

CERTAIN EXPANSION TANKS FROM THE NETHERLANDS

**Determination of the Commission in
Investigation No. 731-TA-243
(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Note.--Data which would disclose confidential operations of individual concerns may not be published and therefore have been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 731-TA-243 (Preliminary)

CERTAIN EXPANSION TANKS FROM THE NETHERLANDS

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from the Netherlands of prepressurized, diaphragm-type expansion tanks for use in closed water systems, which are alleged to be sold in the United States at less than fair value (LTFV). 2/

Background

On February 14, 1985, a petition was filed with the Commission and the Department of Commerce by Amtrol, Inc., West Warwick, RI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain prepressurized diaphragm expansion tanks and parts thereof 3/ for closed water systems from the Netherlands. Accordingly, effective February 14, 1985, the Commission instituted preliminary antidumping investigation No. 731-TA-243 (Preliminary).

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

2/ Commissioner Eckes determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the imports.

3/ The petitioner included "parts" of expansion tanks in the petition only in order to deter any evasion of possible antidumping duties on expansion tanks by importing the tanks in semi-finished form or sections, which the petitioner considered to be "parts." Such imports would not be considered to be parts for tariff purposes. Accordingly, the Commission did not include "parts" of expansion tanks in its notice of institution.

Notice of the institution of the Commission's investigation and of a public 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, DC, and by publishing the notice in the Federal Register of March 6, 1985 (50 FR 9140). The conference was held in Washington, DC, on March 8, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF CHAIRWOMAN STERN, VICE CHAIRMAN LIEBELER,
COMMISSIONER LODWICK, AND COMMISSIONER ROHR

We find there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is being materially retarded, 1/ by reason of allegedly less than fair value (LTFV) imports of expansion tanks from the Netherlands.

We base our determination on the absence of a reasonable indication of injury to the industry and the absence of a causal nexus between the condition of the domestic industry and the subject imports. 2/ The performance of the domestic industry has been good throughout the period under investigation. Although certain indicators of industry performance declined slightly in the fourth quarter of 1984, the overall condition of the industry does not exhibit a reasonable indication of material injury. Moreover, there is no reasonable indication that imports are a real and imminent threat to the industry. The recent entry into the U.S. market of imports from the Netherlands is not a cause of material injury, nor does it threaten material injury, to the domestic industry.

1/ Since there is an established domestic industry, "material retardation" was not raised as an issue in this investigation and will not be discussed further.

2/ Chairwoman Stern notes that it is both appropriate and analytically useful to consider causal issues even when an industry is in apparently good condition in order to determine whether its performance has been materially worsened by the subject imports. See 12-Volt Motorcycle Batteries from Taiwan, Inv. No. 731-TA-238 (Preliminary), USITC Pub. No. 1654 (1985) at 3 n.2.

Like product and the domestic industry

The imported products subject to this investigation are pre-pressurized diaphragm expansion tanks (expansion tanks) from the Netherlands. 3/ These expansion tanks are used in closed hot water heating systems in order to maintain proper system operating pressure. 4/ A closed hot water heating system is one in which an enclosed volume of heated water is used to heat radiators, baseboard units, or the like, in order to heat a building. 5/ Such systems are installed in residential, commercial, and other buildings.

Expansion tanks are sold in a variety of sizes. 6/ All perform the same basic function, e.g., the maintenance of pressure control in a closed hot water heating system. 7/ Selection of a particular size depends on the needs of the particular heating system to which the tank is to be attached. In addition, certain models of expansion tanks are specifically designated for use in solar heated hot water heating systems.

There are also expansion tanks specifically designed and manufactured for use in open water or well systems (well tanks). The differences in the characteristics and end uses of well tanks make them unlike expansion

3/ Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "[d]omestic 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." 19 U.S.C. § 1677(4)(A). "Like product" is, in turn, 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" Section 771(10); 19 U.S.C. § 1677(10).

4/ See Report of the Commission (Report) at A-3-A-4 for a more complete description of the subject expansion tanks.

5/ Id. at A-3, note 1.

6/ The domestic industry produces expansion tanks in a full range of sizes. However, most of the imports from the Netherlands correspond to the two most popular sizes, 15 and 30.

7/ Report at A-3.

tanks. 8/ No party to the investigation argued that the like product should include both expansion tanks and well tanks. We determine that the appropriate like product is expansion tanks for use in closed hot water heating systems, and the domestic industry is the U.S. producers of expansion tanks for use in closed hot water heating systems. 9/

Condition of the domestic industry

Production of expansion tanks increased steadily and substantially during the period under investigation from 1982-84. 10/ At the same time apparent consumption increased. 11/ Similarly, domestic shipments of expansion tanks increased steadily during the period under investigation. 12/ The total value of domestic shipments increased at a greater rate than the volume of shipments. 13/

Discussion of domestic production capacity and utilization is complicated by the fact that one company, which produces both well tanks and expansion tanks on the same equipment, provided capacity data which allocate a certain amount of total capacity to expansion tanks. While this capacity may be

8/ Well tanks are similar to expansion tanks and may be manufactured on the same equipment and by the same employees as expansion tanks. There is a basic difference between a well water system and a closed hot water heating system--the presence of air in the system. A closed hot water heating system must constantly be purged of air in order to operate properly, while a well water system contains oxygen from the fresh water that is constantly introduced. Thus, well tanks are designed and manufactured with corrosion protection which is not necessary for expansion tanks. Well tanks are generally more expensive than similarly sized expansion tanks. Petitioner's Post-Conference Brief at 2.

9/ There are three domestic producers of expansion tanks. Petitioner AMTROL, Inc., has long been the dominant domestic producer. Report at A-6. The other producers are Flair Manufacturing Corp. and State Industries.

10/ Id. at A-9. Because the domestic industry comprises only three firms, of which AMTROL is the largest, almost all of the information obtained by the Commission is confidential. Discussion is possible only in general terms.

11/ Id. at A-6.

12/ Id. at A-10.

13/ Id.

available for production of expansion tanks should market conditions warrant, we have concluded that capacity and utilization figures excluding this company's data present a more accurate picture of the domestic industry. U.S. capacity to produce expansion tanks, excluding this one company's data, decreased in 1983, and remained constant in 1984. 14/ Capacity utilization, again excluding this one company's data, increased in both 1983 and 1984. 15/ Domestic producers' inventories declined substantially in 1982, and declined somewhat further in 1983. Although inventories increased in 1984, they remained significantly below 1981 year-end levels. 16/

Average employment increased during each year of the period under investigation. 17/ Average hours worked increased from 1982 to 1983, and then declined marginally in 1984, remaining above the 1982 level. 18/ Average hourly compensation also increased in 1983, and then decreased slightly in 1984, remaining significantly above the 1982 level. 19/

Petitioner AMTROL has emphasized the downturn in its operations in the fourth quarter 1984 as evidence of injury. It points to increased inventories, a decline in unit sales, and a downturn in profits as the basis for its claims of material injury. As noted above, inventory levels, while increased, do not appear injurious. AMTROL's fourth quarter data do indicate a small decline in units sold as compared with the fourth quarter 1983. However, 1984 fourth quarter sales data show an increase over the previous three quarters of 1984. Moreover, the dollar value of these fourth quarter sales increased.

14/ Id.

15/ Id.

16/ Id. at A-12-A-13.

17/ Id. at A-13.

18/ Id. at A-14.

19/ Id.

The annual financial data of the primary domestic producer AMTROL do not indicate injury. 20/ Both net sales and gross income increased from 1983 to 1984. There was only a modest decline from 1983 to 1984 in the ratio of operating income to net sales. Our examination of quarterly financial data broken out for various model categories of expansion tanks for the last two years shows a modest decline in the gross profit margins for all categories in the fourth quarter 1984 as compared with the fourth quarter 1983. However, a comparison of the second quarter 1984 with the second quarter 1983 shows even greater declines, 21/ while first and third quarter comparisons were mixed. Thus, the quarterly data appear to reflect normal variations in performance, 22/ and do not support a finding that this industry is experiencing material injury.

No material injury by reason of the allegedly LTFV imports 23/

Section 771(7)(B) of the Tariff Act of 1930 requires the Commission to determine whether there is a reasonable indication of material injury by reason of allegedly unfair imports by considering, among other factors;

20/ The data regarding profitability in this industry are particularly difficult to discuss because all of the financial information is confidential. Although the Commission received profit and loss information only from petitioner AMTROL, this data reflects the majority of domestic production and thus provides an adequate picture of the aggregate financial condition of the domestic industry.

21/ Imports did not enter the market until third quarter 1984.

22/ Commissioner Rohr notes that a consideration of other quarterly information provided by the domestic industry, while it must be approached cautiously, reinforces the conclusion that there has been no consistent upward or downward trend in the financial performance of the industry in 1984.

23/ Commissioners Rohr and Lodwick note that having found that there is no reasonable indication that the domestic industry is experiencing material injury, it is not necessary for them to reach the issue of causation. As is their practice, however, see 12-Volt Motorcycle Batteries from Taiwan, Inv. No. 731-TA-238 (Preliminary), USITC Pub. No. 1654 (1985) at 9 n.34, they note that it is possible to determine that there is no reasonable indication that imports are currently having any significant effect on the condition of the domestic industry, and they join in this discussion of causation in that context.

(1) the volume of allegedly LTFV imports, (2) the effect of such imports on prices in the United States for the like product, and (3) the impact of such imports on domestic producers of the like product. 24/

Because there were no imports of expansion tanks from the Netherlands prior to July or August of 1984, a consideration of the rate of increase in imports is less meaningful in this investigation than usual. 25/ In addition, a consideration of the penetration ratio of imports from the Netherlands indicates that, while imports have had some success in the U.S. market, they have not captured such a significant share as to be a cause of injury to the domestic industry. 26/ This is particularly true given that a significant percentage of imports were unsold at year-end 1984. Moreover, an examination of petitioner's financial data indicates that the most significant declines in unit sales and gross profit margins occurred either prior to the third quarter of 1984, when imports began to appear in the U.S. market, or in models of which there are few, if any, imports. 27/

Consideration of the pricing information in this investigation indicates that, while imports of expansion tanks from the Netherlands undersold the domestic product, there was no significant price depressive or suppressive effect on domestic prices. Although imports undersold the domestic product, this was partly attributable to price increases introduced by petitioner on the two most popular models of expansion tanks in October of 1984. 28/

24/ 19 U.S.C. § 1677(7)(B).

25/ Vice Chairman Liebeler notes that the rate of increase from zero to anything is infinite.

26/ Report at A-20. Because petitioner has such a significant share of U.S. production and sales, the volume of imports can only be discussed in general terms, to avoid disclosing confidential information of respondent.

27/ See Staff memorandum INV-I-051, Mar. 21, 1985. Two models, the 15F and the 30F, represent the majority of sales in the U.S. market of the imported expansion tanks under investigation. Report at A-19.

28/ Id. at A-22-A-23.

No threat of material injury by reason of allegedly LTFV imports

The "threat of material injury" standard "[i]s intended to permit import relief under the . . . antidumping laws before actual material injury occurs." 29/ Section 612(a)(2)(b) of the Trade and Tariff Act of 1984 amends title VII of the Tariff Act of 1930 by adding a new subparagraph, § 771(7)(F), which lists a series of factors which "[t]he Commission shall consider, among other relevant economic factors" in making a determination of threat of material injury. The factors set forth in the Act are generally those which the Commission has traditionally considered in making determinations on threat of material injury. In addition, the Act provides that a determination of threat of material injury "[s]hall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition." 30/ Our consideration of the factors set forth in the Act leads us to conclude that the record does not provide us with a reasonable indication that a threat of material injury is real or that actual injury is imminent.

Imports from the Netherlands have increased during the period under investigation. Similarly, importer's inventories have increased, and represent a significant percentage of total imports in 1984. 31/ However, the

29/ S. Rep. No. 249, 96th Cong., 1st Sess. 89 (1979); H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

30/ Section 612(a)(2)(b)(ii), Pub. L. No. 98-573 (Oct. 30, 1984), to be codified at 19 U.S.C. § 1677(7)(F).

31/ Report at A-18. We note that it would be double counting to consider both inventory levels as a percentage of total imports and market penetration of imports, without making adjustments. To create an accurate analysis, either end-of-year inventory must be subtracted from total annual imports to arrive at a market penetration ratio, or inventory must be treated as zero. With these adjustments, the resulting market penetration ratio and inventory levels in this investigation do not represent a threat to the domestic industry.

increase in imports from the Netherlands, and the rate of increase, have little significance in the context of a new entrant to the U.S. market. Imports from the Netherlands first entered the U.S. market in mid-1984, so any attempt to analyze trends in imports or importer inventories is essentially meaningless. Moreover, even if the imports remaining in inventory were to be sold in the U.S. market within a short time, the resulting import penetration levels would not represent a threat to the domestic industry.

There is nothing in the record to indicate that the level of imports from the Netherlands is likely to increase significantly in the future. Production capacity in the Netherlands is significant, but the sole known Dutch producer and exporter is operating at a capacity utilization rate well above that of the U.S. industry. 32/ The United States represents a relatively small market for the Dutch producer. 33/ Because expansion tanks destined for the U.S. market, while technically different from expansion tanks destined for the European market, are produced on the same equipment as tanks destined for other markets, the Dutch producer would have to increase capacity or capacity utilization, or divert capacity from production for its major European markets, in order to increase exports to the United States. 34/ There is no reasonable indication that any of these events are imminent.

Although the imported expansion tanks undersold the domestic product since they have been in the U.S. market, the record does not indicate that the pricing of the imports had an effect on domestic prices. AMTROL raised prices for the two most popular models after the imports appeared in the U.S. market, although prices for one model did not remain at the new level. More

32/ Id. at A-8.

33/ Id.

34/ See id.

significantly, the gross profit margin, which measures the relationship between the price realized on sales and the cost of goods sold, was actually higher after imports entered the market than for 1984 as a whole. By contrast, in 1983 the highest gross profit margins were realized early in the year, despite petitioner's contention that the fourth quarter is generally the best for sales in this industry.

We have determined that the current level of imports has not been a cause of material injury to the domestic industry. Nor does a continuation of the current level of imports threaten material injury to the domestic industry. While it is true that an increasing volume of imports from the Netherlands over an extended period of time might begin to have an adverse effect on the domestic industry, nothing in the record suggests that such an increase will occur in the foreseeable future. The record does not provide us with a reasonable indication that a threat of material injury is real or that actual injury is imminent. Therefore, we conclude that there is no reasonable indication that the allegedly LTFV imports are a threat of material injury to the U.S. industry producing expansion tanks.

Additional Views of Commissioner Alfred E. Eckes 1/

Condition of the domestic industry 2/

Throughout the period of investigation, apparent U.S. consumption has steadily increased. 3/ In order to supply this increasing demand for expansion tanks, the domestic industry steadily increased its production 4/ and shipments 5/ from 1982 to 1984. Capacity also increased in 1984. 6/ Average employment 7/ increased marginally, but average hours worked 8/ and average hourly compensation 9/ decreased in 1984, the year that imports from the Netherlands first entered the market.

In light of the fact that imports from the Netherlands are a new factor in the domestic market, it is especially important for the Commission to compare carefully the condition of the domestic industry in 1983 and 1984. Only in this way can the effect of imports upon the condition of the domestic industry be properly assessed.

After an increase in 1983 capacity utilization fell in 1984. 10/ Domestic inventories decreased in 1983 but then nearly doubled in 1984. 11/ The financial data also illustrate

1/ I concur with my colleagues in their determination of like product and domestic industry.

2/ Most of the information in this section pertains to only three firms and therefore must be discussed in general terms.

3/ Report at A-6.

4/ Id. at A-9.

5/ Id. at A-10.

6/ Id. at A-10. Total capacity data are presented because capacity data for individual product groupings may be of questionable validity. (Id. at A-10).

7/ Id. at A-13.

8/ Id. at A-14.

9/ Id. at A-14.

10/ Id. at A-10.

11/ Id. at A-13.

the injurious effect of imports in 1984. In 1983, the domestic industry showed a strong gain in operating income when compared to 1982. But, in 1984, however, operating income decreased. 12/

My colleagues recognize that the number of units sold in the fourth quarter of 1984 represented a decline from the number sold in the comparable quarter of 1983. However, they seem to think that this trend is not evidence of injury, or threat thereof, because the fourth quarter of 1984 also showed an increase in sales over the first three quarters of 1984. I strongly disagree with this logic, because it ignores the seasonal nature of this industry and the newly emerging challenge of imports from the Netherlands. Commission data show that this is a seasonal industry in which fourth quarter unit sales normally exceed sales in the previous three quarters of a calendar year. 13/ Thus, no one should be surprised that unit sales in the last quarter of 1984 surpassed previous quarters in 1984. However, it is very significant that fourth quarter 1984 sales were down from fourth quarter 1983 sales. The domestic industry lost considerable market share to new entrant imports from the Netherlands at the very time the domestic market was expanding and its unit sales should have been increasing similarly. To ignore how imports cut into the domestic market sales in the last quarter of 1984 is to imitate the ostrich and place one's head in the sand at the approach of imminent danger.

12/ Id. at A-16.

13/ Memorandum Inv-1-051 from the Acting Director, Office of Investigations to the Commission on March 21, 1985.

Reasonable indication of threat of material injury by reason of imports allegedly sold at LTFV

In a preliminary determination, the standard for an affirmative determination is "that 'a reasonable indication' will exist in each case in which the facts reasonably indicate that an industry in the United States could possibly be suffering material injury [or] threat thereof" 14/ In light of Congressional intent and the overwhelming weight of the facts with regard to the relevant economic factors concerning threat of material injury, the Commission has no recourse but to make an affirmative finding in this investigation. 15/

In considering the issue of threat of material injury in a LTFV investigation, the Act 16/ instructs the Commission to consider many relevant economic factors. Even a cursory review of these factors in this investigation compels a conclusion that an industry in the United States could possibly be threatened with material injury.

14/ H. Rep. No. 96-317, 96th Cong., 1st Sess. at 52 (1979).

15/ I note that the Court of International Trade has held in recent decisions that Congress intended "a very low evidentiary threshold for an affirmative preliminary determination, which permits the investigation to continue to the final investigatory stage where the record may be more fully developed." No. 85-35, slip op at 13 (Ct. Int'l. Trade, March 22, 1985).

16/ 19 U.S.C. 1677(F).

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

No information was collected on year-to-year changes in production capacity of Flamco, Inc., the only known Dutch manufacturer and exporter to the United States of expansion tanks. With regard to existing unused capacity, Flamco has ample unused capacity to produce and export expansion tanks to the U.S. market. Flamco's unused capacity in 1984 17/ was over twice as large as its actual exports of expansion tanks to the United States in that year, and was equivalent to a substantial proportion of apparent U.S. consumption of expansion tanks.

(2) Any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level

Imports of expansion tanks from the Netherlands increased from zero in 1983 to a significant proportion of apparent U.S. consumption in 1984. 18/ A significant level of import penetration for calendar year 1984 was achieved even though imports only began during the summer of 1984.

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

Imports of expansion tanks from the Netherlands undersold domestically-produced expansion tanks in every month examined. 19/ The margins of underselling have been of a

17/ Report at A-8.

18/ Id. at table 9, p. A-21.

19/ Id. at A-24.

magnitude sufficient to have a price-depressing or price-suppressing effect on the domestic merchandise. Indeed, the domestic price of a major type of expansion tank decreased in November 1984, December 1984, and again in January 1985. 20/

(4) Any substantial increases in inventories of the merchandise in the United States

U.S. producers' inventories of expansion tanks decreased in both 1982 and 1983, 21/ years in which there were no imports of expansion tanks from the Netherlands. However, in 1984, which was characterized by the advent of imports from the Netherlands, U.S. producers' inventories nearly doubled. 22/

Inventories of Vent-Rite and Emerson-Swan of Dutch expansion tanks increased from zero units on December 31, 1983, to a significant proportion of apparent U.S. consumption on December 31, 1984. 23/ Moreover, Emerson-Swan's "In Stock" brochure 24/ stated that:

" The overwhelming acceptance by the trade and wholesalers alike has encouraged us to build our inventories to an even greater level to support your needs. Our goal is to not back or order any tanks. We have achieved that goal to date and plan to continue this level of service."

(5) The presence of underutilized capacity for producing the merchandise in the exporting country

As in item (1), Flamco's unused capacity in 1984 25/ was over twice as large as its actual exports of expansion tanks to

20/ Id. at table 11, p. A-23.

21/ Id. at table 4, p. A-13.

22/ Id. at A-13.

23/ Id. at A-18.

24/ Petition, App. 20.

25/ Report at A-12.

the United States in that year, and was equivalent to a substantial proportion of apparent U.S. consumption of expansion tanks.

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

When comparable quarterly data for domestic unit sales in 1983 and 1984 are examined, the trend for the first three quarters of 1984 suggest that unit sales in the fourth quarter of 1984 should have been much higher. 26/ The impact of lower-priced imports and the incentive to continue to capture market share as evidenced by the importer's substantial inventories indicate that the fourth quarter declines for the domestic industry will continue in 1985.

(7) The potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to find orders under section 706 or 736, are also used to produce the merchandise under investigation

Flamco apparently has additional capacity to produce the subject expansion tanks on its well-tank production equipment. 27/ Flamco apparently manufactures both product lines using the same facility, equipment, and employees. 28/

The record in this investigation, in light of legislative intent and recent judicial interpretations, provides ample information for a determination that there is a reasonable

26/ Memorandum Inv-1-051 from the Acting Director, Office of Investigations to the Commission on March 21, 1985.

27/ Report at A-8, Tr. at 63.

28/ Tr. at 63.

indication of threat of material injury by reason of the subject imports. 29/ Imported expansion tanks from the Netherlands undersold domestically produced expansion tanks in every period examined. The margins of underselling were significant for expansion tanks of size 15 and size 30, which account for the great bulk of domestic consumption of expansion tanks. 30/ 31/

The consistent underselling by the imported expansion tanks enabled the allegedly LTFV product to capture a significant share of the domestic market in a very short period. Moreover, confirmed substantial lost sales to imports coincide with a decrease in sales of the domestic product in the fourth quarter of 1984 when compared to the the fourth quarter of 1983. This occurred despite the fact that quarterly comparison trends indicate that the fourth quarter (traditionally, the highest in the seasonal sales cycle) should have been a banner sales period. The impact of imports is also reflected in declines in domestic capacity utilization, and operating income in 1984. Domestic inventories nearly doubled

29/ I note that in a recent determination the Court of International Trade has emphasized that the Commission must "address the question of whether there is sufficient information in the record to raise the possibility of injury" in a preliminary investigation. If that standard is applied in this case, I believe that the Commission has no choice but to make an affirmative determination. No. 85-35, slip op at 13 (Ct. Int'l. Trade, March 22, 1985).

30/ Report at A-24.

31/ The increase in margins in model 15F is attributable to an increase in price for the U.S.-produced tank coupled with a decline in price for the imported product. However, the margin of underselling before any price changes were made was still significant. In the model 30 expansion tanks, the imported tanks have steadily decreased in price, forcing the domestic producers to lower their prices to 1983 levels.

and the substantial inventories of the importers of expansion tanks indicate that they will continue to capture market share by underselling the domestic industry.

The record in this investigation evidences and I therefore determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly dumped imports of certain expansion tanks from the Netherlands.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On February 14, 1985, a petition was filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by counsel for Amtrol, Inc., West Warwick, RI, on behalf of the domestic industry producing prepressurized diaphragm expansion tanks. The petition alleged that imports from the Netherlands of certain prepressurized diaphragm expansion tanks and parts thereof for closed water systems are being, or are likely to be, sold in the United States at less than fair value (LTFV), and that by reason of such sales an industry in the United States producing the subject products is being materially injured, or is threatened with material injury. Accordingly, effective February 14, 1985, the Commission instituted investigation No. 731-TA-243 (Preliminary) under section 733(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 threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain expansion tanks from the Netherlands. 1/ The statute directs that the Commission make its determination within 45 days after its receipt of a petition, or in this case by April 1, 1985.

Notice of the institution of the Commission's investigation and of the public 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, DC, and by publishing the notice in the Federal Register on March 6, 1985 (50 FR 9140). 2/ The public conference was held in Washington, DC, on March 8, 1985, at which time all interested parties were afforded the opportunity to present information for consideration by the Commission. 3/ The Commission voted on the investigation on March 28, 1985.

1/ The Commission did not include "parts" of expansion tanks in its notice of institution because the petitioner did not intend to claim injury or the threat thereof by reason of imports of parts of expansion tanks. Rather, the petitioner included "parts" of expansion tanks in the petition only in order to deter any evasion of possible antidumping duties on expansion tanks by importing the tanks in semi-finished form or sections, which the petitioner considered as "parts." (Transcript of the conference, p. 28.) Such an evasion would not be possible in this instance, since the semi-finished or unassembled tanks would be classified under the same item of the Tariff Schedules of the United States (TSUS) as finished expansion tanks, and thus would also be covered by any antidumping order on expansion tanks. (See general interpretative rule 10(h) of the TSUS.)

2/ A copy of the Commission's notice is presented in app. A. A copy of Commerce's notice is presented in app. B.

3/ A list of witnesses appearing at the conference is presented in app. C.

Other Investigations Concerning the Subject Expansion Tanks

On February 13, 1985, Amtrol filed a complaint with the Commission concerning certain expansion tanks under section 337 of the Tariff Act of 1930. The complaint was directed against Vent-Rite Valve Corp., Norwood, MA, Emerson-Swan, Inc., Norwood, MA, and Flamco B.V., located in the Netherlands. Vent-Rite is the sole U.S. importer of the subject expansion tanks from the Netherlands in the concurrent antidumping investigation on expansion tanks. Emerson-Swan is * * * U.S. distributor of the Dutch expansion tanks, and Flamco is the only known Dutch manufacturer and exporter to the United States of the expansion tanks. The section 337 complaint is based on trademark infringement, false designation of origin, false representation, and passing off. The Commission instituted the section 337 investigation on March 13, 1985.

In addition to complaints filed with the Commission under the antidumping statutes and under section 337, Amtrol initiated a civil action in the United States District Court for the District of Massachusetts on February 13, 1985, naming as defendants Vent-Rite, Emerson-Swan, and Flamco. The civil action has 33 different causes of action, including causes of action under Section 1 of the Sherman Act, the Robinson-Patman Act, and the Federal Lanham Act; common law claims; and claims under state statutes of Massachusetts, Rhode Island, Connecticut, and New York. On March 7, 1985, Vent-Rite and Emerson-Swan filed a response and a counterclaim to Amtrol's allegations. The counterclaim, under section 2 of the Sherman Act, sets forth allegations of improper activity in both the expansion tank market and the well-tank market and, under the Lanham Act, of deceptive advertising. It also includes several tort claims.

The Products

Description and uses

Prepressurized diaphragm expansion tanks, hereinafter referred to as expansion tanks, are hydro-pneumatic or compression devices used to maintain pressure control in closed water-heating systems, such as those installed in residential, commercial, and other buildings. ^{1/} Depending on the size of the expansion tank, pressure in the heating system may safely range from as little as 12 pounds per square inch, when the water cools and contracts, to about 100 pounds per square inch, when it heats and expands.

The expansion tank consists of a steel shell enclosing a sealed-in, flexible rubber diaphragm that divides the interior into two permanently separated chambers, one to contain "excess" water (as it expands beyond the

^{1/} A closed water-heating system is one in which an enclosed volume of forced hot water is used to heat radiators, baseboards, or solar energy systems. Although the expansion tanks covered in this investigation are used exclusively in closed water-heating systems, modified expansion tanks may be used in other applications, such as open-well water-heating systems. For a discussion of differences between prepressurized diaphragm expansion tanks and well expansion tanks, see the petitioner's postconference brief, pp. 1-3.

capacity of the system) and the other to contain a prepressurized air cushion. When the tank is installed, the diaphragm is flexed so that the entire tank volume can be filled with air. The air in the tank is precharged to the minimum operating pressure of the tank before it is installed. When the entire heating system is filled with water, the precharged air cushion prohibits water from entering the tank. As the pressure increases above the precharged pressure, the excess water enters the chambers of the tank designed to accept excess water.

Expansion tanks are sold in a variety of sizes and types, but all perform the same basic function, i.e., the maintenance of pressure control in a closed water-heating system. For purposes of gathering data in this investigation, the sizes and types were divided into six product categories. For brief descriptions of the product categories and for comparative model numbers of domestic and imported products, see app. D. Figure 1 illustrates two EXTROL expansion tanks and includes a listing of product information from various sizes of the EXTROL line. 1/

Although there are variances in the dimensions and capacities of both domestically produced and imported expansion tanks, they are basically substitutable and directly competitive. For example, the petitioner's model 30 Extrol tank has an acceptance volume of 2.4 gallons and is 11 inches in diameter, whereas Vent-Rite's model 30 F imported expansion tank has an acceptance volume of 2.7 gallons and a diameter of 11.5 inches. These tanks, however, are interchangeable in a closed water heating system. In some instances, one imported expansion tank of a particular size may compete with one or more domestic tanks of different sizes if the pressure requirements of the heating system are within certain limitations.

U.S. tariff treatment

Imports of the expansion tanks from the Netherlands have entered the United States under either item * * * or item * * * of the Tariff Schedules of the United States (TSUS). 2/ However, in the opinion of a representative of the U.S. Customs Service, a more appropriate classification may be TSUS item 653.52 (stoves and other heating apparatus of base metal, and their parts), item 657.25 (other articles of iron or steel), or item 681.39 (machinery parts n.s.p.f.). 3/ Other possible classifications for the expansion tanks include item 640.10 (other metal pressure containers), item 660.10 (steam boilers and their parts), or item 711.78 (other apparatus for controlling the flow or

1/ EXTROL is the trade name of the line of expansion tanks sold by Amtrol.

2/ Postconference response of Coudert Brothers, p. 3.

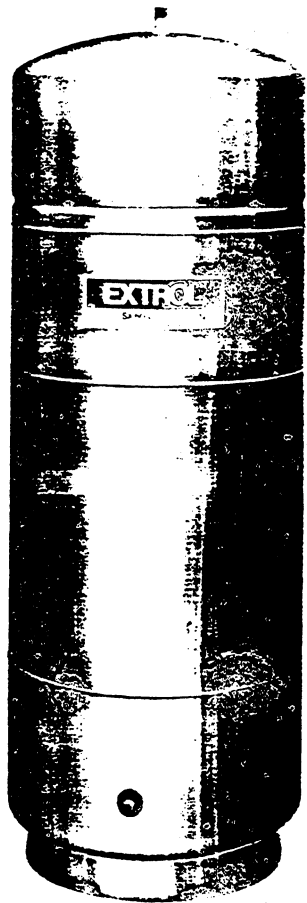
3/ Based on a Feb. 20, 1985, telephone conversation with Mr. Hines, import specialist for Customs in Boston, MA.

Figure 1.--Illustration of expansion tanks used in closed water heating systems.

**EXTROL TANKS**

MODEL NO.	TANK VOLUME (Gallons)	ACCEPT VOLUME (Gallons)	DIAMETER (INCHES)	LENGTH (INCHES)	SHIPPING WT (LBS)
15	2	.9	8	11½	5
30	4.4	2.4	11	14	9
60	7.6	2.4	11	23	14
90	14	11.3	15	21	23

Standard EXTROL cannot be used with FILL-TROL

EXTROL for Larger Heating Systems

MODEL NUMBER	TANK VOLUME Gallons	ACCEPTANCE VOLUME Gallons	"A" DIMENSION (HEIGHT) Inches	"B" DIMENSION (DIAMETER) Inches	SYSTEM CONN. (NPT)	SHIPPING WEIGHT Lbs.
SX-30V	14	11.5	21-5/8	15	1/2"	25
SX-40V	20	11.5	29-1/2	15	1/2"	32
SX-60V	32	11.5	44-1/4	15	1/2"	45
SX-90V	45	36	33	22	1"	70
SX-110V	62	36	43-7/8	22	1"	92
SX-160V	87	36	59	22	1"	113

NOTE: All Figures Above Are Nominal

pressure of liquids or gases). 1/ The petitioner in this investigation intends to request a formal ruling from Customs on the appropriate classification for the expansion tanks.

For each of the aforementioned TSUS items, the following tabulation shows the current rates of duty that apply to imports of articles from those countries (including the Netherlands) receiving most-favored-nation (MFN) or column 1 treatment (in percent ad valorem): 2/

<u>TSUS item</u>	<u>Present rate of duty <u>1/</u></u>
640.10-----	5.0
653.52-----	4.2
657.25-----	6.7
660.10-----	6.5
* * *-----	***
681.39-----	6.7
* * *-----	***
711.78-----	5.3

1/ Effective Jan. 1, 1985.

Nature and Extent of Alleged Sales at LTFV

In calculating alleged dumping margins, the petitioner compared estimated U.S. prices with estimated ex-factory selling prices (foreign market values) of Flamco, the Dutch producer, in the Netherlands and in West Germany, on each of two models (15 F and 30 F) of the expansion tanks. The two models are believed by the petitioner to represent over 90 percent of sales in the U.S. market of the expansion tanks from the Netherlands. The resulting ranges of alleged dumping margins from the petition are presented for each of the two models in the following tabulation (in percent):

<u>Model</u>	<u>Based on sales in the Netherlands</u>	<u>Based on sales in West Germany</u>
15 F-----	20.6 - 46.0	43.0 - 60.5
30 F-----	12.4 - 26.0	33.4 - 49.7

1/ The petition indicated that the expansion tanks are classifiable under item 660.10, or perhaps under item 640.10 or item 653.52. The petition also stated that "It is conceivable that other TSUSA items may more accurately cover these products and Petitioner thus requests the ITC to consider alternative classifications."

2/ Col. 1 rates of duty are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, these rates do not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences or under the "LDDC" column.

The Domestic Market

Apparent U.S. consumption

Apparent U.S. consumption of the subject expansion tanks * * * in 1983 and * * * in 1984, as shown in the following tabulation (in units):

<u>Year</u>	<u>Apparent consumption</u>
1982-----	***
1983-----	***
1984-----	***

U.S. producers

The three firms known to have produced the expansion tanks in the United States during 1982-84 and the share of total U.S. production of each producer, based on units, are shown in the following tabulation (in percent):

<u>Producer</u>	<u>Share of production</u>		
	<u>1982</u>	<u>1983</u>	<u>1984</u>
Amtrol, Inc. (West Warwick, RI)-----	***	***	***
Flair Manufacturing Corp. (Hauppauge, Long Island, NY)-----	***	***	***
State Industries (Nashville, TN)-----	***	***	***
Total-----	100.0	100.0	100.0

Amtrol, the petitioner in this investigation, introduced the prepressurized diaphragm expansion tank in the early 1950's. Amtrol has long been the dominant domestic producer and in 1984 accounted for * * * percent of domestic production. Amtrol manufactures the complete range of expansion tanks subject to this investigation. Its producing facilities for these tanks are located in * * *.

Amtrol also manufactures various types of water heaters, circulating pumps, valves and fittings for hot-water-heating systems, and other products of the plumbing and heating industry, as well as some products not related to plumbing and heating, such as disposable freon containers.

Flair Manufacturing Corp. (Flair), the smallest of the three domestic producers, produces the expansion tanks at its facility in Hauppauge, Long Island, NY. The expansion tanks account for * * * percent of Flair's sales. Flair * * *, but ceased to do so * * * because of * * *. 1/ * * *. Flair * * * the petition in this investigation. Flair stated in its questionnaire response that " * * *."

1/ Telephone conversation of Mar. 15, 1985 with Ms. Rita F. Paleschuck, President of Flair Manufacturing Corp.

State Industries is based in Ashland, TN. Its Water Systems Division is based in Nashville, TN, but its production facility for expansion tanks is in * * *. State entered the industry when it purchased GFC Corp., Charlotte, NC, a producer of expansion tanks, on January 17, 1983. State now produces prepressurized, diaphragm expansion tanks, and * * * wellwater expansion tanks, at * * *, facility.

State * * * the petition in this investigation and supplied the following statement in its questionnaire response:

"* * * * *

U.S. importers

The only known importer of the expansion tanks from the Netherlands is Vent-Rite Valve Corp., Norwood, MA. 1/ Vent-Rite is a relatively new corporation, but the Vent-Rite name has existed for many years. Vent-Rite was incorporated in early 1984 by Messrs. Thomas and Joseph Swan, owners of Emerson-Swan, Inc., Norwood, MA, 2/ subsequent to their purchase of the assets of the Vent-Rite product line of steam vents and hot-water valves. The Vent-Rite product line had been manufactured and sold for over 40 years, originally by Anderson Products and more recently by Barnes and Jones Co., both Boston area firms. Vent-Rite Valve Corp. continues to manufacture steam and hot-water vents. According to Mr. Thomas Swan, the Vent-Rite purchase had absolutely nothing to do with the subsequent entry into the expansion-tank market. 3/

Expansion tanks were imported from Italy and marketed in 1984 by * * *.

* * *. * * *.

Channels of distribution

Expansion tanks produced in the United States as well as those imported are generally sold either by factory sales agents or by "manufacturer reps." 4/ Manufacturer reps may be either "commission reps" or "stocking reps." 5/

1/ The trade name of Vent-Rite's line of expansion tanks from the Netherlands is Vent-Trol.

2/ Emerson-Swan was established in 1932 as a manufacturer's agency serving the plumbing and heating industry in New England. Emerson-Swan currently represents * * * manufacturers in the plumbing, heating, and air conditioning industry covering the six New England states and the eastern part of New York, and competes directly with Amtrol in a number of product lines, including pumps, heat exchangers, air controls, and expansion tanks. Emerson-Swan's offices and warehouses are located in both Norwood, MA, and Rocky Hill, CT.

3/ Transcript of the conference, p. 45.

4/ Ibid., p. 45.

5/ Ibid., p. 46.

Commission reps act as sales agents for manufacturers and are paid by commission. Stocking reps buy and resell expansion tanks in addition to performing a warehousing function. Whether the sales are made by factory agents, commission reps, or stocking reps, the entity to which expansion tanks are sold is a plumbing and heating wholesaler. These wholesalers stock and sell expansion tanks to contractors, such as plumbers and builders, for installation.

New England is the largest market for expansion tanks because of the predominance of closed hot-water and steam-heating systems. However, there is also significant demand in the Pacific Northwest and, to some extent, Alaska. 1/

Amtrol uses * * *. Amtrol sells * * *.

State Industries sells its expansion tanks through * * *. Flair Manufacturing sells * * *.

Vent-Rite is the importer of record for expansion tanks from the Netherlands. Vent-Rite sells * * * imports to Emerson-Swan, a related company that is historically a stocking rep. Emerson-Swan then markets the imported product throughout New England in direct competition with Amtrol. Vent-Rite also reported using stocking reps in * * *. * * *.

The Industry in the Netherlands

The only known manufacturer and exporter to the United States of expansion tanks in the Netherlands is Flamco B.V., a subsidiary of Internatio-Mueller N.V. Flamco was founded in September 1956. It manufactures a variety of plumbing and heating equipment, including expansion tanks. Flamco has produced expansion tanks since * * *.

Flamco's capacity to produce expansion tanks was approximately * * * units in 1984. Production was approximately * * * units, and capacity utilization was * * * percent. Flamco's worldwide sales of expansion tanks in 1984 are shown in the following tabulation:

<u>Destination of sales</u>	<u>Units</u>
* * * -----	***
* * * -----	***
* * * -----	***
* * * -----	***
* * * -----	***
* * * -----	***
* * * -----	***
Total-----	***

1/ Mr. Thomas Swan, transcript of the conference, p. 70.

The United States represented * * * percent of Flamco's sales of expansion tanks in 1984. The expansion tanks sold to the United States are technically different from those sold by Flamco in Europe. 1/ The U.S. (Vent-Trol) tanks are manufactured in * * *. Flamco's expansion tanks for the U.S. market (the Vent-Trol tanks) are shipped promptly upon production. Flamco had * * * inventories of Vent-Trol tanks as of December 1984.

Consideration of Alleged Material Injury to an Industry in the United States

The information in this section of the report has been compiled from responses to questionnaires of the U.S. International Trade Commission. The Commission sent questionnaires to each of the three current producers cited in the petition and to six other companies believed to possibly produce the expansion tanks. Information was requested on each of six specific product groupings for calendar years 1982-84. 2/ Completed questionnaire responses were received from each of the three known producers. Five companies indicated that they did not produce any of the expansion tanks, and the remaining company did not respond. It is believed that 100 percent of U.S. production of the expansion tanks is covered by the information presented in this section of the report.

U.S. production

Total U.S. production of the expansion tanks * * * from * * * units in 1982 to * * * units in 1983, or by * * * percent, and * * * to * * * units in 1984, or by * * * percent (table 1). Expansion tanks of sizes 15 and 30 accounted for * * * percent of production in 1982, * * * percent in 1983, and * * * percent in 1984.

Table 1.--Certain expansion tanks: U.S. production, by types, 1982-84

(In thousands of units)				
Item	1982	1983	1984	
Size 15-----	***	***	***	***
Size 30-----	***	***	***	***
Sizes 60 through 90-----	***	***	***	***
Packages-----	***	***	***	***
Large-----	***	***	***	***
Solar-----	***	***	***	***
Total-----	***	***	***	***

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

1/ Postconference response of Coudert Brothers, p. 1.

2/ Quarterly trade data for 1983 and 1984 were provided in the petition by Amtrol, which accounts for * * * the domestic industry.

U.S. capacity and capacity utilization

Total U.S. capacity, production, and capacity utilization for the subject expansion tanks for 1982-84 are shown in the following tabulation: 1/

<u>Year</u>	<u>Capacity</u> <u>(1,000 units)</u>	<u>Production</u> <u>(1,000 units)</u>	<u>Capacity</u> <u>utilization</u> <u>(percent)</u>
1982-----	***	***	***
1983-----	***	***	***
1984-----	***	***	***

U.S. capacity to produce the expansion tanks * * * by * * * percent in 1983 and * * * by * * * percent in 1984. 2/ Capacity utilization * * * in 1983 and * * * in 1984.

U.S. capacity, excluding * * * , to produce the expansion tanks was * * * units in 1982, and * * *. Capacity utilization, excluding * * *, was * * * percent in 1982, * * * percent in 1983, and * * * percent in 1984.

U.S. producers' domestic shipments

Total U.S. producers' domestic shipments of the expansion tanks * * * from * * * units in 1982 to * * * units in 1983, or by * * * percent, and * * * to * * * units in 1984, or by * * * percent (table 2). The total value of shipments * * * from \$* * * in 1982 to \$* * * in 1983, or by * * * percent, and * * * to \$* * * in 1984, or by * * * percent.

Data provided by Amtrol in the petition indicate that its sales of expansion tanks in units * * * 1984 compared with * * * 1983, except for the fourth quarter, * * *. Amtrol contends that its downturn in sales and some other indicators during the fourth quarter of 1984 is due to the impact of sales of allegedly LTFV imports from the Netherlands, which allegedly began to be imported in significant quantities in September 1984. 3/

1/ Total capacity data are presented because capacity data for individual product groupings may be of questionable validity.

2/ * * *.

3/ Transcript of the conference, pp. 12-15. For respondents' arguments, see postconference submission of the respondents, pp. 11-15.

Table 2.--Certain expansion tanks: U.S. producers' domestic shipments, by types, 1982-84

Item	1982	1983	1984
Quantity (1,000 units)			
Size 15-----	***	***	***
Size 30-----	***	***	***
Sizes 60 through 90-----	***	***	***
Packages-----	***	***	***
Large-----	***	***	***
Solar-----	***	***	***
Total-----	***	***	***
Value (1,000 dollars)			
Size 15-----	***	***	***
Size 30-----	***	***	***
Sizes 60 through 90-----	***	***	***
Packages-----	***	***	***
Large-----	***	***	***
Solar-----	***	***	***
Total-----	***	***	***
Unit value			
Size 15-----	\$***	\$***	\$***
Size 30-----	***	***	***
Sizes 60 through 90-----	***	***	***
Packages-----	***	***	***
Large-----	***	***	***
Solar-----	***	***	***
Average-----	***	***	***

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

Note.--Because of rounding, figures may not add to the totals shown.

U.S. producers' exports

Total U.S. producers' exports of the expansion tanks * * * from * * * units in 1982 to * * * units in 1983, or by * * * percent, and * * * to * * * units in 1984, or by * * * percent (table 3).

Table 3.--Certain expansion tanks: U.S. producers' exports,
by types, 1982-84

Item	1982	1983	1984
Quantity (units)			
Size 15-----	***	***	***
Size 30-----	***	***	***
Sizes 60 through 90-----	***	***	***
Packages-----	***	***	***
Large-----	***	***	***
Solar-----	***	***	***
Total-----	***	***	***
Value (dollars)			
Size 15-----	***	***	***
Size 30-----	***	***	***
Sizes 60 through 90-----	***	***	***
Packages-----	***	***	***
Large-----	***	***	***
Solar-----	***	***	***
Total-----	***	***	***
Unit value			
Size 15-----	\$***	\$***	\$***
Size 30-----	***	***	***
Sizes 60 through 90-----	***	***	***
Packages-----	***	***	***
Large-----	***	***	***
Solar-----	***	***	***
Average-----	***	***	***

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

Exports accounted for * * * percent of the quantity and * * * percent of the value of U.S. producers' shipments in 1982, * * * percent of the quantity and * * * percent of the value in 1983, and * * * percent of quantity and * * * percent of the value in 1984. The known export markets are * * *.

U.S. producers' inventories

Data collected on U.S. producers' total end-of-year inventories and on domestic shipments are shown in table 4. Total inventories of the subject expansion tanks * * * by * * * percent in 1982, * * * by * * * percent in

Table 4.--Certain expansion tanks: U.S. producers' inventories, U.S. producers' shipments, and inventories as a share of shipments, by types, 1982-84

Item	Dec. 31 of--			
	1981	1982	1983	1984
Inventories:				
Size 15-----units--:	***	***	***	***
Size 30-----do-----:	***	***	***	***
Sizes 60 through 90-----do-----:	***	***	***	***
Packages-----do-----:	***	***	***	***
Large-----do-----:	***	***	***	***
Solar-----do-----:	***	***	***	***
Total-----do-----:	***	***	***	***
Shipments:				
Size 15-----do-----:	1/	***	***	***
Size 30-----do-----:	1/	***	***	***
Sizes 60 through 90-----do-----:	1/	***	***	***
Packages-----do-----:	1/	***	***	***
Large-----do-----:	1/	***	***	***
Solar-----do-----:	1/	***	***	***
Total-----do-----:	1/	***	***	***
Inventories as a share of shipments:				
Size 15-----percent--:	1/	***	***	***
Size 30-----do-----:	1/	***	***	***
Sizes 60 through 90-----do-----:	1/	***	***	***
Packages-----do-----:	1/	***	***	***
Large-----do-----:	1/	***	***	***
Solar-----do-----:		***	***	***
Average-----do-----:	1/	***	***	***

1/ Not available.

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

1983, and * * * by * * * percent in 1984. Inventories as a share of domestic producers' shipments were * * * percent in 1982, * * * percent in 1983, and * * * percent in 1984.

U.S. employment and wages

The number of production and related workers engaged in the production of the expansion tanks * * * from * * * in 1982 to * * * in 1983 and * * * in 1984 (table 5). The number of production and related workers producing all products in establishments where the expansion tanks are produced * * * from * * * in 1982 to * * * in 1983 and * * * in 1984.

Table 5.--Average number of employees, total and production and related workers employed in establishments producing the subject expansion tanks, and hours worked by such production and related workers, 1982-84

Item	1982	1983	1984
All persons employed in the reporting establishments-----	***	***	***
Production and related workers producing--			
All products-----	***	***	***
The subject expansion tanks-----	***	***	***
Hours worked by production and related workers producing--			
All products-----1,000 hours--	***	***	***
The subject expansion tanks 1,000 hours--	***	***	***

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

The number of hours worked by production and related workers engaged in the production of the expansion tanks * * * from * * * in 1982 to * * * in 1983, or by * * * percent, and * * * to * * * in 1984, or by * * * percent.

The following tabulation shows total wages paid, total compensation, average hourly wages, and average hourly compensation of production and related workers producing the subject expansion tanks during 1982-84:

Year	<u>Wages paid</u> (1,000 dollars)	<u>Total compensation</u> (1,000 dollars)	<u>Average</u> <u>hourly wage</u>	<u>Average</u> <u>hourly</u> <u>compensation</u>
1982-----	***	***	\$***	\$***
1983-----	***	***	***	***
1984-----	***	***	***	***

The production and related workers at Amtrol and at State are not represented by a union. The workers at Flair are represented by the United Food and Commercial Workers International Union (AFL-CIO).

In 1975, Amtrol became an employee stock ownership company. * * * percent of Amtrol is currently owned by its employees.

Financial experience of U.S. producers

Only Amtrol, Inc., which accounted for * * * percent of reported production of the subject expansion tanks in 1984, furnished financial data on both its establishment operations and on its subject expansion tank operations.

Expansion tank operations.--Amtrol's net sales of expansion tanks * * * by * * * percent from \$* * * in 1982 to \$* * * in 1984 (table 6). The * * * in net sales is attributable to * * * combined with * * *. Amtrol stated in its testimony at the conference that its unit sales increased substantially in the first 9 months and declined in the last quarter of 1984, compared with such sales in the corresponding period of 1983. 1/ Sales data presented in the petition on a quarterly basis indicate that unit sales * * *. The largest fourth quarter to fourth quarter decline on a percentage basis is reflected in the unit sales of the * * *. 2/

Table 6.--Selected financial data of Amtrol, Inc., on its operations producing the subject expansion tanks, 1982-84

Item	:	1982	:	1983	:	1984
Net sales-----1,000 dollars--:	:	***	:	***	:	***
Cost of goods sold-----do-----:	:	***	:	***	:	***
Gross profit-----do-----:	:	***	:	***	:	***
General, selling, and adminis-	:	:	:	:	:	:
trative expenses-----do-----:	:	***	:	***	:	***
Operating income-----do-----:	:	***	:	***	:	***
Depreciation and amortization	:	:	:	:	:	:
expense-----do-----:	:	***	:	***	:	***
Cash flow from operations-----do-----:	:	***	:	***	:	***
Ratio to net sales:	:	:	:	:	:	:
Gross profit-----percent--:	:	***	:	***	:	***
Operating income-----do-----:	:	***	:	***	:	***
Cost of goods sold-----do-----:	:	***	:	***	:	***
General, selling, and admini-	:	:	:	:	:	:
strative expenses-----do-----:	:	***	:	***	:	***
Property, plant, and equipment:	:	:	:	:	:	:
Original cost-----1,000 dollars--:	:	***	:	***	:	***
Book value-----do-----:	:	***	:	***	:	***
Ratio of operating income to:	:	:	:	:	:	:
Original cost-----percent--:	:	***	:	***	:	***
Book value-----do-----:	:	***	:	***	:	***

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

1/ Transcript of the conference, pp. 13 and 14.

2/ Petition, apps. 11-A and 11-B.

Operating income on the expansion tanks operations * * * from \$* * *, or * * * percent of net sales in 1982 to \$* * *, or * * * percent of net sales in 1983 and then * * * to \$* * *, or * * * percent of net sales in 1984. Gross profit margins followed a similar trend as did operating income margins. Gross profit data presented in the petition on a quarterly basis indicate that Amtrol's total gross profit margin * * *. 1/

Amtrol's investment in * * * facilities used to produce expansion tanks, valued at cost, * * * from \$* * * in 1982 to \$* * * in 1984. To provide an additional measure of profitability, the ratios of operating income to original cost and book value of fixed assets are also presented in table 6. These ratios * * *.

Overall establishment operations.--Amtrol produces a number of products for the plumbing and heating industry in its establishments. 2/ Net sales of the subject expansion tanks accounted for * * * percent of total establishment sales during 1982-84 (table 7). The trends for overall establishment operating income ratios are * * *. During * * *, the operating income margin on overall establishment operations was * * *, while the margin on the expansion tanks was * * *.

Capital expenditures and research and development expenses.--* * * reported incurring * * * per year for capital expenditures and about \$* * * per year for research and development expenses relating to its expansion tanks. Amtrol's capital expenditures and research and development expenses in connection with its expansion tanks for 1982-84 are presented in the following tabulation (in thousands of dollars):

<u>Period</u>	<u>Capital expenditures</u>	<u>Research and development expenses <u>1/</u></u>
1982-----	***	***
1983-----	***	***
1984-----	***	***

1/ Estimated by Amtrol.

1/ Petition, app. 12.

2/ Transcript of the conference, p. 22.

Table 7.--Selected financial data of Amtrol, Inc., on the overall operations of its establishments within which the subject expansion tanks are produced, 1982-84

Item	1982	1983	1984
Net sales-----1,000 dollars--:	***	***	***
Cost of goods sold-----do----	***	***	***
Gross profit-----do----	***	***	***
General, selling, and adminis-			
trative expenses-----do----	***	***	***
Operating income-----do----	***	***	***
Depreciation and amortization			
expense-----do----	***	***	***
Cash flow from operations---do----	***	***	***
Ratio to net sales:			
Gross profit-----percent--:	***	***	***
Operating income-----do----	***	***	***
Cost of goods sold-----do----	***	***	***
General, selling, and admini-			
strative expenses-----percent--:	***	***	***
Subject expansion tank sales			
percent--:	***	***	***
Property, plant, and equipment:			
Original cost-----1,000 dollars--:	***	***	***
Book value-----do----	***	***	***
Ratio of operating income to:			
Original cost-----percent--:	***	***	***
Book value-----do----	***	***	***

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

U.S. producers' statements on the impact of imports from the Netherlands on their growth, investment, and ability to raise capital.--The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports from the Netherlands of the subject expansion tanks on their firm's growth, investment, and ability to raise capital. Excerpts of the responses from U.S. producers are presented below:

State Industries, Inc.--"* * *."

Flair Manufacturing Corp.--"* * *."

Amtrol Inc.--"* * *."

Consideration of the Threat of Material Injury

In its examination of the question of reasonable indication of the threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the ability of the producer in the Netherlands to increase the level of exports of expansion tanks to the United States and the likelihood it will do so, any increase in the U.S. importer's inventories of the imported expansion tanks, and any increasing trends in the quantity of imports and U.S. market penetration.

The available data concerning Flamco's capacity to produce and export the expansion tanks are presented in the section entitled "The Industry in the Netherlands" in this report. Another factor that may be examined is the magnitude of the U.S. importer's inventories. There were no inventories of expansion tanks from the Netherlands on December 31, 1983, because imports of these tanks did not begin until * * * of 1984. Vent-Rite reported inventories of * * * units on December 31, 1984, and Emerson-Swan reported inventories of * * * units on December 31, 1984. The two companies' total inventories of expansion tanks from the Netherlands, by types, are shown in the following tabulation (in units):

<u>Product category</u>	<u>Dec. 31, 1983</u>	<u>Dec. 31, 1984</u>
Size 15-----	0	***
Size 30-----	0	***
Sizes 60 to 90-----	0	***
Packages-----	0	***
Large-----	0	***
Solar-----	<u>0</u>	<u>***</u>
Total-----	0	***

The * * * units in inventory amounted to * * * percent of U.S. imports of expansion tanks from the Netherlands in 1984. Inventories held by all U.S. stocking reps (including Emerson-Swan) in early March 1985 reportedly amounted to * * * units. 1/ Vent-Rite's inventories in early March 1985 are * * *.

A discussion of the level of imports and their market penetration is presented in the following section of this report.

Consideration of the Causal Connection Between Alleged Injury and Allegedly LTFV Imports

U.S. imports

The TSUSA items under which the subject expansion tanks have been classified are items that contain numerous products in addition to the expansion tanks. Accordingly, the official import statistics of the Department of Commerce are not relevant to this investigation. All the import

1/ Postconference response of Coudert Brothers, p. 3.

data discussed in this section have been obtained from responses to questionnaires of the U.S. International Trade Commission.

The two known sources of U.S. imports of the subject expansion tanks are the Netherlands and Italy. Imports from the Netherlands commenced in * * * 1984, and amounted to * * * units, valued at \$* * *, in that year (table 8). Most of the imports from the Netherlands consist of * * *.

Imports of expansion tanks from Italy in * * *. * * *. The value of these imports is not available.

Table 8.--Certain expansion tanks: U.S. imports from the Netherlands, by types, 1984 ^{1/}

Item	Imports from the Netherlands
	Quantity (units)
Size 15-----	***
Size 30-----	***
Sizes 60 through 90-----	***
Packages-----	***
Large-----	***
Solar-----	***
Total-----	***
	Value
Size 15-----	\$***
Size 30-----	***
Sizes 60 through 90-----	***
Packages-----	***
Large-----	***
Solar-----	***
Total-----	***
	Unit value
Size 15-----	\$***
Size 30-----	***
Sizes 60 through 90-----	***
Packages-----	***
Large-----	***
Solar-----	***
Average-----	***

^{1/} There were no known imports of these expansion tanks from the Netherlands in recent years prior to 1984.

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

Market penetration of imports

U.S. imports from the Netherlands of the subject expansion tanks accounted for * * * percent of apparent U.S. consumption in 1984 (table 9). There were no U.S. imports from the Netherlands in 1982 or 1983.

The decision to import expansion tanks from the Netherlands is a result of Emerson-Swan's efforts since 1980 to establish a new source of supply for expansion tanks. Emerson-Swan has traditionally offered expansion tanks in order to sell a full line of products. Emerson-Swan's expansion tanks were obtained from Taco, Inc., Cranston, RI, a private-label seller that purchases tanks from manufacturers. Emerson-Swan was unsuccessful in obtaining a new domestic source of supply in large part because the domestic manufacturers it contacted were reluctant to challenge Amtrol. 1/ Emerson-Swan claims that it had no choice other than to seek a foreign supplier that would enable it to compete with Amtrol, and eventually an agreement was reached between Vent-Rite (which has common ownership with Emerson-Swan) and Flamco, one of Europe's leading suppliers of expansion tanks. 2/ In response to a request by the Commission to rate the important factors in Vent-Rite's decision to purchase expansion tanks from the Netherlands in lieu of from the United States, Vent-Rite listed "* * *" and "* * *" as "very important" factors, and "* * *," "* * *," and "* * *" as "somewhat important" factors. As of March 12, 1985, Vent-Rite had * * * expansion tanks on order from Flamco. 3/

Prices

Producers and importers were requested to supply net prices, f.o.b. and delivered, of the two largest sales to unrelated U.S. buyers of selected sizes of expansion tanks between January 1983 and February 1985. Prices of the imported product discussed here are those of Emerson-Swan, a related party of the importer, Vent-Rite. Emerson-Swan sells in direct competition with the domestic producer, Amtrol. 4/

Transportation cost data were not specifically requested in the questionnaire; however, based on f.o.b. and delivered price data received, it appears that transportation costs for expansion tanks amount to less than 4 percent of f.o.b. prices.

Domestic price trends.--Domestic producers' prices were reported by Amtrol, Flair Manufacturing, and State Industries. However, the prices supplied by Flair and State were for different levels in the distribution chain than prices supplied by Amtrol and cannot be compared with Amtrol's prices. Amtrol, the leading U.S. producer, reported * * * prices for the size 15 expansion tank. Prices * * * initially from \$* * * per unit in

1/ Postconference brief of Coudert Brothers, p. 3.

2/ Ibid.

3/ Ibid.

4/ See the section entitled "Channels of Distribution" in this report.

Table 9.--Certain expansion tanks: U.S. producers' domestic shipments, U.S. imports, apparent U.S. consumption, and U.S. sales of imports from the Netherlands, by types, 1982-84

Item and period	U.S. producers' domestic shipments	U.S. imports			Apparent U.S. consumption	U.S. sales	Ratio of imports	
		From the Netherlands	From Italy	Total		of imports:	from the Netherlands to--	
						from the Netherlands: 1/	Domestic shipments	Apparent consumption
		<u>1,000 units</u>					<u>Percent</u>	
Size 15:								
1982-----	***	***	***	***	***	***	-	-
1983-----	***	***	***	***	***	***	-	-
1984-----	***	***	***	***	***	***	***	***
Size 30:								
1982-----	***	***	***	***	***	***	-	-
1983-----	***	***	***	***	***	***	-	-
1984-----	***	***	***	***	***	***	***	***
Sizes 60 through 90:								
1982-----	***	***	***	***	***	***	-	-
1983-----	***	***	***	***	***	***	-	-
1984-----	***	***	***	***	***	***	***	***
Packages:								
1982-----	***	***	***	***	***	***	-	-
1983-----	***	***	***	***	***	***	-	-
1984-----	***	***	***	***	***	***	***	***
Large:								
1982-----	***	***	***	***	***	***	-	-
1983-----	***	***	***	***	***	***	-	-
1984-----	***	***	***	***	***	***	***	***
Solar:								
1982-----	***	***	***	***	***	***	-	-
1983-----	***	***	***	***	***	***	-	-
1984-----	***	***	***	***	***	***	***	***
Total:								
1982-----	***	***	***	***	***	***	-	-
1983-----	***	***	***	***	***	***	-	-
1984-----	***	***	***	***	***	***	***	***

1/ Represents sales to unrelated parties.

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

Note.--Because of rounding, figures may not add to the totals shown.

January-March 1983 to * * *, or by about * * * percent. Prices then * * *. * * *. The price of the model 15 has * * * (table 10). Prices for the Amtrol model 30 expansion tank initially followed the same trend as that for the model 15. Prices * * *. The price for the model 30 was then steady at \$* * * per unit through * * *. Amtrol then * * *. However, unlike the * * *. Prices began to * * * (table 11).

Table 10.--Expansion tanks, size 15: Producer's and importer's prices ^{1/} and importer's margins of underselling for various periods, January 1983 through February 1985

Period	Producer		Importer		Margins of underselling
	Amtrol		Vent-Rite		
	Quantity	Price	Quantity	Price	
	<u>No. of units</u>	<u>Dollars per unit</u>	<u>No. of units</u>	<u>Dollars per unit</u>	
1983:					
January-March-----	***	\$***	<u>2/</u>	<u>2/</u>	<u>2/</u>
April-June-----	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>
July-September-----	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>
October-December----	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>
1984:					
January-March-----	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>
April-June-----	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>
July-----	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>
August-----	***	***	***	\$***	***
September-----	***	***	***	***	***
October-----	***	***	***	***	***
November-----	***	***	***	***	***
December-----	***	***	***	***	***
1985:					
January-----	***	***	***	***	***
February-----	<u>2/</u>	<u>2/</u>	***	***	<u>2/</u>

^{1/} F.o.b. prices of the two largest sales to wholesalers in each period by Amtrol and by Emerson-Swan. Emerson-Swan is a related party of Vent-Rite.

^{2/} No sales were reported in this period.

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

Table 11.--Expansion tanks, size 30: Producer's and importer's prices ^{1/} and importer's margins of underselling for various periods, January 1983 through February 1985

Period	Producer		Importer		Margins of underselling
	Amtrol		Vent-Rite		
	Quantity	Price	Quantity	Price	
	<u>No. of units</u>	<u>Dollars per unit</u>	<u>No. of units</u>	<u>Dollars per unit</u>	
1983:					
January-March-----	***	\$***	2/	2/	2/
April-June-----	***	***	2/	2/	2/
July-September-----	***	***	2/	2/	2/
October-December----	***	***	2/	2/	2/
1984:					
January-March-----	***	***	2/	2/	2/
April-June-----	***	***	2/	2/	2/
July-----	***	***	2/	2/	2/
August-----	***	***	***	\$***	***
September-----	***	***	***	***	***
October-----	***	***	***	***	***
November-----	***	***	***	***	***
December-----	***	***	***	***	***
1985:					
January-----	***	***	***	***	***
February-----	2/	2/	***	***	2/

1/ F.o.b. prices of the two largest sales to wholesalers in each period by Amtrol and by Emerson-Swan. Emerson-Swan is a related party of Vent-Rite.

2/ No sales were reported in this period.

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

Imported price trends.--Vent-Rite is the only known importer of expansion tanks from the Netherlands. * * * its sales are made through Emerson-Swan, a related company, to wholesale plumbing supply houses. The data presented in tables 10 and 11 are Emerson-Swan's prices to wholesalers, where Vent-Rite's model 15 F and 30 F compete directly with Amtrol's models 15 and 30. Emerson-Swan's price for its model 15 F was * * * (table 10). Prices then * * *. The price for model 15 F * * *. The price for model 30 F initially * * * (table 11). Prices were then * * *.

Margins of underselling.--Imported expansion tanks from the Netherlands undersold domestically produced expansion tanks * * *. The imported model 15 F undersold the comparable domestic expansion tank * * *. The margins * * *. Margins of underselling ranged from * * * to * * * for the model 30 expansion tanks. However, margins were usually around * * * percent.

Exchange rates

The nominal value of the guilder in terms of U.S. dollars declined irregularly, but by 31 percent, from January-March 1981 to July-September 1984. However, when these figures are adjusted for relative levels of inflation in the two countries, the "real" value of the guilder declined by only 25 percent. This occurred because the inflation rate in the Netherlands was slightly higher than the inflation rate in the United States. Nominal and real exchange rates are presented in the following tabulation:

(January-March 1981 = 100)			
Period	: Dollars/guilder index		: Dollars/guilder index
	: (nominal rate)		: (real rate)
	:	:	:
1981:	:	:	:
January-March-----	100	:	100
April-June-----	90	:	90
July-September-----	85	:	86
October-December-----	93	:	95
1982:	:	:	:
January-March-----	89	:	93
April-June-----	87	:	92
July-September-----	84	:	89
October-December-----	83	:	88
1983:	:	:	:
January-March-----	86	:	91
April-June-----	82	:	87
July-September-----	77	:	82
October-December-----	76	:	81
1984:	:	:	:
January-March-----	75	:	81
April-June-----	75	:	81
July-September-----	69	:	75
	:	:	:

Source: International Financial Statistics, International Monetary Fund, Feb. 1985.

Lost sales

Amtrrol provided the Commission with 35 lost sales allegations involving 19 purchasers. The allegations concerned * * * expansion tanks valued at \$* * *. The Commission staff contacted 8 of the purchasers concerning 14 allegations. The purchasers' comments are summarized below.

*** confirmed two allegations that his firm purchased the imported expansion tank. *** indicated that the quantity of the two purchases was far below the *** alleged. He further stated that he had indeed purchased on price considerations because there are no quality differences. He said that he had purchased a large order of *** tanks from a domestic producer earlier in the year, but he soon began to see the imported product giving him price competition at the retail level. He felt that his company should make an additional purchase of the imported tanks to protect their market share in case the market became flooded with imports, leaving him with unsold inventory on hand. Finally, *** realized he had ***. ***.

*** of *** confirmed two allegations made by Amtrol. *** purchased *** model 15 tanks and *** model 30 tanks from Vent-Rite after rejecting a quote from Amtrol. *** stated that quality was equal so he purchased on a price consideration.

*** confirmed two allegations that his firm had bought the tanks produced in the Netherlands. He felt that Amtrol had raised the price too fast and that the imported product was priced closer to the market value for the product. *** would not comment on exact price or quantity; however, he did acknowledge that the two orders totaled nearly *** units.

*** denied an allegation that his firm purchased ***. He stated that he purchased only *** units *** from the importer. He also received a domestic quote of \$*** per unit, but by the time this offer was made, *** had already purchased the imported tank.

Officials at *** denied two allegations. It is their policy to buy only U.S.-produced goods, and thus they never purchased the imported product.

Officials at *** acknowledged purchasing the imported product but would not answer anything else over the phone.

*** denied an allegation that his firm accepted an offer of \$*** per unit for *** imported units after rejecting a domestic quote of \$*** per unit. He stated that he does buy Vent-Rite tanks but the alleged quantity was too large and the U.S. price "was never that high for a quantity so big."

*** confirmed two purchases of the imported product. Although he would not comment on the exact price and quantity, he did reveal the events leading to these purchases. In late August, *** began feeling downward price pressure on expansion tanks for sales to the retail trade. He learned that the competing tanks were marketed by Emerson-Swan, a well known and respected name in the industry. He then ***. He stated that Amtrol ignored the competitive threat and chose to raise prices. *** then purchased a quantity of the Dutch tanks to protect himself in case the market became saturated with the Vent-Rite tanks, leaving him with nothing to sell but the higher priced Amtrol tanks. A few months after this ***. However, there was a ***. Amtrol ***. ***. ***. ***. ***. Currently *** is purchasing *** at \$*** each and *** at \$*** per unit.

Lost revenues

Amtrol presented 122 allegations of lost revenues because of import competition from the Netherlands of size 15 and size 30 expansion tanks during August of 1984. Despite the large number of allegations, the total alleged lost revenues amounted to less than \$* * *. Telephone numbers were not included with any of the allegations, and in many cases the locations of the firms could not be determined.

The staff contacted 6 firms in an attempt to verify 10 of the allegations. * * * acknowledged that it used lower quotes on imports from the Netherlands to bid down the price on a domestic sale of * * * size 30 tanks from * * * to * * *, and to bid down the price of * * * size 15 tanks from * * * to * * *. * * * and * * * stated that they have only purchased expansion tanks from Amtrol. They have * * * from Amtrol but attributed * * * and not to any competition from the Vent-Trol tanks. * * * stated that it bought all of its tanks from Amtrol and had never received quotes on imported tanks. * * * and * * * were unable to verify any of the lost revenues allegations concerning their firms.

APPENDIX A

**THE COMMISSION'S NOTICE OF INSTITUTION OF A PRELIMINARY
ANTIDUMPING INVESTIGATION**

1673b(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 the Netherlands of pre-pressurized, diaphragm-type expansion tanks for use in closed water systems, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by April 1, 1985.

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), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, August 15, 1984).

EFFECTIVE DATE: February 14, 1985.

FOR FURTHER INFORMATION CONTACT: George Deyman (202-523-0481), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on February 14, 1985, by Amtrol, Inc., West Warwick, RI.

Participation in the investigation. Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list. Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, August 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of

service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on March 8, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact George Deyman (202-523-0481), not later than March 5, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping 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.

Written submissions. Any person may submit to the Commission on or before March 12, 1985, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8, as amended by 49 FR 32469, August 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submission must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, August 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: February 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-5403 Filed 3-5-85; 8:45 am]

SALEING CODE 7030-02-01

[Investigation No. 731-TA-243
(Preliminary)]

Certain Expansion Tanks From the Netherlands

AGENCY: International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-243 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C.

APPENDIX B

**THE DEPARTMENT OF COMMERCE'S NOTICE OF INSTITUTION OF
AN ANTIDUMPING INVESTIGATION**

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3798.

SUPPLEMENTARY INFORMATION*

The Petition

On February 14, 1985, we received a petition in proper form from AMTROL, Inc., filing on behalf of the U.S. industry producing certain expansion tanks. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the Netherlands are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry. Critical circumstances have also been alleged under section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(e)) (the Act).

The petitioner bases the United States price on list prices of the U.S. importer minus stated discounts for the last quarter of 1984 and those currently in effect. From the price after discount, petitioner also deducts ocean freight and the standard industry mark-up, which includes credit, insurance, Dutch inland freight, profit, general and administrative expenses, warehousing and inventory, sales expenses and promotional expenses. From this price, petitioner deducts customs duty and brokerage fees to arrive at the estimated F.O.B. sales price.

Foreign market value is based on the ex-factory selling prices of the manufacturers in both the home market and West Germany, as the home market for expansion tanks is believed to be small.

Based on comparison of prices calculated using the foregoing methodology, the petitioner alleges an average dumping margin of 12.4 to 60.5 percent for expansion tanks from the Netherlands.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegation.

We examined the petition on certain expansion tanks and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are

initiating an antidumping duty investigation to determine whether certain expansion tanks and parts thereof from the Netherlands are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally we will make our preliminary determination by July 24, 1985.

Scope of Investigation

The products covered by this investigation are expansion tanks and parts thereof for closed water systems from the Netherlands.

The term "expansion tanks" covers expansion or compression tanks, the primary device in pressurizing and maintaining pressure control in a closed water system. Expansion tanks are also known as hydro-pneumatic tanks. Expansion tanks may be provided for in the *Tariff Schedules of the United States, Annotated* under item numbers 657.25, 653.52, 711.78, 681.39, 678.50, or alternative item numbers. The proper classification of expansion tanks under the Tariff Schedules is currently under review.

Notification of the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we 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 the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by the ITC

The ITC will determine by April 1, 1985, whether there is a reasonable indication that imports of certain expansion tanks and parts thereof from the Netherlands are causing material injury, or threaten material injury, to a United States industry. If the ITC determination is negative the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-6057 Filed 3-13-85; 8:45 am]

BILLING CODE 3510-06-M

[A-421-501]

Certain Expansion Tanks and Parts Thereof From the Netherlands; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain expansion tanks and parts thereof from the Netherlands are being, or are likely to be, sold in the United States at less than fair value. Critical circumstances have been alleged. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 1, 1985, and the Department of Commerce will make its preliminary determination on or before July 24, 1985.

EFFECTIVE DATE: March 14, 1985.

FOR FURTHER INFORMATION CONTACT: Karen L. Sackett, Office of Investigations, Import Administration,

APPENDIX C

CALENDAR OF THE COMMISSION'S PUBLIC CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigation No. 731-TA-243 (Preliminary)

CERTAIN EXPANSION TANKS FROM THE NETHERLANDS

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigation on March 8, 1985, in the Hearing Room of the USITC Building, 701 E Street, NW., Washington, DC.

In support of the imposition of antidumping duties

Plaia & Schaumberg--Counsel

Washington, DC

on behalf of

Amtrol, Inc.

Chester Kirk, Chairman, Amtrol, Inc.

John McCann, Executive Vice President,

Amtrol, Inc.

Gerald J. Leary, National Sales Manager,

Amtrol, Inc.

Herbert C. Shelley)
Joel D. Kaufman)--OF COUNSEL

In opposition to the imposition of antidumping duties

Coudert Brothers--Counsel

Washington, DC and New York, NY

on behalf of

Flamco B.V.

Internatio-Mueller N.V.

Emerson-Swan, Inc.

Vent-Rite Valve Corporation

Thomas Swan, President, Emerson-Swan, Inc.

Mark D. Herlach)
Laurie Cohen)--OF COUNSEL

Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo--Counsel

Washington, DC

on behalf of

Emerson-Swan, Inc.

Vent-Rite Valve Corporation

Bruce D. Sokler--OF COUNSEL

APPENDIX D

**DESCRIPTIONS OF PRODUCT GROUPINGS
FOR EXPANSION TANKS**

Expansion tanks, size 15.--Diaphragm-type expansion tanks having a tank volume of between 1.5 and 2.5 gallons, and an acceptance volume of between 0.5 and 1.5 gallons. The shipping weight of these tanks is approximately 5 pounds. Examples of these tanks are the Vent-Trol 1/ model 15 F and the EXTROL 2/ model 15.

Expansion tanks, size 30.--Diaphragm-type expansion tanks having a tank volume of between 2.6 and 5.0 gallons, and an acceptance volume of between 1.6 and 3.0 gallons. The shipping weight of these tanks is approximately 8 or 9 pounds. Examples of these tanks are the Vent-Trol model 30 F and the EXTROL model 30.

Expansion tanks, sizes 60 to 90.--Diaphragm-type expansion tanks having a tank volume of between 5.1 and 25.0 gallons, and an acceptance volume of between 3.1 and 15.0 gallons. The shipping weight of these tanks is between 10 and 50 pounds. Examples of these tanks are the Vent-Trol models 60 F through 90 F and the EXTROL models 60 and 90.

Expansion tank packages.--Diaphragm-type expansion tanks sold in combination with air scoops, purgers, vents, or similar devices. Examples of expansion tank packages are the Vent-Trol models 1500 F through 7000 F and the EXTROL models 1500 through 6000.

Large expansion tanks.--Large diaphragm-type expansion tanks, examples of which are the Vent-Trol models SX-30 F through SX-160 F and the EXTROL models SX-30V through SX-160V.

Solar expansion tanks.--Diaphragm-type expansion tanks for use in solar heating systems, examples of which are the Vent-Trol models S-15 F through S-90 F and the EXTROL models S-15 through S-90H and solar SX-30V through solar SX-60V H.

1/ Vent-Trol is the trade name of the line of expansion tanks from the Netherlands sold by Vent-Rite.

2/ EXTROL is the trade name of the line of expansion tanks sold by Amtrol.

