparent open-market consumption declined from 11.0 million square feet in 1978 to 3.3 million square feet in 1981, or by 70 percent. It declined by another \* \* \* in January-June 1982.

Table 6.--Fireplace mesh panels: U.S. producers' commercial shipments, imports for consumption, net change in inventories, exports, and apparent open-market consumption, 1978-81, January-June 1981 and January-June 1982

(In thousands of square feet)							
Item	1978	1979	1980	1981	January-June--		
					1981	1982	
Shipments-----	4,605	3,407	1,383	995	529	***	
Imports-----	***	***	3,124	2,285	1,562	***	
Net change in inven-							
tories-----	***	***	***	***	***	***	
Exports-----	***	***	***	***	***	***	
Apparent open-market							
consumption-----	11,021	7,144	4,140	3,267	1,980	***	

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

#### U.S. employment and wages

Usable data on U.S. employment and wages in the domestic industry producing fireplace mesh panels were only available for seven companies, which accounted for 51 percent of U.S. production in 1981. The available data show clearly declining trends in the period under consideration.

The average number of employees in U.S. establishments producing fireplace mesh panels declined each year from 2,048 in 1978 to 818 in 1981, or by 60 percent (table 7). The average number of employees dropped by 32 percent in January-June 1982 from the number reported in the corresponding period of 1981. The average number of production and related workers engaged in the production of fireplace mesh panels declined even more rapidly, dropping from 91 in 1978 to 16 in 1981, or by 82 percent, and then declined by another 56 percent in January-June 1982.

Wages paid to production and related workers producing fireplace mesh panels also declined sharply. Wages fell from \$968,000 in 1978 to \$203,000 in 1981, or by 79 percent, and then declined by another 65 percent in January-June 1982. Hours worked by production and related workers declined from 148,000 hours in 1978 to 27,000 hours in 1981, or by 82 percent, and then declined by another 63 percent in January-June 1982.

Table 7.--Average number of employees, total and production and related workers engaged in the production of fireplace mesh panels, and wages paid to and hours worked by production and related workers producing fireplace mesh panels, by firms, 1978-81, January-June 1981 and January-June 1982

Firm	1978	1979	1980	1981	January-June--	
					1981	1982
All employees:						
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
Total-----	2,048	1,901	1,358	818	638	436
Production and related workers producing fireplace mesh panels:						
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
* * *-----	***	***	***	***	***	***
Total-----	91	61	37	16	13.5	6.0
Wages paid to production and related workers producing fireplace mesh panels:						
* * *-----1,000 dollars--	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
Total-----do-----	968	725	511	203	145.5	50.4
Hours worked by production and related workers producing fireplace mesh panels:						
* * *-----1,000 dollars--	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
* * *-----do-----	***	***	***	***	***	***
Total-----do-----	148	109	72	27	18.6	6.9

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

Financial performance of U.S. producers

During investigation No. 731-TA-49 (Final), only five companies, accounting for 29 percent of production in 1981, provided the Commission with data on the financial performance of the overall operations of establishments in which fireplace mesh panels are produced; four firms, accounting for 24 percent of production in 1981, were able to provide such data on their operations on fireplace mesh panels alone.

Net sales in the overall operations of the reporting U.S. producers of fireplace mesh panels declined from \$49.1 million in 1978 to \$18.5 million in 1981, or by 62 percent (table 8). The cost of goods sold by these producers declined from \$31.2 million in 1978 to \$16.3 million in 1981, or by 48 percent. However, as a percentage of net sales, the cost of goods sold by these producers increased from 64 percent in 1978 to 88 percent in 1981. The gross profit fell sharply from \$17.9 million in 1978 to \$2.3 million in 1981, or by 87 percent. General, selling, and administrative expenses declined from \$8.8 million in 1978 to \$6.5 million in 1981, or by 26 percent.

The net operating profit or loss of the five reporting producers of fireplace mesh panels on their overall operations dropped sharply, from a profit of \$9.1 million in 1978 to a loss of \$200,000 in 1980 and then declined further to a loss of \$4.3 million in 1981. The ratio of net operating profit or loss to net sales declined from 19 percent in 1978 to a negative 23 percent in 1981.

The data on U.S. producers' operations on fireplace mesh panels present a similar picture (table 9). Net sales of the reporting producers declined from \$2.7 million in 1978 to \$445,000 in 1981, or by 83 percent. The cost of goods sold declined from \$1.7 million in 1978 to \$351,000 in 1981, or by 79 percent. The ratio of the cost of goods sold to net sales of fireplace mesh panels increased from 62 percent in 1978 to 79 percent in 1981. The gross profit of these producers declined from \$1.0 million in 1978 to \$94,000 in 1981, or by 91 percent. General, selling, and administrative expenses declined from \$489,000 in 1978 to \$144,000 in 1981, or by 71 percent.

The net operating profit or loss of the reporting U.S. producers on their fireplace mesh operations dropped sharply, from a profit of \$522,000 in 1978 to a loss of \$94,000 in 1980. An aggregate loss of \$50,000 was reported in 1981. The ratio of net operating profit or loss to net sales declined each year, from 20 percent in 1978 to a negative 11 percent in 1981.

Table 8.--Profit-and-loss experience of selected U.S. producers of fireplace mesh panels on the overall operations of the total establishment in which fireplace mesh panels are produced, by firms, accounting years 1978-81

Year and firm	Net sales	Cost of goods sold	Gross profit or (loss)	General, selling, and administrative expenses	Net operating profit or (loss)	Ratio of net operating profit or (loss) to net sales
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent
1978:						
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
Total	49,140	31,224	17,916	8,784	9,132	18.6
1979:						
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
Total	40,135	27,847	12,288	8,665	3,623	9.0
1980:						
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
Total	33,469	25,739	7,730	7,930	(200)	(0.6)
1981:						
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
*	***	***	***	***	***	***
Total	18,539	16,283	2,256	6,533	(4,277)	(23.1)
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.						



Table 9.--Profit-and-loss experience of selected U.S. producers on their operations producing  
fireplace mesh panels, by firms, accounting years 1978-81

Year and firm	Net sales	Cost of goods sold	Gross profit or (loss)	General, selling, and administrative expenses	Net operating profit or (loss)	Ratio of net operating profit or (loss) to net sales
	<u>1,000 dollars</u>	<u>1,000 dollars</u>	<u>1,000 dollars</u>	<u>1,000 dollars</u>	<u>1,000 dollars</u>	<u>Percent</u>
1978:						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	2,664	1,653	1,011	489	522	19.6
1979:						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	1,814	1,262	552	385	167	9.2
1980:						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	1,145	909	236	330	(94)	(8.2)
1981:						
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
* * *	***	***	***	***	***	***
Total	445	351	94	144	(50)	(11.2)
Total						78.9

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

The reporting U.S. producers' cash flow from the total operations of the establishments in which fireplace mesh panels are produced and from their operations on fireplace mesh panels are shown in table 10. Cash flow from overall establishment operations dropped from \$10.1 million in 1978 to a loss of \$3.3 million in 1981. Reporting U.S. producers' cash flow from their operations on fireplace mesh panels declined from \$587,000 in 1978 to a negative \$23,000 in 1980, but increased to \$36,000 in 1981.

Table 10.--Cash flow of selected U.S. producers of fireplace mesh panels from overall establishment operations and operations on fireplace mesh panels, accounting years 1978-81

(In thousands of dollars)					
Item	1978	1979	1980	1981	
Total establishment operations <u>1</u> /-----	10,051	4,930	1,069	(3,301)	
Fireplace mesh panel operations <u>2</u> /----	587	230	(23)	36	

1/ 6 firms supplied data.

2/ 4 firms supplied data.

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

\* \* \* \* \*

Table 11.--Profit-and-loss experience of selected U.S. producers of fireplace mesh panels on the overall operations of the total establishment in which fireplace mesh panels are produced, by firms, interim periods ending June 30, 1981, and June 30, 1982

*	*	*	*	*	*	*
---	---	---	---	---	---	---

### The Question of Threat of Injury

There are various factors which may contribute to the threat of injury to the domestic industry. These factors include the ability of the foreign producers to increase the level of their exports to the United States and the likelihood that they will do so. Any significant increase in U.S. importers' inventories of fireplace mesh panels from Taiwan could also add to the threat of material injury.

There is no information available on the foreign producers' capacity to produce fireplace mesh panels or on their ability to increase the level of exports. There is also no information available on the inventory levels of the foreign producers. The available data on U.S. importers' inventories are discussed on page A-13 of this report. These data show a decline in U.S. importers' inventories during the period under consideration.

### The Question of the Causal Relationship Between the Allegedly Subsidized Imports From Taiwan and the Alleged Injury

#### Market penetration of allegedly subsidized imports

The ratio of U.S. imports of fireplace mesh panels from Taiwan to apparent U.S. consumption (including captive consumption) and to apparent U.S. open-market consumption are presented in the following tabulation:

<u>Period</u>	<u>Imports from Taiwan (1,000 square feet)</u>	<u>Ratio of imports to apparent consumption (percent)</u>	<u>Ratio of imports to apparent open-market consumption (percent)</u>
1978-----	***	***	***
1979-----	***	***	***
1980-----	2,747	35.9	66.4
1981-----	2,285	44.0	69.9
January-June--			
1981-----	1,562	57.1	78.9
1982-----	***	***	***

The ratio of imports of fireplace mesh panels from Taiwan to apparent U.S. consumption declined from 1978 to 1979, but increased significantly in 1980 and 1981. The ratio declined from \* \* \*, but then increased to 44 percent in 1981. It then declined \* \* \* in January-June 1982. The trend presented by the ratio of imports of fireplace mesh panels to apparent open-market consumption is similar, but the changes were more dramatic. The ratio declined from \* \* \*, and then increased to 70 percent in 1981. It then fell \* \* \* in January-June 1982.

## Prices

Prices of fireplace mesh panels were believed to depend on many different factors, such as the size or gage of wire used in the panel, quality differences, availability, and delivery time. However, variations in prices of mesh panels which are apparently not related to gage raised questions as to whether wire gage is sufficiently important a factor to account for differences in prices of mesh panels. In response to telephone inquiries concerning the importance of gage size, some purchasers indicated that they will consider panels made of any gage of wire falling within the acceptable range for use in fireplace mesh, other purchasers indicated that they will purchase panels only within a limited range of gages, and still others reported that they will purchase only panels produced from a specific gage of wire. 1/

The effect on the cost of producing panels using different sizes of wire was also explored. The Commission staff estimates that if all other factors are equal, 2/ the cost of the metal content of the mesh could vary by \$4 per 100 square feet for wire varying in size from 19 to 21 gage. The thinnest wire, the 21 gage, results in the lowest metal cost of producing a panel; the thickest wire, the 19 gage, the highest. However, although there are cost advantages from a metal-content standpoint in using thinner wire, other factors may offset these advantages. A domestic representative stated that a panel made of thinner wire will not necessarily cost less to produce than one made of thicker wire because the material cost advantages of thinner wire are offset by the need to run production machinery at a slower rate. 3/

Other factors that influence prices of mesh panels include the type of finish applied to the panel, its size, its pleating, and the attachment of pull tassels or rings for mounting the panel. The petitioner's testimony also suggests that seasonality could be a factor in determining prices. 4/ Prices are said to be higher during the peak season of April through October.

An enamel finish commands a premium of roughly \$5 per 100 square feet over black oxide finish. Most domestic production has the enamel finish and is said to resist rust better than the black-oxide-finished imported product. Mounting rings increase the price of the panel by about 7 cents per ring. Because prices reported by both producers and importers were generally for ringed panels, prices have been adjusted to reflect comparably equipped panels. 5/

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1/ See Report on Outside Contacts for inv. No. 731-TA-49 (Final), April 19-22, 1982.

2/ The length of wire used per spiral, the number of spirals per linear foot of panel, the production efficiency per firm, and so forth.

3/ Transcript of the hearing for investigation. No. 731-TA-49 (Final), pp. 25-26.

4/ Ibid., pp. 51-52.

5/ One producer reported prices for mesh panels without rings in the first quarter of 1979 only. There were no comparable data from other producers and/or importers. Therefore, this set of prices for ringless panels was adjusted by adding \$1.58 per 100 square feet for the cost of rings. A-23

An additional consideration in analyzing the prices of mesh panels is that they represent only a small fraction of the price of the fire screen, and mesh prices may be easily passed on to the final consumer.

The domestic producers of fireplace mesh panels were requested to supply their sales prices during January 1979-December 1981 on a delivered basis and an f.o.b.-point-of-shipment basis. Five of the 10 domestic producers are end users and do not participate actively in the open market; consequently, open-market prices were available from five domestic producers only.

Five U.S. importers of fireplace mesh panels provided pricing information. Three reported prices on both a c.i.f., U.S.-port-of-entry basis and a delivered basis for the same period. Two of the importers were end users of this product and did not provide delivered-price data.

Weighted average prices of domestic producers and importers and margins of underselling are presented in table 12. Domestic producers' average prices fluctuated between January-March 1979 and April-June 1982. The lowest average domestic price was \$57.30 per 100 square feet in April-June 1980; the highest was \$66.50 in April-June 1982. The weighted average prices for all producers appear to have declined in 1981, but this is the result of relatively higher priced domestic producers not reporting transactions in all or part of 1981. In the first half of 1982 average prices recovered as a relatively high-priced domestic producer reported transactions in both quarters, a relatively low-priced producer dropped out of the market, and other producers reported higher prices.

Table 12.--Fireplace mesh panels: Weighted average prices of U.S. producers and importers and margins of underselling for panels constructed from 19-21 gage wire, by quarters, January 1979-June 1982

Period	Domestic producers' price:	U.S. importers' price:	Margin of underselling
	---Dollars per 100 square feet---		Percent
1979:			
January-March-----	60.7	33.4	45.0
April-June-----	59.3	34.1	42.5
July-September-----	60.7	32.2	47.0
October-December-----	62.5	33.6	46.2
1980:			
January-March-----	62.9	32.6	48.2
April-June-----	57.3	31.8	44.5
July-September-----	62.1	35.9	42.2
October-December-----	63.2	34.9	44.8
1981:			
January-March-----	62.3	38.1	38.8
April-June-----	61.7	36.5	40.8
July-September-----	60.2	46.8	22.3
October-December-----	60.4	42.9	29.0
1982:			
January-March-----	63.3	***	***
April-June-----	66.5	***	***

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

Importers' weighted average prices increased irregularly between January-March 1979 and April-June 1982, from \$33.40 per 100 square feet in January-March 1979 to \* \* \*. The lowest imported price occurred in the second quarter of 1980 at \$31.80; the highest imported price occurred in July-September 1981 at \$46.80. The imported price in January-June 1982 is based on \* \* \*.

Because reported weighted average domestic prices remained relatively constant during 1979-81 and prices of imports increased by 28 percent, the margins of underselling based on these prices decreased correspondingly. However, this narrowing of margins is somewhat the result of higher-priced producers not reporting transactions in all or part of 1981. Margins of underselling increased in January-March and April-June 1982 to \* \* \*, respectively, compared with margins of 22.3 percent and 29.0 percent in the last two quarters of 1981. The margins in 1982 were significantly less than those in of 1979 and 1980 and reflect increased domestic prices. Furthermore, \* \* \*.

Weighted average prices of individual producers and importers are presented in table 13. Wire gage sizes are shown for each firm. Because prices from different producers for the same gage mesh panel vary widely, the size of wire does not appear to be associated with price. The variation in panel prices is probably more attributable to the specific characteristics of individual producers, such as quality and/or differences in costs of production, or other factors, such as panel size or availability.

Table 13.--Fireplace mesh panels: U.S. producers' and U.S. importers' weighted average prices, by firms by gages of wire, and by quarters, January 1979-June 1982

\* \* \* \* \*

No price data were reported by domestic producers for sales of 19-gage mesh panels. Only one importer, \* \* \*, sold this gage panel during the period covered by the investigation. \* \* \*.

The bulk of domestic production is of 19.5-gage panels. Only one importer reported price data for this gage. <sup>1/</sup> Prices reported by domestic producers for the this size gage fluctuated from January-March 1979 to April-June 1982, but generally showed an upward trend. During the period January-March 1979 to April-June 1982, \* \* \*.

\* \* \* \* \*

\* \* \* \* \*

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<sup>1/</sup> \* \* \*.

Only one domestic producer, \* \* \* reported prices for 20-gage mesh panels. \* \* \*.

Four importers reported prices for mesh panels manufactured from 20-gage wire. Of these four, \* \* \*.

During the period in which both importers and domestic producers reported sales of 20-gage mesh panels, margins of underselling ranged from a high of 41.8 percent in October-December 1980 to a low of 22.0 percent in July-September 1981. The lack of continuity of pricing data from importers indicates that they may import only on a seasonal basis.

*	*	*	*	*	*	*
*	*	*	*	*	*	*

The Commission gathered data from purchasers of wire mesh panels (table 14). In general, prices paid to importers were lower than those paid to domestic producers. In some cases prices paid to \* \* \* were significantly below those paid to other domestic producers. As discussed above, customers and producers often reported different wire sizes for the same transactions. In addition, some customers purchased panels from more than one source during a single period, but at widely different prices. Purchasers reported that factors such as availability of supply or an unusual panel size were responsible for the higher prices in those instances, and that they preferred to maintain several sources of supply.

Table 14.--Fireplace mesh panels: U.S. purchasers' prices, by firms, by gages of wire, and by quarters, January 1979-June 1982

*	*	*	*	*	*	*
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Lost sales

Four domestic producers--\* \* \*--reported that they had lost sales of fireplace mesh panels at 10 different domestic firms during 1979-81 because of imports from Taiwan. The four firms valued their lost sales at a total of \$1.5 million.

The Commission's staff contacted all 10 of these firms. Representatives of six of these firms stated that their firm had purchased no fireplace mesh panels from Taiwan in the last 3 years. Of these six firms, two did not purchase fireplace mesh panels at all, and four purchased only the domestic product. These six firms accounted for \$816,000, or 56 percent, of the alleged lost sales.

The four remaining firms (\* \* \*) accounted for \$650,000, or 44 percent, of the alleged lost sales; they reported purchases totaling 912,000 square feet in 1981, 28 percent of apparent open-market consumption. Three of these firms stated that fireplace mesh panels from Taiwan made up the majority of their purchases during the period 1977-81. The remaining firm purchased \* \* \*. All four of these firms were asked, "What was the most important factor in your firm's decision to purchase fireplace mesh panels from Taiwan rather than purchasing the comparable product produced in the United States?" None of these firms listed just a single factor in their reply. All four firms listed both quality and price, with one firm also listing \* \* \*.

\* \* \* \* \*

During January-June 1982, one domestic producer, \* \* \* reported that it had lost additional sales of fireplace mesh panels to 3 different domestic firms --\* \* \*-- because of imports from Taiwan. The firm valued its lost sales at a total of \* \* \*.

The Commission's staff contacted all 3 of these firms. Representatives of 2 of the firms, \* \* \*. \* \* \*. These two firms accounted for \* \* \*, of the alleged lost sales.

The remaining firm, \* \* \*, accounted for \* \* \* of the alleged lost sales. Purchase data are currently available for this firm. A representative of \* \* \* indicated to the Commission's staff that the firm, \* \* \*, \* \* \*.



**APPENDIX A**

**COMMISSION'S NOTICE OF INVESTIGATION AND CONFERENCE**

[Investigation No. 701-TA-185  
(Preliminary)]

### Fireplace Mesh Panels From Taiwan

**AGENCY:** International Trade Commission.

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

**EFFECTIVE DATE:** July 20, 1982.

**SUMMARY:** The United States International Trade Commission hereby gives notice of the institution of an investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of fireplace mesh panels, provided for in items 642.87 or 654.00 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Taiwan.

**FOR FURTHER INFORMATION CONTACT:** Ms. Vera Libeau (202-523-0368), Office of Investigations, U.S. International Trade Commission.

#### SUPPLEMENTARY INFORMATION:

**Background.**—This investigation is being instituted in response to a petition filed July 20, 1982, on behalf of Justesen Industries, Inc. of Blaine, Washington, Pacific Fireplace Furnishings, Inc. of Taulatin, Oregon, and Fall River Fireplace Co., Inc. of Syosset, New York. A copy of this petition is available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. The Commission must

make its determination in this investigation within 45 days after the date of the filing of the petition or by September 3, 1982 (19 CFR 207.17). Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than August 5, 1982. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

**Service of documents.**—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

**Written submissions.**—Any person may submit to the Commission on or before August 16, 1982, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

**Conference.**—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on August 12, 1982, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for

the investigation, Ms. Vera Libeau, telephone 202-523-0368, not later than August 9, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, 47 FR 6182, February 10, 1982), and part 201, subparts A through E (19 CFR part 201, 47 FR 6182, February 10, 1982). Further information concerning the conduct of the conference will be provided by Ms. Libeau.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 26, 1982.

Kenneth R. Mason,  
Secretary.

[FR Doc. 82-20596 Filed 7-28-82; 8:45 am]  
BILLING CODE 7020-02-M

**APPENDIX B**

**DEPARTMENT OF COMMERCE'S NOTICE OF INITIATION  
OF COUNTERVAILING DUTY INVESTIGATION**

**DEPARTMENT OF COMMERCE****International Trade Administration****Fireplace Mesh Panels From Taiwan;  
Countervailing Duty Investigation**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Initiation of Countervailing Duty Investigation.

**SUMMARY:** On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of fireplace mesh panels from Taiwan receive subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of fireplace mesh panels are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination

on or before September 4, 1982 and we will make ours on or before October 15, 1982.

**EFFECTIVE DATE:** August 18, 1982.

**FOR FURTHER INFORMATION CONTACT:** Paul Nichols, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-5497.

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

On July 22, 1982, we received a petition from counsel for Justesen Industries, Inc., Pacific Fireplace Furnishings, Inc., and Fall River Fireplace Co., Inc. on behalf of the U.S. fireplace mesh industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitioner alleges that manufacturers, producers, or exporters of fireplace mesh panels receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended ("the Act"), and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. Since Taiwan is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and an injury determination is required.

**Initiation of Investigation**

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on fireplace mesh panels, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in Taiwan of fireplace mesh panels receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by October 15, 1982.

**Scope of Investigation**

For the purposes of this investigation, fireplace mesh panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the

manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplace. Fireplace mesh panels are provided for either in item 642.87 or item 654.00 of the Tariff Schedules of the United States depending on their stage of processing.

**Allegation of Subsidies**

The petitioner alleges that producers, manufacturers, or exporters in Taiwan receive the following benefits that constitute subsidies from the government of Taiwan: preferential income tax rates and preferential labor rates.

**Notification to ITC**

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it 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.

**Preliminary Determination by ITC**

The ITC will determine by September 4, 1982, whether there is a reasonable indication that imports of fireplace mesh panels from Taiwan are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to the statutory procedures.

Gary N. Horlick,

*Deputy Assistant Secretary for Import Administration.*

August 11, 1982.

[FR Doc. 82-22542 Filed 8-17-82; 8:45 am]

BILLING CODE 3510-25-M

APPENDIX C  
CALENDAR OF THE PUBLIC CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigation No. 701-TA-185 (Preliminary)

FIREPLACE MESH PANELS FROM TAIWAN

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigation on August 12, 1982, at the USITC Building, 701 E Street, N.W., Washington, D.C.

In support of the imposition of  
countervailing duties

Gerber & Linton--Counsel  
Reading, Pa.  
on behalf of

Justesen Industries, Inc.  
Pacific Fireplace Furnishings, Inc.  
Fall River Fireplace Co., Inc.

Leonard M. Quittner--OF COUNSEL



