CERTAIN CAST-IRON PIPE FITTINGS FROM BRAZIL

Determinations of the Commission in Investigation No. 701-TA-221 (Final) 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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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 701-TA-221 (Final)

CERTAIN CAST-IRON PIPE FITTINGS FROM BRAZIL

Determinations

On the basis of the record 1/ developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil of nonalloy, nonmalleable cast-iron pipe fittings, 2/ other than for cast-iron soil pipe, provided for in items 610.62 and 610.65 of the Tariff Schedules of the United States (TSUS), which are subsidized by the Government of Brazil.

The Commission further determines that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil of nonalloy, malleable cast-iron pipe fittings, 3/ provided for in TSUS items 610.70 and 610.74, which are subsidized by the Government of Brazil. 4/

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/ In accordance with an amendment to the petition for this investigation filed on Oct. 5, 1984, only nonmalleable pipe fittings that fall within standard and heavy-duty pressure ratings (125 and 250 pounds per square inch, respectively) are included within the scope of the investigation.

3/ In accordance with an amendment to the petition for this investigation filed on Oct. 5, 1984, only malleable pipe fittings that fall within standard and heavy-duty pressure ratings (150 and 300 pounds per square inch, respectively) are included within the scope of the investigation.

4/ Commissioner Eckes determines that an industry in the United States is materially injured by reason of imports of such merchandise.

Background

The Commission instituted this investigation effective December 19, 1984, following a preliminary determination by Commerce that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain cast-iron pipe fittings.

Notice of the institution of the Commission's investigation and of a public hearing 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 January 16, 1985 (50 FR 2349). The hearing was held in Washington, DC, on March 18, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

We have determined that there is no material injury or threat thereof to domestic industries by reason of imports of malleable or nonmalleable cast-iron pipe fittings which are subsidized by the government of Brazil. 1/ Our negative determinations are based on the lack of a causal nexus between the conditions of the domestic industries and the subsidized imports from Brazil. 2/

Description of the domestic industry

The domestic industry in a countervailing duty investigation is defined in section 771(4)(A) as the domestic producers of the product which is like that being imported.

> [T]he term 'industry' means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. 3/

The term "like product" is defined in section 771(10) 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 4/

1/ Commissioner Eckes determined that the domestic industry producing malleable cast-iron pipe fittings is materially injured by reason of such imports from Brazil. He also determined that the industry producing nonmalleable cast-iron pipe fittings is experiencing material injury, but not by reason of imports from Brazil. He joins the Commission majority in their definition of the like products and domestic industries in this investigation, but has submitted separate views on material injury and causation for both malleable and nonmalleable cast-iron pipe fittings.

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

3/ 19 U.S.C. § 1677(4)(A).

4/ 19 U.S.C. § 1677(10).

The imported products in this investigation are malleable and nonmalleable cast-iron pipe fittings from Brazil. 5/ There are domestically produced products which correspond to each of the imported products.

In its preliminary investigation, the Commission determined that there were two like products: malleable cast-iron pipe fittings and nonmalleable cast-iron pipe fittings. That determination was based on the differences in the manufacturing processes, compositions, and end uses of the two products. The additional information developed in this final investigation confirms this conclusion. 6/ We, therefore, determine that there are two like products, malleable and nonmalleable cast-iron pipe fittings. Thus, there are two domestic industries: producers of malleable cast-iron pipe fittings and producers of nonmalleable cast-iron pipe fittings. 7/

Condition of the domestic industries 8/

In this investigation the Commission considered information concerning the condition of the domestic industries covering the period from 1982 to 1984. Among the factors we considered were production, capacity, shipments, employment, productivity, and profits. Although there has been some

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5/ Report of the Commission (Report) at A-3.

6/ Id.

7/ Kuhns, Inc. (Kuhns), the sole domestic purchaser of the imported fittings, is a producer of nonmalleable fittings. Petitioners have urged that Kuhns should be excluded from the domestic industry. Domestic producers of a like product are included in the domestic industry unless the producer is an importer of record or related to the importer of record, 19 U.S.C. § 1677(4)(B), in which case the Commission has the discretion to exclude that producer from its consideration of the domestic industry. Since Kuhns is neither an importer of record nor related to the importer, we have included Kuhns' domestic production of nonmalleable fittings as part of the domestic industry.

8/ Much of the information available on this subject is business confidential. Thus, we must limit our discussion to general trends and public information.

improvement in the economic indicators of the performance of these industries, they are not profitable and are experiencing material injury. 9/

Malleable cast-iron pipe fittings

The domestic industry generally experienced low operating rates and minimal profitability during 1982-84. Domestic production of malleable cast-iron pipe fittings declined from 1982 to 1983. 10/ However, domestic production increased in 1984 to slightly above the 1982 level. 11/ U.S. producers' domestic shipments of malleable cast-iron pipe fittings followed a similar trend, decreasing by approximately 10 percent from 1982 to 1983, and then rebounding in 1984 almost to the 1982 level. 12/ Domestic inventories declined steadily over the period of investigation. 13/

Domestic capacity for producing malleable fittings remained constant during the period of investigation. Capacity utilization decreased by a little over 3 percent from 1982 to 1983, and then increased in 1984 to above the 1982 level. 14/

Employment of workers producing malleable cast-iron pipe fittings decreased by 14 percent from 1982 to 1983, and then increased by 8 percent in 1984. Average hourly compensation increased steadily by 21 percent over the period of investigation. 15/ Productivity of workers increased by 8 percent from 1982 to 1983, but then decreased by over 5 percent from 1983 to 1984. 16/

9/ Chairwoman Stern does not believe it necessary or desirable to make a determination on the question of material injury separate from the consideration of causality. She joins her colleagues by concluding that the domestic industry is experiencing economic problems.
10/ Report at A-11.
11/ Id.
12/ Id. at A-12.
13/ Id.
14/ Id. at A-11.
15/ Id. at A-13.
16/ Id.

The financial experience of malleable cast-iron pipe fittings producers does not appear to reflect the recovery from the 1983 downturn that is seen in the production and employment indicators. Net sales increased 11 percent over 1983 levels, but remained 4 percent below those of 1982. 17/ Over the same period the cost of goods sold increased 16 percent over 1983 levels and was 5 percent higher in 1984 than in 1982. 18/ As a result, U.S. producers' operating profits for malleable fittings decreased from 1982 to 1983 and changed to a loss in 1984. 19/

Nonmalleable cast-iron pipe fittings

The conditions of the domestic nonmalleable cast-iron pipe fittings industry were somewhat similar to the conditions of the malleable cast-iron pipe fittings industry. Domestic production of nonmalleable fittings decreased by approximately 10 percent from 1982 to 1983, and then increased in 1984 slightly above the 1983 level. 20/ U.S. producers' domestic shipments declined by approximately 10 percent from 1982 to 1983. In 1984, however, domestic shipments increased to above the 1982 level. Domestic inventories of nonmalleable fittings declined substantially over the period of investigation.

Domestic capacity for nonmalleable fittings increased slightly from 1982 to 1983, but remained stable from 1983 to 1984. 21/ Capacity utilization, however, fell by less than 10 percent from 1982 to 1983, and then increased slightly in 1984. 22/

17/ Id. at A-14.
18/ Id. at A-16.
19/ Id.
20/ Id. at A-11.
21/ Id.
22/ Id.

Employment related to the production of nonmalleable fittings decreased from 1982 to 1983, and then slightly increased in 1984, but remained below the 1982 level. 23/ Average hourly compensation increased over the entire period of the investigation. 24/ Productivity of workers fell during the entire period of the investigation by almost 10 percent. 25/

Net sales decreased by 15 percent from 1982 to 1983 and then increased by 12 percent in 1984. 26/ Operating income relative to nonmalleable fittings steadily declined over the entire period of the investigation. As operating income declined, the cost of goods sold declined by 7 percent from 1982 to 1983, and then substantially increased in 1984 by almost 8 percent above the 1982 level. 27/ As a result, domestic producers suffered losses in 1983 and 1984. 28/

No material injury by reason of subsidized imports

Under section 705(b) of the Tariff Act of 1930, as amended, the Commission is required to determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of merchandise with respect to which the Department of Commerce has determined that subsidies are granted. 29/ In reaching its decision as to whether material injury is by reason of the imports under investigation, the Commission must consider, among other factors, the volume of imports, the effect of imports on prices in the United States for the like product, and the

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23/ Id. at A-13.
24/ Id.
25/ Id.
26/ Id. at A-17.
27/ Id.
28/ Id.
29/ 19 U.S.C. § 1671(b)(1).

impact of such imports on the relevant domestic industry. Congress has also instructed the Commission to consider factors indicating that the injury is not by reason of the subject imports. 30/ The legislative history of the act is clear; the Commission must satisfy itself that there is a sufficient causal link between the subsidized imports and the requisite injury. 31/ On the basis of the data developed in this investigation, we conclude that imports of malleable and nonmalleable cast-iron pipe fittings from Brazil are not causing material injury to the corresponding domestic industries.

Malleable cast-iron pipe fittings

Our consideration of the factors and conditions of trade in the malleable cast-iron pipe fittings industry leads us to the conclusion that imports of malleable cast-iron pipe fittings have not caused material injury to the domestic industry.

Imports first entered the U.S. in more than a sporadic and minimal fashion in the second half of 1983. Further, by yearend 1983 a significant portion of imports were still in distributor inventories. In the peak year of 1984, imports grew only to 1.7 percent of apparent consumption. 32/ Their impact on the market was even less considering substantial quantities of 1984 imports which were held in stocks by the distributor of the Brazilian fittings.

Although imports of malleable fittings from Brazil increased over the period of investigation, such imports captured only a small percentage of the

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30/ "Of course, in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors." H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).
31/ S. Rep. No. 249, 96th Cong., 1st Sess. 58 (1979).
32/ Report at A-27.

U.S. market. Further, apparent U.S. consumption was also increasing by approximately 10 percent. 33/ During 1984, the only time when any appreciable importing occurred, apparent consumption rose by over 10,000 tons, or by 17 percent. Domestic producers' shipments of malleable fittings in 1984 remained slightly below the 1982 level. 34/ However, imports of malleable pipe fittings from countries other than Brazil satisfied the majority of the increase in U.S. consumption. 35/ Imports from Brazil were minimal relative to these other imports, comprising only 6 percent of imports in 1984. 36/

Although the data indicate that the import penetration ratios over the period of investigation increased, as noted, a substantial portion of Brazilian malleable fittings remained in the inventories of the sole distributor of the imported fittings, Kuhns. 37/ The import penetration ratios do not take into account the fact that significant numbers of imported Brazilian fittings have not yet entered into the marketplace. In order to avoid double counting the effect of the imports on the domestic industry, we have considered the market penetration ratios in conjunction with these inventories. Taking this factor into account, it appears that the effect of the volume of Brazilian imports is substantially smaller than would be the case if the inventories were not considered. We also recognize, however, that the inventories of Kuhns may have a deleterious effect on the domestic industry. We have considered the possible effect of such inventories in our discussion on threat.

Another significant factor in our determination is the insignificant effect the Brazilian fittings had on domestic prices. Domestic prices were

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33/ Id. at A-7.
34/ Id. at A-12.
35/ Id. at A-27.
36/ Id.
37/ Id. at A-21.

essentially flat from mid-1982-1984. Thus, prices had been stable for some time when substantial volumes of Brazilian imports first entered the market, and did not change following their entry. In fact, prices increased fractionally between the time when initial price comparisons were possible in mid-1983 and yearend 1984. 38/ Moreover, unit values of malleable fittings imported from some countries other than Brazil were consistently lower than unit values of the corresponding Brazilian imports. 39/ These factors have led us to determine that imports of malleable fittings from Brazil were insignificant in depressing or suppressing the prices of malleable cast-iron pipe fittings. In view of the minimal volumes and the absence of any indication of an effect on prices, we find no causal link between the injury to the domestic industry producing malleable pipe fittings and the imports from Brazil.

Nonmalleable cast-iron pipe fittings

A significant factor in our negative determination in regard to imports of nonmalleable fittings from Brazil is that such imports first entered in November 1983, and were concentrated in November 1983-February 1984. Import levels have been immaterial for several months. Further, most indicators of the condition of the domestic nonmalleable industry showed an overall improvement from 1983 to 1984.

Imports from Brazil first entered in November of 1983. 40/ The volume of imports of nonmalleable fittings from Brazil was 1,052 short tons in 1983, and then decreased to 972 short tons in 1984, a decrease of approximately

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38/ Id. at A-32-33.
39/ Id. at A-24.
40/ Id. at A-23.

8 percent. 41/ At the same time, imports from other countries were significantly increasing. In fact, imports from countries other than Brazil increased by over 70 percent from 1983 to 1984. And, from 1982 to 1984, such imports almost doubled in quantity. 42/

The import penetration ratios of nonmalleable fittings from Brazil decreased by approximately 40 percent from 1983 to 1984. 43/ During the same time period, the import penetration of nonmalleable fittings imported from countries other than Brazil increased by almost 50 percent over the 1983 level. 44/ Moreover, while imports from Brazil were decreasing, apparent consumption was increasing 45/ and import penetrations of fittings from countries other than Brazil were increasing. 46/ Based on this data, imports from Brazil are not causing material injury to the domestic producers of nonmalleable pipe fittings.

An additional factor which contributed to our determination is that significant amounts of the Brazilian nonmalleable fittings are in the inventories of the sole distributor of the Brazilian fittings. 47/ When the import penetration ratios for each year are adjusted accordingly, as discussed in detail for the malleable pipe fittings, the ratios are even smaller.

The nonmalleable price data indicate that for both products the Brazilian nonmalleable fittings sold at significantly higher prices than the domestic product during at least one quarter. Although the price information also indicates some margins of underselling, such margins are relatively small.

41/ Id. at A-25.
42/ Id.
43/ Id. at A-27.
44/ Id.
45/ Id. at A-7.
46/ Id. at A-27.
47/ Id. at A-21.

Moreover, domestic prices for one of the nonmalleable products increased over the period of the investigation. 48/

Also indicative of the absence of any causal link between imports from Brazil and the status of the domestic industry is the fact that the condition of the domestic industry improved from 1983 to 1984 in all aspects, except profitability. Further, this decline in profitability appears to be attributable to declining labor productivity and a substantial increase in cost of goods sold from 1983 to 1984. 49/

No threat of material injury

In order to conclude that subsidized imports constitute a threat of material injury to the domestic industry or industries, the Commission must find that the threat is real and imminent, and not based on a mere possibility that injury might occur at some remote future date. 50/

Malleable cast-iron pipe fittings

The volume of Brazilian imports of malleable fittings only slightly increased over the period of investigation, and the market penetration ratios remained low. When this increase is considered with the inventories of the sole distributor, as previously discussed, such increase is even less significant. 51/ Given the increase in domestic consumption and the improvement in the overall condition of the domestic industry from 1983 to

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48/ Id. at A-30-31.
49/ Id. at A-13, A-16.
50/ S. Rep. No. 249, 96th Cong., 1st Sess. 89 (1979).
51/ We recognize that Kuhns has a significant portion of imports still in inventory. However, Kuhns' stocks are minimal compared to the level of the domestic industry and we do not consider these inventories to be of such an amount as to support a finding of threat. Moreover, respondents have stated that the inventory of Kuhns is misleading because Kuhns does not have a complete product line in inventory.

1984, it is not likely that the Brazilian imports will cause injury to the domestic industry. These factors have contributed to our negative determination.

There is little likelihood that the Brazilian manufacturer of malleable fittings, Fundicao Tupy S.A. (Tupy), can either increase production or change its production to increase exports to the United States. Capacity utilization in Brazil is at nearly 100 percent. 52/

Tupy operates several cast-iron foundries which are not dedicated to the production of cast-iron pipe fittings. It is unlikely, however, that they can divert this production to the production of cast-iron pipe fittings. The differences in the size of the production equipment make such diversion commercially and economically unrealistic. 53/ An additional factor leading us to conclude that Tupy cannot increase its exports to the United States is that Tupy is committed to supply Western Europe, portions of the Middle East, and Brazil with fittings. Long-term supply contracts between Tupy and the previously mentioned countries represent significant portions of Tupy's capacity. We, therefore, conclude that imports of malleable cast-iron pipe fittings do not constitute a threat of material injury to the domestic industry.

Nonmalleable cast-iron pipe fittings

In regard to the volume of imports of nonmalleable fittings, imports decreased from 1983 to 1984, the only period of imports. Also, market penetration decreased and was extremely low. 54/ Additionally, Kuhns'

52/ Report at A-9.
53/ Transcript of the hearing at 76.
54/ Report at A-27.

inventories of nonmalleable fittings in 1984 represent a significant portion of the total imports for 1984. 55/ In the presence of this decrease, we conclude that imports of nonmalleable fittings are not threatening the domestic industry. 56/

Viewing the price data on nonmalleable fittings, we conclude that Brazilian imports of nonmalleable fittings are not likely to either suppress or depress the domestic prices. In some cases, Brazilian fittings were sold at higher prices than the domestic fittings. 57/ Although there are substantial inventories of Brazilian fittings relative to sales, the quantity of such stocks is still minimal relative to domestic inventories. We do not consider these inventories to constitute threat of material injury. Additionally, the data indicate that the unit values of the Brazilian fittings were not the lowest of the imported fittings. 58/

In regard to the capacity of Tupy and its ability to shift production, the reasoning we used in regard to the production of malleable fittings applies with equal force to the nonmalleable fittings. Based on the above factors, we have concluded that imports of nonmalleable cast-iron pipe fittings from Brazil do not constitute threat to the domestic industry.

55/ Id. at A-21.
56/ Although Kuhns has significant inventories of nonmalleable fittings, these inventories represent a relatively small number of total fittings in the marketplace and do not consist of a complete product line.
57/ Report at A-30-31.
58/ Id. at A-25.

VIEWS OF COMMISSIONER ECKES

The domestic industries producing malleable and nonmalleable cast-iron pipe fittings are both experiencing material injury in my view. However, only in the case of malleable pipe fittings do I find a sufficient causal link between such injury and imports from Brazil.

This investigation is unusual in several respects. First, a member of the domestic industry for nonmalleable pipe fittings (Kuhns) is virtually the only purchaser from the importer (TUPY American Foundry Corporation) of both products from Brazil. It purchases these products for resale. Second, because this producer/distributor, Kuhns, at one time purchased for resale certain quantities of both products from a major domestic manufacturer, the imports from Brazil can be seen to compete with the domestic products both in sales to Kuhns and in sales to distributors, retailers, and end-users. This complicates Commission analysis of import penetration ratios, inventories, pricing, and lost sales. I will comment on my consideration of each of these factors below.

Condition Of The Industries

Malleable cast-iron pipe fittings -- U.S. consumption of malleable pipe fittings decreased by 6 percent between 1982 and 1983, but then increased 17 percent, considerably above 1982 levels, in 1984. Domestic production declined 7 percent between 1982 and 1983, but recovered to a level in 1984 only slightly over that for 1982. Domestic shipments, which also

declined in 1983, did not quite reach 1982 levels in 1984, despite the substantial increase in demand. Domestic market share fell over 7 percentage points in the 1982-1984 period.

Capacity and capacity utilization remained about the same during the three years under investigation. The number of workers employed in producing malleable pipe fittings fell by 14 percent from 1982 to 1983, and rose about 8 percent in 1984.

Net sales of malleable pipe fittings dropped over 13 percent between 1982 and 1983, and then rose in 1984 to a level still 4 percent below the 1982 level. The aggregate gross income of the industry fell 29 percent between 1982 and 1983, and then an additional 10 percent in 1984. Cash flow from operations dropped from over $10 million in 1982 to $1.6 million in 1984. A positive aggregate net income attained in 1982 shrank to a loss in 1983 -- a loss that more than tripled in 1984. The ratio of operating income to net sales fell from 8.2 percent in 1982 to a negative 0.4 percent in 1984.

The cost of goods sold rose substantially during the period as a percentage of net sales. However the increase in the ratio to net sales is not surprising in that such expenditures reflect the production rate (slightly over 1982 levels in 1984) and the higher input cost levels for 1984, while net sales in 1984, as already noted, were below the level attained in 1982.

Despite the fact that improving economic conditions in the United States created increasing demand for malleable pipe fittings, the domestic industry is not sharing in the growth of

the market. Its market share has decreased and its financial condition continues to deteriorate. It is clear that the industry experienced material injury during the period of investigation.

Nonmalleable cast-iron pipe fittings -- The data for the nonmalleable pipe fitting industry is similar to that for the malleable in many respects. As some of this data for nonmalleable is confidential, it must be discussed in general terms.

Consumption of the product in the United States decreased between 1982 and 1983 and then increased well above 1982 levels in 1984. Domestic production however, after falling in 1983, did not return to 1982 levels in 1984. Domestic shipments recovered in 1984 to slightly over 1982 levels. For this product also, U.S. producers experienced a steady loss of market share.

Capacity increased during the period of investigation, but capacity utilization decreased by a higher margin. Employment dropped by 12 percent between 1982 and 1983, and then increased only 6 percent in 1984.

Net sales fell almost 15 percent between 1982 and 1983, and then rose in 1984 to a level more than 4 percent below that for 1982. A positive aggregate net income was realized in 1982, whereas net losses were sustained in 1983 and 1984. The ratio of operating income to net sales decreased sharply from a 10 percent level in 1982 to 2.7 percent in 1983, and continued down to an unhealthy 0.7 percent in 1984.

There is little doubt that this is an industry that has experienced material injury. The question then becomes whether subsidized imports from Brazil were a cause of that injury.

Material Injury By Reason Of Subsidized Imports

Malleable cast-iron pipe fittings -- In determining whether material injury is by reason of imports from Brazil, the Commission is instructed by the Tariff Act of 1930, as amended, to consider the volume of imports, the effect of imports on prices in the U.S. market for the product, and the effect the imports have on the domestic industry.

Imports of malleable pipe fittings from Brazil grew from 263 short tons in 1982 to 1,637 short tons in 1984. The share of the U.S. market claimed by imports from Brazil climbed from only 0.4 percent in 1982, to 1.2 percent in 1983, and 1.7 percent in 1984.1/ The sharp upward trend in market share is given more emphasis in my consideration of causality than the specific size of the share attained by 1984.

The Commission obtained pricing information on two types of malleable cast-iron pipe fittings for the second half of 1983 and all of 1984. In all quarters examined, imports from Brazil

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1/ In calculating the import-to-consumption ratios for malleable and nonmalleable pipe fittings, I follow the Commission report in basing those measures on imports of TUPY. Adjusting the ratios to reflect Kuhns' inventories would imply that Kuhns is the importer rather than a distributor who has chosen to buy imported stock. The record does not support that thesis.

significantly undersold the domestic product. The import prices obtained by the Commission staff for these comparisons were Kuhns' prices to distributors, based on the assumption that this is where the imports competed with the domestic product. However, if Kuhns itself were viewed as a market for imports from TUPY (Kuhns does not produce malleable pipe fittings and must source them elsewhere for resale), measurement of prices would be based on TUPY's prices to Kuhns.2/ Presumably those prices would be lower than Kuhns' prices to its customers, producing even larger margins of underselling by imports from Brazil.

Domestic prices remained about the same over the 1982-1984 period, although, as previously mentioned, domestic producers' costs increased substantially by 1984. Demand rose significantly in 1984, which normally would permit price increases to cover higher costs. In this market however, where pressure from lower priced imports was growing, price increases were not possible and losses were experienced.

Commission investigators confirmed several reports of sales lost to imports from Brazil. One of those involved Kuhns as a previous and potential purchaser of malleable pipe fittings

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2/ The Commission report considers Kuhns a customer rather than an importer when calculating market penetration and inventories. For pricing, however, measurement was taken at one step removed from the importer, TUPY.

from another domestic producer; but the others treated Kuhns as the source of competing imports. In all instances, the sales were lost to imports from Brazil on the basis of price.

Imports from Brazil are not the only imports affecting the domestic market for malleable pipe fittings. The market share for imports from other countries is substantial and has grown during the period of investigation. However, an industry that must contend with import competition from several sources is all the more vulnerable to injury from a new and increasingly potent source of unfair competition.

The domestic industry's profitability deteriorated during the period of investigation, and it lost market share as the share for imports from Brazil increased. There is unmistakable evidence of underselling by the Brazilian imports, and indications of domestic price suppression and lost sales on the basis of price. Therefore, I find that the domestic industry producing malleable cast-iron pipe fittings is experiencing material injury by reason of subsidized imports from Brazil.

Nonmalleable cast-iron pipe fittings -- Imports of nonmalleable pipe fittings from Brazil followed a different trend from those of malleable fittings. They did not enter the U.S. market until 1983, when they totaled 1,052 short tons. In 1984, imports decreased to 972 short tons, a reduction of 8 percent. The ratio of imports from Brazil to domestic consumption reached an initial-year level of 2.7 percent in 1983, and then decreased to 1.6 percent in 1984.

The Commission staff obtained pricing information for two types of nonmalleable pipe fittings. The result did not yield the clear picture of underselling by imports from Brazil found for malleable pipe fittings. Indeed for one of the items (the item accounting for the greater sales volume), there was overselling by the imports in every quarter but the last quarter of 1984; and in that quarter, the underselling was by a very small margin. For the second item, there was some underselling but in only three of the five quarters reported was this sizable, and there was one quarter in which Brazilian imports oversold the domestic product

If TUPY's prices to Kuhns rather than Kuhns' prices to distributors had been obtained, there might be more evidence of underselling. However, the degree of change would be much less than that for malleable pipe fittings, as Kuhns produces some of the nonmalleable fittings it sells. In any event, there is evidence that imports from Brazil did not have a depressing or suppressing effect on domestic prices. During the period in which these imports were in the U.S. market, domestic prices rose for both items examined.

There were only two confirmed lost sales to imports from Brazil, one of which represents a lack of continued sales by a domestic producer to Kuhns. Since Kuhns now is a producer of nonmalleable pipe fittings, it is unlikely that it would continue to purchase that product from another domestic producer.

I have found that the domestic industry producing nonmalleable pipe fittings is experiencing material injury. However, considering the downward import trend in 1984, the lack of clear evidence of underselling by the imported product, the absence of any price suppression or depression linked to imports from Brazil, and little evidence of lost sales, I cannot link the injury of the industry to imports from that source. Therefore I find that the domestic industy producing nonmalleable cast-iron pipe fittings is not experiencing material injury by reason of subsidized imports from Brazil.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On September 18, 1984, the U.S. International Trade Commission and the U.S. Department of Commerce received petitions filed by counsel on behalf of the Cast Iron Pipe Fittings Committee, 1/ alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Brazil and India of nonalloy cast-iron pipe and tube fittings other than for cast-iron soil pipe, provided for in items 610.62, 610.65, 610.70, and 610.74 of the Tariff Schedules of the United States (TSUS), upon which bounties or grants are alleged to be paid. The petitioners further alleged the existence of "critical circumstances" as defined in section 703(e)(1) of the Tariff Act of 1930 with respect to imports of the subject merchandise from Brazil. Accordingly, the Commission instituted preliminary countervailing duty investigations under section 703(a) of the act to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise.

On October 5, 1984, the Commission received a letter from counsel for the petitioners withdrawing the petition relating to imports of the subject merchandise from India. Accordingly, on October 9, 1984, the Commission discontinued the investigation on India (investigation No. 701-TA-222 (Preliminary)). The notice of withdrawal of the petition was published in the Federal Register of October 17, 1984 (49 FR 40676). On the same date, counsel for the petitioners filed an amendment to the petition, modifying the product description to include only malleable and nonmalleable cast-iron pipe fittings that fall within the standard and heavy-duty pressure classes (see discussion in the description and uses section of this report).

On October 9, 1984, the Department of Commerce initiated a countervailing duty investigation to determine whether producers or exporters of the subject merchandise in Brazil receive benefits that constitute subsidies within the countervailing duty law.

On November 2, 1984, the Commission preliminarily determined that there was a reasonable indication that an industry in the United States was materially injured, or threatened with material injury, 2/ by reason of imports from Brazil of nonalloy, nonmalleable cast-iron pipe fittings, of standard pressure rating (125 pounds per square inch (psi)) and of heavy-duty pressure rating (250 psi), other than for cast-iron soil pipe, provided for in

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1/ The five member producers of this committee are Stanley G. Flagg & Co., Inc., ITT-Grinnell Corp., Stockham Valves & Fittings Co., U-Brand Corp., and Ward Foundry Division of Clevepak Corp.

2/ Chairwoman Stern and Commissioner Lodwick determined that there was a reasonable indication of material injury.

TSUS items 610.62 and 610.65, which were alleged to be subsidized by the Government of Brazil. 1/

The Commission also determined that there was a reasonable indication that an industry in the United States was materially injured, or threatened with material injury, 2/ by reason of imports from Brazil of nonalloy, malleable cast-iron pipe fittings, of standard pressure rating (150 psi) and of heavy-duty pressure rating (300 psi), provided for in TSUS items 610.70 and 610.74, which were alleged to be subsidized by the Government of Brazil.

On December 19, 1984, the Department of Commerce published notice in the Federal Register (49 FR 49319) of its preliminary determination that certain benefits which constitute subsidies within the meaning of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters in Brazil of certain cast-iron pipe fittings. Commerce also preliminarily determined that "critical circumstances" do not exist with respect to these products.

Accordingly, the Commission instituted investigation No. 701-TA-221 (Final) effective on December 19, 1984, to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's final investigation and of a hearing 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 January 16, 1985 (50 FR 2349). 3/

On March 5, 1985, the Department of Commerce made its final determination that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters in Brazil of certain cast-iron pipe fittings. 4/ Commerce also determined that "critical circumstances" do not exist with respect to these products. Therefore, as directed by the statute, the Commission must render its final determination concerning injury in this case before the 45th day after the day on which it received notification from Commerce of its affirmative final determination.

In connection with the Commission's investigation, a public hearing was held in Washington, DC, on March 18, 1985. 5/ The briefing and vote was held on April 8, 1985. The Commission established an administrative deadline of April 17, 1985, for issuing its final determination; the statutory deadline is April 18, 1985.

1/ A copy of the Commission's preliminary determination is presented in app. A.

2/ Chairwoman Stern determined that there was a reasonable indication of threat of material injury. Commissioner Lodwick determined that there was a reasonable indication of material injury.

3/ A copy of the Commission's notice is presented in app. A.

4/ A copy of Commerce's final determination is presented in app. A.

5/ A list of witnesses appearing at the hearing is presented in app. B.

Previous Commission Investigations

On April 13, 1977, the Commission instituted an investigation (No. TA-201-26) under section 201 of the Trade Act of 1974 concerning malleable cast-iron pipe and tube fittings, provided for in TSUS items 610.70, 610.71, and 610.74, in response to a petition filed by the American Pipe Fittings Association. On September 19, 1977, the Commission reported to the President its unanimous finding that malleable cast-iron pipe and tube fittings were not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing like or directly competitive articles.

On January 7, 1980, the Department of Commerce advised the Commission that a countervailing duty investigation had resulted in a preliminary determination that the Government of Japan was providing benefits that might constitute bounties or grants on the manufacture, production, or exportation of certain malleable cast-iron pipe fittings; the bounties or grants were estimated to be 0.6 percent ad valorem. Accordingly, effective January 1, 1980, the Commission instituted investigation No. 701-TA-9 (Final) under section 703(a) of the Tariff Act of 1930 to determine whether an industry in the United States was materially injured or threatened with material injury or the establishment of an industry was materially retarded by reason of the importation of these pipe fittings into the United States. On March 20, 1980, the Commission terminated the investigation upon written request by counsel for the petitioners (the American Pipe Fittings Association).

The Product

Description and uses

Malleable and nonmalleable cast-iron pipe and tube fittings serve to join pipes in straight lines; to change, divert, divide, or direct the flow of liquid, gas, or steam in piping systems; to provide access for cleaning and branching in piping systems; and to reduce or increase the diameter of piping systems.

Nonmalleable cast-iron fittings have little or no ductility and can be broken with the blow of a hammer. These fittings will not stretch when a piping system is assembled and consequently are not likely to leak. They are usually available in inside diameters ranging from 1/4 inch to 6 inches. Common varieties of nonmalleable pipe fittings include bends, branches, traps, drains, and reducers. Although there are thousands of individual patterns for such fittings, fewer than 50 basic patterns account for the vast majority of nonmalleable fittings manufactured. Nonmalleable cast-iron fittings are produced to pressure ratings of 125 psi for the standard pressure class, which accounts for approximately 99 percent of sales of nonmalleable fittings, and of 250 psi for the heavy-duty pressure class, as established by the American Society for Testing and Materials (ASTM) and the American National Standards Institute (ANSI). Nonmalleable fittings are almost entirely used as pressure pipe fittings for cast-iron pipes, although some are used with steel pipes. The predominant use of nonmalleable cast-iron fittings is in sprinkler and heating systems for commercial buildings.

Malleable fittings can be machined and subjected to stress with less likelihood of fracture than nonmalleable fittings. The major advantages of malleable fittings are that they are lighter in weight and more ductile than nonmalleable fittings. They are used where shock and vibration resistance is required and where fittings are subject to quick temperature changes. Malleable fittings are available in hundreds of configurations, the most common being 90-degree elbows, tees, couplings, and unions. They are produced in both black (ungalvanized) and galvanized form. Malleable fittings are commonly produced with inside diameters of 1/2 inch to 6 inches; other sizes are available on special order. Malleable cast-iron fittings have a minimum performance rating of 150 psi for the standard pressure class, which accounts for approximately 93 percent of sales of malleable fittings, 1/ and 300 psi for the heavy-duty pressure class, as rated by the ASTM and the ANSI. The principal uses of malleable cast-iron fittings are in gas lines, piping systems of oil refineries, and gas and water systems of buildings.

Manufacturing process

The manufacturing process for cast-iron pipe fittings begins with the making of molten iron, usually in a cupola furnace. The raw materials for both malleable and nonmalleable fittings are scrap steel, pig iron, and other materials such as ferrosilicon, coke, and limestone. The molten-grey iron for nonmalleable fittings has a somewhat higher content of carbon, silicon, and manganese (approximately 3.5 percent, 2.4 percent, and 0.6 percent, respectively, of total weight) than the molten iron for malleable fittings (approximately 2.5 percent, 1.4 percent, and 0.4 percent, respectively, of total weight). 2/ Because of the differences in the chemical composition of the molten iron, malleable and nonmalleable fittings are produced in separate production runs unless two furnaces are available.

Sand-casting is the predominant method used in the making of malleable and nonmalleable cast-iron pipe fittings. The casting process begins with the making of a pattern, which is of the same configuration as the desired fitting. Molding sand is mixed with a binder and is spread around the pattern in a mold, then rammed by a machine to compact the sand. The pattern is withdrawn, leaving a cavity in which molded cores are inserted to form the internal shape of the fitting. The two mold halves are put together and the molten iron (either malleable or nonmalleable) is poured into the cavity. The molds and cores are slightly different for malleable and nonmalleable fittings because of the differences in mechanical properties in each type of fitting. After the iron solidifies, the red hot fitting is dropped on a "shaker" table or belt, which shakes off the sand. At this point, nonmalleable and malleable fittings are cooled and cleaned. Nonmalleable fittings are then machined and are ready for use.

1/ Petitioners' submission of Oct. 18, 1984, p. 3.

2/ Petitioners' postconference brief, p. 3. Counsel for the respondents provided similar ranges for the shares of total weight accounted for by these and other chemicals. Respondents' postconference brief, pp. 5-6.

In contrast, malleable fittings require an additional step of annealing. Annealing consists of rapidly heating the fittings to approximately 1,750° F., followed by a quick cooling and then a slower cooling. The overall cooling process, which takes from 25 to 40 hours, improves the ductility and durability of the metal by reducing its brittleness. Almost all malleable cast-iron fittings are advanced (machined) after the casting stage. Advancement usually involves threading, grooving, or other similar operations.

U.S. tariff treatment

The cast-iron pipe fittings covered by this investigation are classified in TSUS items 610.62, 610.65, 610.70, and 610.74. The current most-favored-nation (MFN) (col. 1) rates of duty 1/ are 7.2 percent ad valorem under item 610.62, 2.7 percent ad valorem under item 610.65, 6.1 percent ad valorem under item 610.70, and 7.8 percent ad valorem under item 610.74. Imports of these products from beneficiary developing countries have been designated as eligible for duty-free entry under the Generalized System of Preferences (GSP). 2/ Imports from Brazil are eligible for such treatment under all four of the above TSUS items.

Nature and Extent of Subsidies

On March 5, 1985, the Department of Commerce published its final affirmative countervailing duty determination concerning certain cast-iron pipe fittings from Brazil. The full text of the determination is presented in appendix A of this report. Commerce's investigation covered the review period of April 1, 1983, to March 31, 1984, which corresponds to Fundicao TUPY, S.A.'s 1983 fiscal year. 3/ The estimated net subsidy was determined to be 18.00 percent ad valorem, 14.17 percent ad valorem for bonding purposes. 4/ Commerce further determined that critical circumstances do not exist with respect to imports of cast-iron pipe fittings from Brazil.

1/ 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. Imports from the latter countries are assessed the col. 2 duty rates of 25 percent ad valorem, 20 percent ad valorem, 20 percent ad valorem, and 45 percent ad valorem, respectively, under the four TSUS items. These products, if from designated beneficiary countries, are also eligible for duty-free entry under the Caribbean Basin Initiative (CBI).

2/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free entry to specified eligible articles imported directly from designated beneficiary developing countries. The GSP, implemented in Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and before the close of July 4, 1993.

3/ Fundicao TUPY, S.A. is the only known producer and exporter to the United States of the subject merchandise in Brazil during the period of investigation.

4/ The calculated subsidy for bonding purposes is lower because of staged reductions in the IPI export credit that were announced before the preliminary determination.

The programs found to confer subsidies, and the amount of each, are presented in the following tabulation:

Program	Subsidy (percent ad valorem)
IPI Export Credit Premium	10.53 1/
Working Capital Financing for Exports	3.20
Export Financing Under the CIC-CREGE 14-11 Circular	2.40
The BEFIEX Program	.50
Income Tax Exemption for Export Earnings	.48
The CDI Program--Exemption of IPI Taxes and Customs Duties on Imported Equipment	.38
Long-Term Loans under the ADTEN of FINEP	.26
The CIEX Program	.25
All programs	18.00 2/

1/ 6.70 percent for bonding purposes.
2/ 14.17 percent for bonding purposes.

Of the Brazilian programs which Commerce determined to confer subsidies in its final determination, all but two are restricted to the manufacture or production of goods for export, or the exportation of goods from Brazil. These are the CDI program and the Long-Term Loans under the ADTEN of FINEP. These two subsidy programs were determined to have a combined subsidy value of 0.64 percent ad valorem.

The IPI Export Credit Premium, the single largest subsidy found to exist in this investigation, is scheduled to be totally eliminated on May 1, 1985, which will reportedly reduce the net subsidy from 18.00 percent ad valorem to 7.47 percent ad valorem. 1/

The Domestic Market

Apparent U.S. consumption

Apparent U.S. consumption of cast-iron pipe fittings covered by the investigation declined by * * * percent from 1982 to 1983 and then increased by * * * percent from 1983 to 1984. Apparent consumption of both malleable and nonmalleable fittings followed similar trends: consumption decreased by 6 percent for malleable fittings and * * * percent for nonmalleable fittings from 1982 to 1983 and then increased by 17 percent and * * * percent, respectively, from 1983 to 1984. Data on consumption of such fittings, compiled from data submitted in response to the Commission's questionnaires and from official statistics of the U.S. Department of Commerce, are shown in the following tabulation (in short tons):

1/ Respondents' prehearing brief, p. 23 and exhibit 1.

Product	1982	1983	1984
Malleable	64,241	60,601	70,909
Nonmalleable	***	***	***
Total	***	***	***

Virtually all consumption of cast-iron pipe fittings is for new construction. Because such fittings last indefinitely, there is no significant replacement market. 1/

Channels of distribution

Both producers and importers of cast-iron pipe fittings generally sell their product to distributors, which, in turn, sell principally to plumbing contractors and hardware stores. Sales generally consist of a full line of pipe fittings, i.e., the most common configurations and sizes. Four of the five petitioning U.S. producers sell exclusively to unrelated distributors. * * *. All five producers sell throughout the United States, maintaining warehouses in various locations and selling from inventory. 2/

The sole importer of record of Brazilian cast-iron pipe fittings, TUPY American Foundry Corp., sells virtually all of its fittings through an unrelated distributor, Kuhns, Inc., which sells to unrelated distributors as well as to plumbing contractors and hardware stores. 3/

U.S. Producers

Six manufacturers account for virtually all U.S. production of cast-iron pipe fittings. Large capital investments are required to build plants with high-volume melting and casting capabilities to obtain competitive economies of scale. 4/ The six producers and their shares of reported production in 1984 are shown in table 1.

Stanley G. Flagg & Co., Inc., has one plant, located in Stowe, PA, which produces cast-iron pipe fittings. ITT-Grinnell Corp., headquartered in Providence, RI, produces malleable fittings at a plant in Columbia, PA, and nonmalleable fittings at a plant in Statesboro, GA. 5/ Stockham Valves &

1/ Transcript of the preliminary conference, p. 43.
2/ Ibid., p. 20.
3/ * * *. On p. 2 of their posthearing submission dated Mar. 25, 1985, respondents reaffirmed that Kuhns, Inc. and TUPY are totally unrelated.
4/ Transcript of the preliminary conference, pp. 19-20.
5/ Ibid., p. 25.

Table 1.--Certain cast-iron pipe fittings: U.S. producers' shares of reported production, by types, 1984

Producers	Malleable	Nonmalleable	Total
Stanley G. Flagg & Co., Inc	***	***	***
ITT-Grinnell Corp	***	***	***
Kuhns, Inc	***	***	***
Stockham Valves & Fittings Co	***	***	***
U-Brand Corp	***	***	***
Ward Foundry Division	***	***	***
Total	100.0	100.0	100.0

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

Fittings Co., U-Brand Corp., and the Ward Foundry Division of Clevepak Corp. manufacture cast-iron pipe fittings at one plant each. These plants are located in Birmingham, AL, Ashland, OH, and Blossburg, PA, respectively. Each of the five firms has been producing cast-iron pipe fittings for at least 35 years 1/ and offers an essentially complete line of fittings. On October 8, 1984, Clevepak Corp. announced that it is negotiating to sell its Ward Foundry operation. 2/ On January 17, 1985, The Wall Street Journal reported that ITT Corp. considers ITT-Grinnell a candidate for divestiture. 3/

The sixth manufacturer, Kuhns, Inc., produces nonmalleable fittings at a plant in Dayton, OH. Kuhns manufactured nonmalleable cast-iron pipe fittings from 1887 until 1974, when the firm sold its foundry to the NIPCO Corp. Kuhns repurchased the foundry in 1982, commencing production on September 1, 1982. 4/

U.S. Importer

The sole U.S. importer of record of cast-iron pipe fittings from Brazil is TUPY American Foundry Corp. of Lancaster, PA. TUPY American Foundry Corp. is a wholly owned subsidiary of Fundicao TUPY, S.A., of Joinville, Brazil, a producer and exporter of cast-iron pipe fittings. Although TUPY American Foundry is the importer of record, Kuhns, Inc., of Dayton, OH, purchases virtually all of the imports and, along with TUPY American Foundry, provided data in response to the importer's questionnaire.

1/ Malleable Cast-Iron Pipe and Tube Fittings, . . . investigation No. TA-201-26, USITC Publication 835, September 1977, p. A-12.
2/ The Wall Street Journal, Oct. 9, 1984, p. 8.
3/ Ibid., Jan. 17, 1985, p. 3.
4/ Transcript of the preliminary conference, pp. 56-57.

The Brazilian Industry

Fundicao TUPY, S.A., is the Brazilian manufacturer of cast-iron pipe fittings which accounts for all exports of such fittings to the United States. TUPY S.A., located in Joinville, Brazil, began manufacturing cast-iron pipe fittings in 1938.

Brazil's total exports of cast-iron pipe fittings covered by the investigation * * * from 1982 to 1984 (table 2). Similarly, exports to countries other than the United States, principally in Europe and the Middle East, * * * from 1982 to 1984. Exports to the United States in 1983 were more than * * * times as great as such exports in 1982 and rose by * * * percent from 1983 to 1984. Such exports accounted for * * * percent of total exports in 1982 and * * * percent in 1983 and 1984.

Home-market sales dropped by * * * percent from 1982 to 1983 and increased by * * * percent from 1983 to 1984. Such sales accounted for * * * percent of total sales in 1982, * * * percent in 1983, and * * * percent in 1984. Total sales rose by * * * percent from 1982 to 1983 and * * * percent from 1983 to 1984.

Table 2.--Certain cast-iron pipe fittings: Brazilian exports, home-market sales, and capacity, 1982-84

Item	1982	1983	1984
Sales:			
Exported to--			
The United States----------short tons--	***	***	***
Europe----------do----	***	***	***
The Middle East----------do----	***	***	***
Canada----------do----	***	***	***
All other markets----------do----	***	***	***
Subtotal----------do----	***	***	***
Home-market----------do----	***	***	***
Total----------do----	***	***	***
Capacity 1/----------do----	***	***	***
Sales as a percent of capacity-------percent--	***	***	***

1/ These data represent capacity that TUPY has dedicated to the production of cast-iron pipe fittings. TUPY has reportedly been operating its pipe fittings foundries 3 shifts per day, 6 days per week. See the transcript of the public hearing, p. 78.

Source: Fundicao TUPY, S.A.

TUPY's reported capacity to produce cast-iron pipe fittings covered by the investigation * * * from 1982 to 1983 and then increased by * * * percent from 1983 to 1984. Total sales of cast-iron pipe fittings as a percent of capacity dedicated to the production of such products increased from * * * percent in 1982 to * * * percent in 1983 and * * * percent in 1984.

TUPY maintains four foundries, each of which is dedicated to the production of a specific range of products. One foundry produces automotive engine cylinder blocks and heads, a second produces various automotive castings, a third produces automotive castings and nonmalleable pipe fittings on separate lines, and a fourth produces only malleable pipe fittings. 1/ As a share of total capacity, TUPY has dedicated * * * percent of its capacity to cast-iron pipe fittings, * * * percent to automotive engine blocks and cylinder heads, and * * * percent to other automotive castings such as differential housings, brake drums, and crankshafts. 2/

Respondent, TUPY, has alleged that it would be commercially irrational, impractical, and uneconomical to divert capacity dedicated to automotive castings to pipe fittings because of differences in chemistry and equipment associated with each type of casting. For example, the machinery used to produce cylinder blocks could not be used to produce pipe fittings due to the differences in size between the two castings. 3/ Although the same melting furnaces could be used to produce either automotive castings or pipe fittings, the starting materials for each of these castings is different and therefore the melts would have to take place at different times. 4/

The Question of Material Injury

The Commission sent questionnaires to the five U.S. producers of cast-iron pipe fittings that were identified in the petition as constituting the domestic industry and to a sixth producer, Kuhns, Inc., which in addition to producing some nonmalleable fittings, purchases virtually all of the imports of the Brazilian product. (Kuhns opposes the petition.) Each of these producers provided data in response to the questionnaire. However, Kuhns, which accounted for * * * percent of U.S. production of nonmalleable fittings in 1983 and * * * percent in 1984, * * * employment and income-and-loss data. Consequently, Kuhns' data are excluded from those sections.

U.S. production, capacity, and capacity utilization

U.S. production of cast-iron pipe fittings covered by the investigation declined by * * * percent from 1982 to 1983 and then rose by * * * percent from 1983 to 1984 (table 3). Production of malleable fittings fell by

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1/ Transcript of the public hearing, p. 75.
2/ Respondents' prehearing brief, pp. 26 and 27.
3/ Ibid., p. 27.
4/ Transcript of the public hearing, p. 88.

Table 3.--Certain cast-iron pipe fittings: U.S. production, capacity, and capacity utilization, by types, 1982-84

Item	1982	1983	1984
Production:			
Malleable----------short tons--	48,020	44,718	48,055
Nonmalleable ----------do----	***	***	***
Total----------do----	***	***	***
Capacity:			
Malleable----------do----	94,460	94,460	94,460
Nonmalleable ----------do----	***	***	***
Total----------do----	***	***	***
Capacity utilization:			
Malleable----------percent--	50.8	47.3	50.9
Nonmalleable----------do----	***	***	***
Average----------do----	***	***	***

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

7 percent from 1982 to 1983 and then increased by 7 percent from 1983 to 1984. Nonmalleable fittings production dropped by * * * percent from 1982 to 1983 and then increased by * * * percent from 1983 to 1984.

Capacity to produce malleable fittings remained constant during the period covered by the investigation. The only change in capacity to produce nonmalleable fittings occurred in 1983, when Kuhns began production; its annual capacity of * * * short tons for both 1983 and 1984 increased the total capacity for this product by * * * percent from that of 1982. Capacity utilization with respect to malleable fittings decreased from 50.8 percent in 1982 to 47.3 percent in 1983 and then rose to 50.9 percent in 1984. The utilization rate for nonmalleable fittings declined from * * * percent in 1982 to * * * percent in 1983 and then increased to * * * percent in 1984.

U.S. producers' domestic shipments, inventories, exports, and imports

Domestic shipments of cast-iron pipe fittings declined by * * * percent from 1982 to 1983 and then increased by * * * percent from 1983 to 1984 (table 4). Shipments of both malleable and nonmalleable fittings followed similar trends. Exports increased 14 percent from 1982 to 1983 and then decreased 24 percent from 1983 to 1984. Exports remained below 6 percent of total shipments of malleable fittings and below 3 percent of total shipments of nonmalleable fittings. Canada is the principal export market. Inventories of both malleable and nonmalleable fittings dropped steadily throughout the period covered by the investigation, falling in aggregate by * * * percent from 1982 to 1983 and by * * * percent from 1983 to 1984.

Table 4.--Certain cast-iron pipe fittings: U.S. producers' domestic shipments, exports, and total shipments, by types, 1982-84, and inventories, by types, as of Dec. 31 of 1982-84

Item	1982	1983	1984
Domestic shipments:			
Malleable----------short tons--	47,250	43,322	47,118
Nonmalleable----------do----	***	***	***
Total----------do----	***	***	***
Exports:			
Malleable----------do----	2,211	2,737	2,387
Nonmalleable----------do----	1,017	947	428
Total----------do----	3,228	3,684	2,815
Total shipments:			
Malleable----------do----	49,461	46,059	49,505
Nonmalleable----------do----	***	***	***
Total----------do----	***	***	***
Inventories:			
Malleable----------do----	17,226	15,884	14,492
Nonmalleable----------do----	***	***	***
Total----------do----	***	***	***
Ratio of inventories to total shipments:			
Malleable----------percent--	34.8	34.5	29.3
Nonmalleable----------do----	***	***	***
Average----------do----	***	***	***

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

With the exception of Kuhns, none of the petitioning producers purchased significant quantities of imported cast-iron pipe fittings prior to 1984. During 1984, * * * purchased * * * short tons of malleable fittings imported from * * *. An official of * * * indicated that the imports were purchased because * * *. * * * imported nonmalleable fittings throughout the period covered by the investigation but such imports never exceeded * * * percent of the firm's domestic shipments.

Employment and productivity

The average number of production and related workers at the five petitioning firms that were employed in the production of cast-iron pipe fittings covered by the investigation declined by 13 percent from 1982 to 1983 and increased by 8 percent from 1983 to 1984 (table 5). Employment of workers producing malleable fittings fell by 14 percent from 1982 to 1983, and employment of workers producing nonmalleable fittings dropped by 12 percent. During 1984, employment related to the production of malleable fittings increased by 8 percent, and employment related to the production of

Table 5.--Average number of production and related workers engaged in the manufacture of certain cast-iron pipe fittings, hours worked by such workers, wages paid, total compensation, and output per hour, by types of fittings, 1982-84 1/

Item	1982	1983	1984
Number of workers:			
Malleable	2,090	1,798	1,947
Nonmalleable	833	735	776
Total	2,923	2,533	2,723
Hours worked:			
Malleable--per worker, per week	37.4	37.4	39.1
Nonmalleable--do	33.7	35.1	36.8
Average--do	36.4	36.7	38.4
Wages paid:			
Malleable--per worker, per hour	$8.09	$9.09	$9.72
Nonmalleable--do	7.71	8.36	8.22
Average--do	7.98	8.89	9.31
Total compensation:			
Malleable--per worker, per hour	$10.10	$11.39	$12.23
Nonmalleable--do	9.40	10.76	11.19
Average--do	9.91	11.22	11.95
Output per hour:			
Malleable--pounds per worker	24.6	26.6	25.2
Nonmalleable--do	49.7	48.8	44.6
Average--do	31.2	32.8	30.5

1/ Data are for the 5 petitioning firms.

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

nonmalleable fittings increased by 6 percent compared with employment levels in 1983. Average hours worked per week increased from 37 to 39 hours for workers producing malleable fittings and from 34 to 37 hours for workers producing nonmalleable fittings from 1982 to 1984. Wages and total compensation for both groups of workers increased during the period covered by the investigation.

Productivity of workers producing malleable fittings increased from 1982 to 1983 and then declined from 1983 to 1984. Productivity of workers producing nonmalleable fittings fell from 1982 to 1983 and fell again in 1984. Production workers at U-Brand, Ward Foundry, and the Columbia, PA, plant of ITT-Grinnell are represented by the International Molders & Allied Workers union. Workers at Stanley G. Flagg & Co. and Stockham Valves & Fittings are represented by the United Steelworkers of America. The Statesboro, GA, plant of ITT-Grinnell is nonunion.

Three producers reported significant layoffs during 1982-84. All of the layoffs were attributed to decreased sales. The dates of each layoff and the number of workers involved are shown in the following tabulation:

Producer	Number of workers	Period of of layoff
*	*	*
*	*	*
*	*	*
*	*	*

Financial experience of U.S. producers

Four firms, accounting for * * * percent of reported U.S. production of malleable cast-iron pipe fittings in 1984, furnished usable income-and-loss data concerning both their overall establishment operations and their operations on malleable cast-iron pipe fittings alone. 1/ Three of these firms, accounting for * * * percent of reported U.S. production of nonmalleable cast-iron pipe fittings in 1984, supplied usable income-and-loss data relative to their nonmalleable cast-iron pipe fittings operations. 2/

Overall establishment operations.--Net sales of all products produced in the establishments within which cast-iron pipe fittings are produced declined from $284 million in 1982 to $261 million in 1983, or by 8 percent, then rose by 18 percent to $309 million in 1984 (table 6). Operating income declined annually during 1982-84, dropping from $30.8 million, or 10.8 percent of net sales, to $15.2 million, or 4.9 percent of net sales. Net income before taxes followed the same trend as operating income during the reporting period, falling from 8.0 percent of net sales in 1982 to 3.1 percent in 1984. One firm sustained operating losses in 1983 and 1984. The same firm also sustained a net loss in 1983.

Malleable cast-iron pipe fittings.--Net sales of malleable cast-iron pipe fittings followed the same trend as total establishment net sales during 1982-84, dropping from $117 million to $101 million between 1982 and 1983 and then rising 11 percent to $112 million in 1984 (table 7). Operating income followed a different trend than net sales during 1982-84. Such income decreased markedly from $9.6 million, or 8.2 percent of net sales, in 1982 to $2.8 million, or 2.8 percent of net sales, in 1983. In 1984, the four

1/ * * *.
2/ * * *.

Table 6.--Income-and-loss experience of 4 U.S. producers on the overall operations of their establishments within which cast-iron pipe fittings are produced, 1982-84 1/

Item	1982	1983	1984
Net sales----------1,000 dollars--	284,011	261,370	308,724
Cost of goods sold----------do----	216,063	207,643	253,228
Gross income----------do----	67,948	53,727	55,496
General, selling, and administrative expenses----------1,000 dollars--	37,168	36,402	40,292
Operating income----------do----	30,780	17,325	15,204
Other income or (expense), net 2/ 1,000 dollars--	(7,964)	(6,530)	(5,501)
Net income before income taxes-------do----	22,816	10,795	9,703
Depreciation and amortization 1,000 dollars--	13,541	14,537	14,991
Cash flow from operations----------do----	36,357	25,332	24,694
Ratio to net sales:			
Gross income----------percent--	23.9	20.5	18.0
Operating income----------do----	10.8	6.6	4.9
Net income before income taxes-----do----	8.0	4.1	3.1
Cost of goods sold----------do----	76.1	79.5	82.0
General, selling, and administrative expenses----------percent--	13.1	13.9	13.1
Number of firms reporting--			
Operating losses----------	0	1	1
Net losses----------	0	1	0

1/ The accounting year of 2 firms ended on Dec. 31. The accounting year of 1 firm ended on May 31, and that of another ended on Aug. 31.
2/ Data are for 3 firms.

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

reporting firms sustained an aggregate operating loss of $435,000, or 0.4 percent of net sales. The four reporting firms posted net income before income taxes equal to * * * percent of net sales in 1982. In 1983 and 1984, they sustained net losses equal to * * * percent and * * * percent, of net sales, respectively. One firm sustained an operating and net loss in 1982, and two firms sustained such losses in 1983 and 1984. In the aggregate, the four firms reported positive cash flows in each year during 1982-84, ranging downward from $10.0 million in 1982 to $1.6 million in 1984. As a share of net sales, manufacturing costs (costs of goods sold) and general, selling, and administrative expenses were up in 1983 and 1984 compared with those in 1982.

Table 7.--Income-and-loss experience of 4 U.S. producers on their operations producing malleable cast-iron pipe fittings, 1982-84 1/

Item	1982	1983	1984
Net sales----------1,000 dollars--	116,964	101,377	112,430
Cost of goods sold----------do----	90,774	82,665	95,663
Gross income----------do----	26,190	18,712	16,767
General, selling, and administrative expenses----------1,000 dollars--	16,623	15,882	17,202
Operating income or (loss)----------do----	9,567	2,830	(435)
Other income or (expense), net 2/ 1,000 dollars--	***	***	***
Net income or (loss) before income taxes 1,000 dollars--	***	***	***
Depreciation and amortization 1,000 dollars--	***	***	***
Cash flow from operations----------do----	10,026	4,447	1,614
Ratio to net sales:			
Gross income----------percent--	22.4	18.5	14.9
Operating income or (loss)----------do----	8.2	2.8	(.4)
Net income or (loss) before income taxes percent--	***	***	***
Cost of goods sold----------do----	77.6	81.5	85.1
General, selling, and administrative expenses----------percent--	14.2	15.7	15.3
Number of firms reporting--			
Operating losses----------	1	2	2
Net losses----------	1	2	2

1/ The accounting year of 2 firms ended on Dec. 31. The accounting year of 1 firm ended on May 31, and that of the other ended on Aug. 31.

2/ Data are for 2 firms.

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

Nonmalleable cast-iron pipe fittings.--Net sales of nonmalleable cast-iron pipe fittings also followed the same trend as total establishment net sales during 1982-84, dropping from $54.6 million to $46.5 million between 1982 and 1983, and then rising 12 percent to $52.2 million in 1984 (table 8). During 1982-84, operating income declined annually from $5.4 million, or 10.0 percent of net sales, to $360,000, or 0.7 percent of net sales. The three reporting firms posted net income before income taxes of * * *, or * * * percent of net sales, in 1982. In 1983 and 1984, they sustained net losses of * * *, or * * * percent of net sales, and * * *, or * * * percent of net sales, respectively. One firm sustained operating and net losses in 1982 and 1983, and another firm sustained an operating loss in 1984 and net losses in 1983 and 1984.

Table 8.--Income-and-loss experience of 3 U.S. producers on their operations producing nonmalleable cast-iron pipe fittings, 1982-84 1/

Item	1982	1983	1984
Net sales----------1,000 dollars--	54,603	46,495	52,183
Cost of goods sold----------do----	40,218	37,390	43,138
Gross income----------do----	14,385	9,105	9,045
General, selling, and administrative expenses----------1,000 dollars--	8,945	7,851	8,685
Operating income----------do----	5,440	1,254	360
Other income or (expense), net 2/ 1,000 dollars--	***	***	***
Net income or (loss) before income taxes 1,000 dollars--	***	***	***
Depreciation and amortization 1,000 dollars--	***	***	***
Cash flow from operations----------do----	6,740	2,895	2,051
Ratio to net sales:			
Gross income----------percent--	26.4	19.6	17.3
Operating income----------do----	10.0	2.7	0.7
Net income or (loss) before income taxes percent--	***	***	***
Cost of goods sold----------do----	73.6	80.4	82.7
General, selling, and administrative expenses----------percent--	16.4	16.9	16.6
Number of firms reporting--			
Operating losses----------	1	1	1
Net losses----------	1	2	1

1/ The accounting year of 2 firms ended on Dec. 31 and that of the other ended on Aug. 31.

2/ Data are for 1 firm.

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

In the aggregate, the three firms posted positive cash flows in each of the reporting periods, ranging downward from $6.7 million in 1982 to $2.1 million in 1984. As a share of net sales, the cost of goods sold rose annually from 73.6 percent in 1982 to 82.7 percent in 1984. On the other hand, general, selling, and administrative expenses remained rather stable during 1982-84.

* * *.-- This firm, a producer of both malleable and nonmalleable cast-iron pipe fittings, was unable to furnish separate income-and-loss data concerning both its malleable and nonmalleable cast-iron pipe fittings operations. However, income-and-loss data relative to this firm's total establishment operations are shown in table 9 for 1982-84. Net sales of malleable cast-iron pipe fittings slipped from * * * percent of total

Table 9.--Income-and-loss experience of * * * on the overall operations of its establishment within which malleable and nonmalleable cast-iron pipe fittings are produced, 1982-84 1/

Item	1982	1983	1984
Net sales----------1,000 dollars--			
Malleable----------do----	***	***	***
Nonmalleable----------do----	***	***	***
Other products----------do----	***	***	***
Total net sales----------do----	***	***	***
Cost of goods sold----------do----	***	***	***
Gross income----------do----	***	***	***
General, selling, and administrative expenses----------do----	***	***	***
Operating income or (loss)----------do----	***	***	***
Other income or (expense), net-------do----	***	***	***
Net income or (loss) before income taxes----------do----	***	***	***
Depreciation and amortization--------do----	***	***	***
Cash flow from operations----------do----	***	***	***
Ratio to total net sales:			
Net sales of malleable----------percent--	***	***	***
Net sales of nonmalleable----------do----	***	***	***
Gross income----------do----	***	***	***
Operating income or (loss)---------do----	***	***	***
Net income or (loss) before income taxes----------do----	***	***	***
Cost of goods sold----------do----	***	***	***
General, selling, and administrative expenses----------percent--	***	***	***

1/ The accounting year ended * * *.

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

establishment net sales in 1982 to * * * percent in both 1983 and 1984. Net sales of nonmalleable cast-iron pipe fittings declined from * * * percent of total establishment net sales in 1982 to * * * percent in 1984. Overall establishment operating income dropped from * * * percent of net sales in 1982 to * * * percent in 1983, and in 1984, * * *.

Income-and-loss data on an individual company basis are shown in appendix C for those firms which supplied usable income-and-loss data relative to their malleable and nonmalleable cast-iron pipe fittings operations.

Investment in productive facilities.-- U.S. producers' investment in productive facilities employed in the production of malleable cast-iron pipe fittings, valued at cost, rose from $69.7 million to $77.7 million during 1982-84 (table 10). 1/ The book value of such assets was $33.2 million, as of yearend 1984. Their investment in productive facilities employed in the production of nonmalleable cast-iron pipe fittings, valued at cost, rose from $73.1 million to $83.4 million during 1982-84, and the book value of such assets was $38.8 million, as of yearend 1984. 2/

Table 10.--Investment in productive facilities and capital expenditures related to cast-iron pipe fittings, 1982-84 1/

(In thousands of dollars)

Item	1982	1983	1984
Investment in productive facilities:			
All products:			
Original cost	229,255	248,045	249,750
Book value	121,078	125,773	122,905
Malleable cast-iron pipe fittings:			
Original cost	69,748	77,510	77,711
Book value	32,423	35,289	33,152
Nonmalleable cast-iron pipe fittings:			
Original cost	73,139	79,475	83,414
Book Value	38,472	39,709	38,778
Capital expenditures:			
All products:			
Land	87	42	0
Buildings	1,357	1,195	778
Machinery and equipment	12,973	18,291	13,886
Total	14,417	19,528	14,664
Malleable cast-iron pipe fittings:			
Land	0	1	0
Buildings	589	476	430
Machinery and equipment	4,855	5,328	6,165
Total	5,444	5,804	6,595
Nonmalleable cast-iron pipe fittings:			
Land	0	0	0
Buildings	213	252	279
Machinery and equipment	3,194	5,518	4,713
Total	3,407	5,771	4,992

1/ Data concerning all products are for 5 firms. Data for malleable cast-iron pipe fittings and nonmalleable cast-iron pipe fittings are for 3 firms.

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

1/ Three firms reporting.
2/ Ibid.

Capital expenditures.-- U.S. producers made capital expenditures of $5.4 million in 1982 for facilities used in the production of malleable cast-iron pipe fittings; capital expenditures in 1983 were $5.8 million, and those in 1984 were $6.6 million. 1/ Capital expenditures for facilities used in the production of nonmalleable cast-iron pipe fittings were $3.4 million in 1982, $5.8 million in 1983, and $5.0 million in 1984. 2/

Capital and investment.--U.S. producers were asked to describe any actual or potential negative effects of imports of certain cast-iron pipe fittings from Brazil on their firms' growth, investment, and ability to raise capital. Below are excerpts from their replies:

* * * * * * *

* * * * * * *

The Question of the Threat of Material Injury

In its examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the rate of increase of the subsidized imports, the rate of increase of U.S. market penetration by such imports, the quantities of such imports held in inventory in the United States, and the capacity of producers in Brazil to generate exports (including the availability of export markets other than the United States).

Trends in imports and U.S. market penetration are discussed in the section of this report that addresses the causal relationship between the alleged injury and the subsidized imports. Information regarding the capacity of the Brazilian producer to generate exports is discussed in the section of this report that covers the Brazilian industry.

Both TUPY American Foundry Corp., the sole importer of cast-iron pipe fittings from Brazil, and Kuhns, Inc., an unrelated distributor that purchases virtually all of the cast-iron pipe fittings imported by TUPY American Foundry Corp., hold inventories. These inventories are shown in the following tabulation:

1/ Three firms reporting.
2/ Ibid.

	As of Dec. 31--		
	1982	1983	1984
TUPY American's inventories of Brazilian cast-iron pipe fittings:			
Malleable----------short tons--	***	***	***
Nonmalleable----------do----	***	***	***
Total----------do----	***	***	***
TUPY American's inventories as a share of imports from Brazil:			
Malleable----------percent--	***	***	***
Nonmalleable----------do----	***	***	***
Average----------do----	***	***	***
Kuhns' inventories of Brazilian cast-iron pipe fittings:			
Malleable----------short tons--	***	***	***
Nonmalleable----------do----	***	***	***
Total----------do----	***	***	***
Kuhns' inventories as a share of imports from Brazil:			
Malleable----------percent--	***	***	***
Nonmalleable----------do----	***	***	***
Average----------do----	***	***	***

Consideration of the Causal Relationship Between the Subsidized Imports and the Alleged Injury

U.S. imports

Data contained in this section of the report were compiled from official statistics of the U.S. Department of Commerce. U.S. imports from Brazil of cast-iron pipe fittings covered by the investigation rose to a level in 1983 that was more than six times as great as the level in 1982 (table 11). Imports from Brazil rose again in 1984, by 49 percent from those of 1983. As shown in appendix D, imports of these products from Brazil have fluctuated greatly from month to month. The average unit value of imports of the Brazilian product dropped from $0.69 per pound in 1982 to $0.44 per pound in 1983, and then increased to $0.46 per pound in 1984.

Brazil was the fifth leading source of imports of these cast-iron pipe fittings in 1983 and 1984. Its share of total imports rose continuously from a level of 1.0 percent in 1982 to levels of 6.5 percent in 1983 and 6.7 percent in 1984. Japan was the leading source of imports of this product in 1984 (in terms of quantity), followed by India, the Republic of Korea (Korea), Taiwan, and Brazil, listed in descending order. Total U.S. imports of these cast-iron pipe fittings rose steadily during the period covered by the investigation, increasing by 7 percent from 1982 to 1983 and 44 percent from 1983 to 1984.

Table 11.--Certain cast-iron pipe fittings: U.S. imports for consumption, 1/ by selected sources, 1982-84

Source	1982	1983	1984
	Quantity (short tons)		
Brazil	263	1,750	2,609
Japan	8,371	8,915	11,039
India	3,235	4,888	7,231
Taiwan	4,772	4,701	6,018
Korea	2,817	3,719	6,676
All other	5,800	2,996	5,361
Total	25,259	26,969	38,935
	Value (1,000 dollars)		
Brazil	363	1,542	2,389
Japan	11,046	11,271	15,118
India	1,680	2,217	3,405
Taiwan	5,989	6,094	7,233
Korea	2,952	3,818	6,652
All other	7,065	4,021	6,692
Total	29,095	28,963	41,489
	Unit value (per pound)		
Brazil	$0.69	$0.44	$0.46
Japan	.66	.63	.68
India	.26	.23	.24
Taiwan	.63	.65	.60
Korea	.52	.51	.50
All other	.61	.67	.62
Average	.58	.54	.53
	Percent of total quantity		
Brazil	1.0	6.5	6.7
Japan	33.1	33.1	28.4
India	12.8	18.1	18.6
Taiwan	18.9	17.4	15.5
Korea	11.2	13.8	17.1
All other	23.0	11.1	13.8
Total	100.0	100.0	100.0

1/ Includes imports entered under TSUSA item 610.6240 and TSUS items 610.65, 610.70, and 610.74.

Source: Compiled from official statistics of the U.S. Department of Commerce.

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

Imports from Brazil of malleable cast-iron pipe fittings covered by the investigation followed a similar trend, more than doubling from 1982 to 1983 and again from 1983 to 1984 (table 12). 1/ The average unit value of these imports from Brazil dropped from $0.69 per pound in 1982 to $0.57 per pound in 1983 and to $0.53 per pound in 1984. Brazil's share of total imports of these malleable fittings increased from 1.4 percent in 1982 to 3.7 percent in 1983 and to 6.2 percent in 1984. Japan was the leading source of these imports in 1984, followed by Taiwan, Korea, India, and Brazil, listed in descending order. Total U.S. imports of malleable fittings covered by the investigation increased by 2 percent from 1982 to 1983 and 38 percent in 1984. Baltimore, MD, was the major U.S. customs district through which imports of malleable cast-iron pipe fittings from Brazil entered the United States, accounting for 59 percent of such imports in 1983 and 72 percent in 1984. Philadelphia, PA, accounted for 24 percent of such imports in 1984.

Nonmalleable cast-iron pipe fittings covered by the investigation were not imported from Brazil until November-December 1983, when 1,052 short tons were imported (table 13). 2/ In 1984, 972 short tons were imported from Brazil. The average unit value of imports of the Brazilian product dropped from $0.36 per pound in 1983 to $0.33 per pound in 1984. Brazil was the third leading source of imports of this product in 1983, behind India and Korea, accounting for 13.3 percent of total imports. In 1984, Brazil was the fifth leading source of imports, behind India, Korea, Canada, and Taiwan, accounting for 7.7 percent of total imports. Total U.S. imports of nonmalleable fittings covered by the investigation rose by 60.6 percent from 1983 to 1984. Baltimore, MD, accounted for 100 percent and 98 percent of imports of Brazilian nonmalleable fittings in 1983 and 1984, respectively. Los Angeles, CA, accounted for the remaining 2 percent of such imports in 1984.

The petitioners alleged in an October 5, 1984, amendment to the petition that imports of cast-iron pipe fittings from India, entering under TSUSA item 610.6240 and TSUS items 610.65, 610.70, and 610.74, are not pressure fittings comparable to those produced by the domestic industry and should be excluded from the data base used in the investigation.

1/ The petitioners have alleged that imports of this product from Brazil in 1984 were understated in the official statistics by 100 tons, or 5.8 percent. See the petitioners' prehearing brief, pp. 5-6. They based this allegation on data reported in the Journal of Commerce Import Bulletin which relies on ships' manifest records. Customs officials in Baltimore, MD, stated that the difference could be explained by a lag in reporting and by the fact that the Journal of Commerce data is unverified and subject to error.

2/ The petitioners have alleged that imports of this product from Brazil in 1984 were understated in the official statistics by 248 tons, or 20.3 percent. See the petitioners' prehearing brief, pp. 5-6. They based this allegation on data reported in the Journal of Commerce Import Bulletin, which relies on ships' manifest records.

Table 12.--Certain malleable cast-iron pipe fittings: U.S. imports for consumption, 1/ by selected sources, 1982-84

Source	1982	1983	1984
	Quantity (short tons)		
Brazil	263	698	1,637
Japan	8,357	8,851	10,963
Taiwan	3,961	4,249	4,883
India	1,970	2,126	2,447
Korea	1,946	1,532	3,734
All other	2,159	1,619	2,592
Total	18,656	19,075	26,257
	Value (1,000 dollars)		
Brazil	363	794	1,738
Japan	11,013	11,201	14,967
Taiwan	5,209	5,711	6,336
India	1,000	985	1,198
Korea	1,925	1,565	3,465
All other	3,261	2,253	3,948
Total	22,770	22,509	31,652
	Unit value (per pound)		
Brazil	$0.69	$0.57	$0.53
Japan	.66	.63	.68
Taiwan	.66	.67	.65
India	.25	.23	.24
Korea	.49	.51	.46
All other	.76	.70	.76
Average	.61	.59	.60
	Percent of total quantity		
Brazil	1.4	3.7	6.2
Japan	44.8	46.4	41.8
Taiwan	21.2	22.3	18.6
India	10.6	11.1	9.3
Korea	10.4	8.0	14.2
All other	11.6	8.5	9.9
Total	100.0	100.0	100.0

1/ Includes imports entered under TSUS items 610.70 and 610.74.

Source: Compiled from official statistics of the U.S. Department of Commerce.

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

Table 13.--Certain nonmalleable cast-iron pipe fittings: U.S. imports for consumption, 1/ by selected sources, 1982-84

Source	1982	1983	1984
	Quantity (short tons)		
Brazil	0	1,052	972
India	1,266	2,763	4,783
Korea	871	2,187	2,942
Canada	1,228	875	1,289
Taiwan	810	452	1,135
All other	2,428	566	1,556
Total	6,603	7,894	12,678
	Value (1,000 dollars)		
Brazil	-	748	651
India	680	1,232	2,207
Korea	1,027	2,252	3,188
Canada	1,866	1,273	1,586
Taiwan	780	383	897
All other	1,972	566	1,309
Total	6,325	6,454	9,838
	Unit value (per pound)		
Brazil	-	$0.36	$0.33
India	$0.27	.22	.23
Korea	.59	.51	.54
Canada	.76	.73	.62
Taiwan	.48	.42	.40
All other	.41	.50	.42
Average	.48	.41	.39
	Percent of total quantity		
Brazil	-	13.3	7.7
India	19.2	35.0	37.7
Korea	13.2	27.7	23.2
Canada	18.6	11.1	10.2
Taiwan	12.3	5.7	9.0
All other	36.8	7.2	12.3
Total	100.0	100.0	100.0

1/ Includes imports entered under TSUSA item 610.6240 and TSUS item 610.65.

Source: Compiled from official statistics of the U.S. Department of Commerce.

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

The Commission staff contacted the 14 largest importers of these products from India, accounting for more than 90 percent of such imports, and found that 84.5 percent of the imports of malleable fittings from India and 74.2 percent of the imports of nonmalleable fittings from India are not pressure fittings as defined in the petitioners' amended product description. Most of the imports from India are larger, heavier articles such as valve box extension fittings and adapters, extensions, and mechanical joints for gate valves, which accounts for the fact that the average unit value of imports from India was less than half the value of imports from other principal sources. Consequently, for purposes of calculating U.S. consumption and import penetration as presented in this report, imports from India were adjusted to exclude articles that do not fall within the scope of the amended petition.

Pursuant to section 304(a)(3)(J) of the Tariff Act of 1930 and Treasury Decision 71-89, imported cast-iron pipe fittings covered by the investigation were, until recently, excepted from country-of-origin marking requirements. This exception was revoked under section 207 of the Trade & Tariff Act of 1984, which requires that imports of these articles entering on or after November 14, 1984, have country-of-origin markings by means of die stamping, cast-in-mold lettering, etching, or engraving. In addition, malleable fittings imported from Brazil are marked with the logo "TUPY," and nonmalleable fittings imported from Brazil are marked with Kuhns' logo, "K."

Market penetration of imports

The U.S. producers' share of apparent consumption of cast-iron pipe fittings covered by the investigation declined from * * * percent in 1982 to * * * percent in 1983 and further dropped to * * * percent in 1984 (table 14). Conversely, the share held by imports from Brazil increased from * * * percent in 1982 to * * * percent in 1983 before dropping slightly to * * * percent in 1984. Imports from other countries also increased as a share of U.S. consumption, from * * * percent in 1982 to * * * percent in 1983, and to * * * percent in 1984.

Similar trends existed with respect to shares of apparent consumption of malleable and nonmalleable fittings. However, with respect to nonmalleable fittings, the U.S. producers' share was higher and the share held by imports from countries other than Brazil was lower than for malleable fittings.

Imports of malleable fittings from Brazil as a share of consumption rose from 0.4 percent in 1982 to 1.2 percent in 1983 and to 1.7 percent in 1984. Imports of nonmalleable fittings from Brazil, which first entered the United States in late 1983, accounted for * * * percent of apparent consumption in 1983 and * * * percent in 1984.

Table 14.--Certain cast-iron pipe fittings: Ratios of U.S. producers' shipments and of imports 1/ to apparent U.S. consumption, by types and selected sources, 1982-84

(In percent)

Type and source	1982	1983	1984
Malleable:			
U.S.-produced	73.6	71.5	66.5
Imported from Brazil	0.4	1.2	1.7
Imported from other countries	26.0	27.4	31.8
Total	100.0	100.0	100.0
Nonmalleable:			
U.S.-produced	***	***	***
Imported from Brazil	***	***	***
Imported from other countries	***	***	***
Total	100.0	100.0	100.0
Total:			
U.S.-produced	***	***	***
Imported from Brazil	***	***	***
Imported from other countries	***	***	***
Total	100.0	100.0	100.0

1/ Imports from Brazil are adjusted to reflect the importer's inventories. Imports from India that enter under the 4 TSUS items covered by this investigation but that are not pressure pipe fittings as defined in the petitioners' amended product description are excluded from these calculations (see the pertinent discussion in the "U.S. imports" section of this report).

Source: Compiled from official statistics of the U.S. Department of Commerce and from questionnaires of the U.S. International Trade Commission.

Prices

Domestic producers and Kuhns, Inc., the seller of the Brazilian pipe fittings, compete directly for sales of pipe fittings to unrelated distributors. 1/ Delivered prices charged by these suppliers reflect the first level at which head-to-head competition occurs between the Brazilian-produced and U.S.-produced pipe fittings. Price trends and margins of underselling at this level are described below.

1/ Transcript of the hearing, pp. 96-97; staff discussion with Mr. Gary W. Jackson, Vice President of Kuhns, Inc., in Washington, DC, Feb. 14, 1985; staff telephone conversation with Mr. Ray Carey, Vice President for Marketing, ITT-Grinnell, Providence, RI, Feb. 13, 1985.

TUPY American Foundry Corp. imports the Brazilian pipe fittings into the Port of Baltimore, and, to a lesser extent, into Philadelphia. TUPY American then sells this product to Kuhns at an f.o.b., ex-dock, duty-free price. Kuhns takes delivery of the Brazilian fittings at Baltimore (or Philadephia), * * *, and then sells the Brazilian pipe fittings as part of its brand-name line of pipe fittings to unrelated distributors or end users.

TUPY American sells the imported Brazilian fittings almost exclusively to Kuhns. The Brazilian-produced pipe fittings compete directly with their U.S.-produced counterparts only when Kuhns sells to unrelated distributors. 1/

U.S. producers and Kuhns maintain price lists covering each type of pipe fitting sold. The suggested retail (or list) price for domestically produced pipe fittings is generally determined on a semiannual basis through an analysis of manufacturing costs and other overhead costs. 2/ This list price then forms the basis against which discounts are made. The share of the discount made for any particular sale is dependent upon the quantity purchased, with the discount increasing as the quantity purchased increases. Accordingly, a distributor level customer purchasing less than 1 ton of cast iron pipe fittings receives a discount of 45 percent off the prevailing list price. 3/ A customer purchasing more than 1 ton receives a discount of 55 percent off the list price, and additional price breaks occur at 3 tons, 6 tons, 12 tons, and 20 tons. 4/ Purchasers of less than 1 ton generally are required to assume transportation costs, whereas the seller pays such transportation expenses for larger sales. 5/

No producer dominates any particular geographical region of the continental United States or any particular market segment, according to testimony of a U.S. producer during the preliminary investigation. 6/

However, Kuhns asserts that the Brazilian pipe fittings are excluded from some segments of the domestic market as a result of both Buy American laws

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1/ * * *. Respondents testified that competition with U.S.-produced pipe fittings does not effectively exist for sales by TUPY American Foundry Corp. to Kuhns, Inc. of the Brazilian-produced pipe fittings. Transcript, p. 112.

2/ Staff telephone conversations with Mr. Ray Carey, Vice President for Marketing, ITT-Grinnell, Providence, RI, Feb. 13, 1985, and Mr. Al Schaeffer, Assistant Treasurer, Stanley Flagg & Co., Inc., Stowe, PA, Feb. 13, 1985.

3/ Transcript of the hearing, p. 63.

4/ Ibid., pp. 63-65.

5/ Ibid., pp. 63-64.

6/ Transcript of the preliminary conference, p. 45.

that prohibit the use of imported products in particular applications and private sector preferences for domestically manufactured products. 1/

Price trends and margins of underselling.--The Commission requested price data for common specifications of malleable and nonmalleable pipe fittings sold to distributors by U.S. producers and by Kuhns. Delivered and f.o.b. prices 2/ were requested for each firm's largest sale to an unrelated distributor in each quarter during 1982-84 for the following specifications of pipe fittings:

Product 1: 1-inch nonmalleable, black, threaded, standard pressure (125 psi) 90-degree elbows

Product 2: 1-inch x 1/2-inch, nonmalleable, black, standard pressure (125 psi) concentric reducers

Product 3: 1/2-inch, malleable, black, threaded, standard pressure (150 psi) 90-degree elbows

Product 4: 1/2-inch, malleable, galvanized, threaded, standard pressure (150 psi) 90-degree elbows

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1/ Mr. John Lasko, chairman of Kuhns, Inc., testified that, "the great majority of American customers will not buy imported pipe fittings because of the Buy American laws, because of company policies, or because American workers will not install imported pipe fittings." Transcript of the public hearing, p. 70. Mr. Lasko also stated that "there is a hard, fast group of people, which includes Government, including many gas companies, companies that are highly unionized, who will just plain not use imported fittings under any conditions." Mr. Lasko estimated that the portion of the market excluding imported pipe fittings is equal to the share currently held by the domestic producers. Ibid, p. 93. The domestic producers' 1984 share of the domestic market for pipe fittings is * * * percent. Respondents also provided letters to Kuhns from distributors. One letter cites a bid requirement for a Federal office building project in New York City which was allegedly "restricted to malleable fittings produced by domestic sources only." Letter, O.C. Sales, Inc., Mar. 7, 1985. The second letter cites 41 end users of pipe fittings in New England that allegedly will purchase only a U.S.-produced product. The letter also states that "it is very difficult . . . to influence the large domestic users (in New England) to go to foreign (pipe fittings) because most of the established customers do not want this product." Letter, Emerson-Swan, Inc., Mar. 7, 1985. Both letters were submitted at the hearing.

2/ The Commission also obtained price data for these same specifications of Brazilian-produced pipe fittings sold to Kuhns, Inc. by TUPY American Foundry Corp., the sole importer of record of the Brazilian product. The five U.S. producers provided usable delivered price data, but generally could not provide comparable f.o.b. price information; accordingly, f.o.b. data are not discussed in this section.

During the 1982-84 period, average delivered prices increased for only one of the four U.S.-produced pipe fittings (product 1); prices declined for the three other products for which data were requested. Delivered prices of imports declined for both nonmalleable pipe fittings (products 1 and 2) during 1984 and remained stable for the malleable fittings (products 3 and 4). The prices reported for the Brazilian pipe fittings were usually below those reported for U.S.-produced pipe fittings for three of the four products examined (products 2, 3, and 4).

Product 1.--For 1-inch, nonmalleable black elbows, the U.S. producers' weighted-average delivered price increased from * * * cents per unit in January-March 1982 to * * * cents in October-December 1984, or by * * * percent (table 15). The delivered price of imports in this category decreased from * * * cents per unit in October-December 1983 (the first quarter in which Kuhns sold this product) to * * * cents in October-December 1984, or by * * * percent. Margins of overselling existed for product 1, declining from * * * percent in October-December 1983 to * * * percent in July-September 1984. In October-December 1984, imports undersold U.S. fittings by * * * percent. The decline in overselling came primarily as a result of decreasing prices for the Brazilian product.

Table 15.--Weighted-average delivered prices reported by U.S. producers and the seller of the Brazilian product for sales to distributors of 1-inch, nonmalleable, black, threaded, 90-degree elbows, standard pressure class, by quarters, 1982-84

Period	U.S. product	Brazilian product	Imports' margin of underselling/(overselling)	
			Amount	Percent
	Cents per unit			
1982:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	1/	-	-
October-December	***	1/	-	-
1983:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	1/	-	-
October-December	***	***	***	***
1984:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***

1/ No sales of imports were reported.

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

Product 2.--For 1-inch by 1/2-inch, nonmalleable, black concentric reducers, the U.S. producers' weighted-average delivered price decreased unevenly from * * * cents per unit in January-March 1982 to * * * cents in October-December 1982, or by * * * percent (table 16). The domestic delivered price increased to * * * cents per unit in July-September 1983, before declining significantly to * * * cents in January-March 1984, representing a decline of * * * percent. The domestic price subsequently increased to * * * cents per unit in October-December 1984, or by * * * percent. The delivered price of the Brazilian product decreased from * * * cents per unit in October-December 1983, the first period in which Kuhns marketed this product, to * * * cents in October-December 1984, or by * * * percent. Kuhns' price was above the average producers' price by * * * percent in October-December 1983, and undersold the average producers' price by margins ranging from * * * percent to * * * percent from January-March 1984 to October-December 1984. The increase in margins of underselling in 1984 was primarily the result of increasing producers' prices.

Table 16.--Weighted-average delivered prices reported by U.S. producers and the seller of the Brazilian product for sales to distributors of 1-inch x 1/2-inch, nonmalleable, black concentric reducers, standard pressure class, by quarters, 1982-84

Period	U.S. product	Brazilian product	Imports' margin of underselling/(overselling)	
			Amount	Percent
	Cents per unit			
1982:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	1/	-	-
October-December	***	1/	-	-
1983:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	1/	-	-
October-December	***	***	***	***
1984:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***

1/ No sales of imports were reported.

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

Product 3.--For 1/2-inch, malleable, black elbows, the U.S. producers' weighted-average delivered price fluctuated downward from * * * cents per unit in January-March 1982 to * * * cents in October-December 1984, or by * * * percent (table 17). Kuhns' delivered price for the Brazilian product remained within a narrow price range of * * * to * * * cents per unit from July-September 1983 to October-December 1984. Margins of underselling averaged * * * percent during July 1983-December 1984.

Table 17.--Weighted-average delivered prices reported by U.S. producers and the seller of the Brazilian product for sales to distributors of 1/2-inch, malleable, black, threaded, 90-degree elbows, standard pressure class, by quarters, 1982-84

Period	U.S. product	Brazilian product	Imports' margin of underselling	
			Amount	Percent
	Cents per unit			
1982:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	1/	-	-
October-December	***	1/	-	-
1983:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	***	***	***
October-December	***	***	***	***
1984:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***

1/ No sales of imports were reported.

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

Product 4.--For 1/2-inch, malleable, galvanized elbows, the U.S. producers' weighted-average delivered price increased from * * * cents per unit in January-March 1982 to * * * cents in April-June 1982 (table 18). The domestic weighted-average price fluctuated within a narrow range of * * * to * * * cents per unit during April 1982-December 1984. Kuhns' delivered price for the Brazilian product in this category remained within a narrow price band of * * * to * * * cents per unit from July-September 1983 to October-December 1984. Margins of underselling for this product ranged from a low of * * * percent during July-September 1983 to a high of * * * percent in April-June 1984.

Table 18.--Weighted-average delivered prices reported by U.S. producers and the seller of the Brazilian product for sales to distributors of 1/2-inch, malleable, galvanized, threaded, 90-degree elbows, standard pressure class, by quarters, 1982-84

Period	U.S. product	Brazilian product	Imports' margin of underselling	
			Amount	Percent
	Cents per unit			
1982:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	1/	-	-
October-December	***	1/	-	-
1983:				
January-March	***	1/	-	-
April-June	***	1/	-	-
July-September	***	***	***	***
October-December	***	***	***	***
1984:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***

1/ No sales of imports were reported.

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

Transportation costs.--Pipe fittings sold by the U.S. producers and the importer of the Brazilian product are transported to distributors by truck. Three U.S. producers and Kuhns, the distributor of the Brazilian-produced pipe fittings, indicated that transportation costs averaged 4 to 5 percent of the delivered price across the spectrum of all pipe fittings sold. 1/ The freight charges for pipe fittings shipped to particular regions of the country are listed in terms of value and as a percent of the delivered price for a large representative sale to each region. The following freight charges were reported in response to the Commission's questionnaire:

	Value (per 100 pounds)	Percent of delivered price
Chicago market area		
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
Atlanta market area		
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
Houston/New Orleans market area		
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
Los Angeles/San Francisco market area		
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
Philadelphia/New York market area		
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***

1/ Staff telephone conversations with Mr. Al Schaeffer, Assistant Treasurer of Stanley Flagg & Co., Stowe, PA, Feb. 11, 1985; Mr. Ray Carey, Vice President for Marketing, ITT-Grinnell, Providence, RI, Feb. 11, 1985; Mr. Jeff Horman, Assistant Controller, Ward Foundry Division, Blossburg, PA, Feb. 11, 1985; and staff conversation with Mr. Gary Jackson of Kuhns, Inc., in Washington, DC, Feb. 14, 1985.

Exchange rates

Table 19 presents the nominal and real exchange-rate indexes for U.S. dollars per Brazilian cruzeiro. The real exchange-rate index that is displayed represents the nominal exchange-rate index adjusted for the difference in the relative inflation rates between the two countries.

Table 19.--Indexes of producer prices in the United States and Brazil and indexes of the nominal and real exchange rates between the U.S. dollar and the Brazilian cruzeiro, 1/ by quarters, January 1982-December 1984

(January-March 1982=100)

Period	U.S. producer price index	Foreign producer price index	Nominal exchange-rate index	Real exchange-rate index
1982:				
January-March	100.0	100.0	100.0	100.0
April-June	100.1	120.7	86.1	103.8
July-September	100.5	142.8	72.7	103.3
October-December	100.6	165.0	59.9	98.1
1983:				
January-March	100.7	205.9	42.2	86.4
April-June	101.0	272.3	29.0	78.1
July-September	102.0	390.0	21.6	82.6
October-December	102.5	549.7	15.9	85.2
1984:				
January-March	103.6	724.6	12.1	84.5
April-June	104.3	962.6	9.1	84.0
July-September	104.1	1,284.4	6.9	84.8
October-December	104.0	2/	4.1	2/

1/ Based on exchange rates expressed in dollars per Brazilian cruzeiro.
2/ Not available.

Source: International Monetary Fund, International Financial Statistics.

As can be seen from the table, the nominal value of the Brazilian cruzeiro depreciated against the dollar by 93.1 percent between January-March 1982 and July-September 1984. However, the very high rates of inflation in Brazil suggest that the real value of the cruzeiro has declined by only 15.2 percent against the dollar during this period.

Lost sales

Eight allegations of lost sales were provided by U.S. producers. The first allegation was made by * * * during the preliminary investigation and involved * * * pounds of malleable fittings purchased by * * * in * * * for a total price estimated to be * * * lower than the price offered by * * *'s distributor. The purchasing agent for * * *, which is a * * *, indicated that * * *. * * *.

The second lost sale allegation was made by ITT-Grinnell after an official of Kuhns indicated that Kuhns purchased nonmalleable fittings from ITT-Grinnell from 1976 to 1983, when Kuhns shifted its source of supply to TUPY. 1/ ITT-Grinnell later reported that it had sold an annual average of * * * in nonmalleable fittings to Kuhns from 1980 through 1982, * * * in 1983, and * * * in 1984. 2/ In addition, ITT-Grinnell reported that it had sold * * * in malleable fittings to Kuhns in 1980, * * * in 1981, * * * in 1982, and * * * in 1983 and 1984. 3/

The remaining six allegations of lost sales, five by * * * and one by * * *, were provided in connection with the petitioners' posthearing brief. * * * alleged that because Kuhns' prices were lower for Brazilian pipe fittings, the company lost orders for * * * of pipe fittings in 1984 from * * *. * * * stated that * * * firm purchased * * * pounds of Brazilian malleable pipe fittings from Kuhns in 1984. The price was approximately 10 to 15 percent lower than that of the domestically produced fittings. This purchase represented approximately * * * percent of * * *'s total purchases of malleable pipe fittings for that year. * * *. In 1985, * * * did not purchase from Kuhns because * * *. * * *.

* * * alleged that * * * had purchased * * * of Brazilian malleable and nonmalleable pipe fittings from Kuhns in * * * 1984 at a price that was * * * percent lower than that offered by * * *. * * * stated that he has been purchasing nonmalleable fittings for the past two years from * * * and * * * in approximately equal quantities. * * * indicated that he did not know if the Kuhns product is imported or not, but he thought it was not because it bore Kuhns' "K" logo. 4/ He also said that there was no effective price difference between the pipe fittings that he purchases from * * * and those that he purchases from * * *. * * * stated that the discounts that all three companies offer are * * *. With respect to list prices, he stated that * * *.

1/ Transcript of the preliminary conference, pp. 57-58.
2/ Petitioners' submission of Oct. 19, 1984, p. 2.
3/ Petitioners' submission of Mar. 15, 1985.
4/ The staff notes that Kuhns' domestically produced and imported nonmalleable pipe fittings both bear the "K" logo.

* * * alleged that it lost a sale that it was attempting to make to * * * of nonmalleable pipe fittings. The sale allegedly went to Kuhns because Kuhns provided a price 12 percent lower than * * *'s. * * * stated that his firm purchased some * * * of malleable pipe fittings from Kuhns in * * * 1984 at a price approximately 15 percent below that offered by the domestic producers. * * * also purchased some * * * of nonmalleable pipe fittings from Kuhns around * * * 1984, with the Kuhns price being about * * * percent less than that of the domestic producers. The Brazilian fittings' quality was the same as that of the domestic pipe fittings. * * * purchases approximately * * * of pipe fittings (mostly nonmalleable) per year. * * *.

* * * alleged that it lost * * * of its business in 1984 with * * * as a result of Kuhns' Brazilian pipe fittings undercutting * * *'s prices for similar fittings by * * * percent. * * * indicated that in 1984 he purchased some * * * of malleable pipe fittings of Brazilian manufacture from Kuhns at a price that was some 30 percent lower than that of * * *'s fittings. He would not, however, explicitly state that Kuhns displaced * * * as a major supplier for his firm. * * *.

* * * made an allegation that * * *. * * *. * * * prefers * * * the TUPY products because the other foreign-produced cast-iron pipe fittings are of lower quality. He indicated that at the beginning of 1984, Kuhns' prices were approximately 5 to 10 percent lower than U.S. producers' prices, but as of 1985, Kuhns' prices were comparable to those of U.S. producers.

* * * made an allegation that a decrease in sales to * * * during * * * 1984 was due to lower priced sales by Kuhns. * * * acknowledged that his company did purchase malleable cast-iron pipe fittings from Kuhns that had the TUPY logo. * * * stated that the TUPY fittings were 16 to 25 percent lower in price than the U.S.-produced fittings. * * * purchased less from Kuhns in 1984 because Kuhns does not maintain inventories capable of filling all of * * * orders. However, since 1982, * * * has increased its inventories of all foreign-produced fittings from * * * percent of total inventories to * * * percent. * * *.

* * * made no specific allegations of lost sales or lost revenues but was aware of one purchaser that allegedly bought Brazilian cast-iron pipe fittings in lieu of those manufactured by * * *. This purchaser, * * *, is a major contractor that * * * nationally. The firm buys from * * *. * * *.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-221 (Preliminary)]

Certain Cast-Iron Pipe Fittings From Brazil; Determination

Determinations

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury [2] by reason of imports from Brazil of nonalloy, nonmalleable cast-iron pipe fittings, of standard pressure rating (125 pounds per square inch (p.s.i.)) and of heavy-duty pressure rating (250 p.s.i.), other than for cast-iron soil pipe, provided for in items 610.62 and 610.65 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Government of Brazil.

The Commission further determines that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury,[3] by reason of imports from Brazil of nonalloy, malleable cast-iron pipe fittings, of standard pressure rating (150 p.s.i.) and of heavy-duty pressure rating (300 p.s.i.), provided for in (TSUS) items 610.70 and 610.74, which are alleged to be subsidized by the Government of Brazil.

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

[2] Chairwoman Stern and Commissioner Lodwick determine that there is a reasonable indication of material injury.

[3] Chairwoman Stern determines that there is a reasonable indication of threat of material injury. Commissioner Lodwick determines that there is a reasonable indication of material injury.

Background

On September 18, 1984, counsel for the Cast Iron Pipe Fittings Committee filed petitions with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured or threatened with material injury by reason of imports from Brazil and India of certain cast-iron pipe fittings which are allegedly subsidized by the Governments of Brazil and India. Accordingly, effective September 18, 1984, the Commission instituted preliminary countervailing duty investigations under section 703(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigations 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, D.C., and by publishing the notice in the **Federal Register** of September 26, 1984 (49 FR 37856). The conference was held in Washington, D.C., on October 12, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

On October 5, 1984, the Commission received a letter from counsel for the petitioners withdrawing the petition relating to imports of the subject merchandise from India. Accordingly, on October 9, 1984, the Commission discontinued the investigation on India (investigation No. 701-TA-222 (Preliminary)). The notice of withdrawal of the petition was published in the **Federal Register** of October 17, 1984 (49 FR 40676). On the same date, counsel for the petitioners filed an amendment to the petition, modifying the product description to include only malleable and nonmalleable cast-iron pipe fittings that fall within the standard and heavy-duty pressure classes.

The Commission transmitted its report on the investigation to the Secretary of Commerce on November 2, 1984. A public version of the Commission's report, *Certain Cast-Iron Pipe Fittings from Brazil* (investigation No. 701-TA-221 (Preliminary), USITC Publication 1597, 1984), contains the views of the Commission and information developed during the investigation.

Issued: November 2, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-29459 Filed 11-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-221 (Final)]

Certain Cast-Iron Pipe Fittings From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-221 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether 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 Brazil of non-alloy cast-iron pipe and tube fittings other than for cast-iron soil pipe, provided for in items 610.62, 610.65, 610.70, and 610.74 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before February 25, 1985, and the Commission will make its final injury determination by April 17, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: December 19, 1984.

FOR FURTHER INFORMATION CONTACT: Martha Mitchell (202-523-0301), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of non-alloy cast-iron pipe and tube fittings other than for cast-iron soil pipe. The investigation was requested in a petition filed on September 18, 1984, by the Cast Iron Pipe Fittings Committee.[1] In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (49 FR 44690, November 8, 1984).

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 of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the 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)), 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.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on February 26, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on March 14, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 21, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on February 26, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 11, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) workings days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.220). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on March 21, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 21, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). 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 submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984)

Authority: The investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: January 10, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-1274 Filed 1-15-85; 8:45 am]

BILLING CODE 7020-02-M

[1] The 5 member producers of this committee are Stanley G. Flagg & Co., Inc., ITT-Grinnell, Stockham Valves & Fittings Co., U-Brand Corp., and Ward Foundry Division of Clevepak Corp.

[C-351-406]

Final Affirmative Countervailing Duty Determination; Cast-Iron Pipe Fittings from Brazil

February 25, 1985.

AGENCY: Imports Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of cast-iron pipe fittings. The net subsidy is 18 percent *ad valorem* and 14.17 percent *ad valorem* for bonding purposes. We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of cast-iron pipe fittings from Brazil that are entered or withdrawn from warehouse, for consumption, after December 12, 1984, and to require a cash deposit or bond on entries of these products in the amount equal to the net subsidy.

EFFECTIVE DATE: March 5, 1985.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-3530 (LaCivita) or (202) 377-5414 (Kane).

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of cast-iron pipe fittings. For purposes of this investigation, the following programs are found to confer subsidies:

- IPI Export Credit Premium;
- Exemption for Export Earnings Income Tax;
- Working Capital Financing for Exports (Resolutions 674 and 682/950);
- Export Financing Under the CIC-CREGE 14-11 Circular;
- The CDI Program—Exemption of IPI Taxes and Customs Duties on Imported Equipment;
- The BEFIEX Program;
- The CIEX Program;
- Long-Term Loans under the ADTEN (Apoio ao Desenvolvimento Tecnologico da Empresa Nacional) of FINEP (Finaciadora de Estudos e Projetos).

We determine the net subsidy to be 18 percent *ad valorem* and 14.17 percent *ad valorem* for bonding purposes.

Case History

On September 18, 1984, we received a petition from the Cast-Iron Pipe Fittings Committee, on behalf of the U.S. industry producing certain cast-iron pipe fittings. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Brazil of certain cast-iron pipe fittings directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure or threaten material injury to a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on October 9, 1984, we initiated such an investigation (49 FR 28290). We stated that we expected to issue a preliminary determination by December 12, 1984.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On November 2, 1984, the ITC determined that there is a reasonable indication that these imports materially injure or threaten material injury to a U.S. industry (49 FR 37856).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. on October 18, 1984.

On November 26, 1984, we received a response to the questionnaire. On the basis of information contained in this questionnaire response, we made a preliminary determination on December 12, 1984.

We verified the response of the government of Brazil in Rio de Janeiro, from January 14, 1985 to January 23, 1985.

At the request of both petitioner and respondents, we held a hearing on January 28, 1985, to allow the parties an opportunity to address the issues arising in the investigation. Both petitioner and respondents filed briefs discussing these issues before and after the hearing.

Scope of the Investigation

The products covered by this investigation are certain cast-iron pipe fittings, which are defined for purposes of this proceeding as: cast-iron fittings, not malleable, other than alloy cast iron and other than for use with cast-iron soil pipe; or cast-iron fittings, malleable, advanced in condition by operations or processes subsequent to the casting process, or if not advanced, of other than alloy cast-iron as currently provided for in items 610.6240, 610.6500, 610.7000 and 610.7400 of the *Tariff Schedules of the United States, Annotated (TSUSA)*.

The only known producer and exporter in Brazil of certain cast-iron pipe fittings to the United States is Fundicao Tupy S.A., for which we have received information from the government of Brazil. For purposes of this final determination, the period for which we are measuring subsidization ("the review period") is Fundicao Tupy

S.A.'s 1984 fiscal year—April 1, 1983, to March 31, 1984.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Based upon our analysis of the petition, the response to our questionnaire, our verification, and comments filed by petitioners and respondents, we determine the following:

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of cast-iron pipe fittings under the following programs:

A. *IPI Export Credit Premium and Export Tax.* Brazilian exporters of manufactured products are eligible for a tax credit on the Imposto sôbre Produtos Industrializados (Industrialized Products Tax, or IPI). The IPI export credit premium, a cash reimbursement paid to the exporter upon the export of otherwise taxable industrial products, has been found to confer a benefit in previous countervailing duty investigations. After suspending this program in December 1979, the government of Brazil reinstated it on April 1, 1981, in accordance with Ministry of Finance "Portaria" (Notice) No. 270 (amended by Portaria No. 252 on November 29, 1982).

Subsequent to April 1, 1981, this export credit premium was partially phased out in accordance with Brazil's commitment pursuant to Article 14 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"). The government of Brazil gradually reduced the benefit from 15 percent in 1981 to 11 percent on September 30, 1982.

Fundicao Tupy S.A. received benefits under this program. We divided the credits earned in fiscal year 1984 over the value of its cast-iron pipe fittings exports in that year, and calculated a net subsidy of 10.53 percent *ad valorem*.

It is our policy to take into account program-wide changes announced before the preliminary determination. On September 12, 1984, the government of Brazil instituted Portaria No. 176 which reduced the IPI Export Credit Premium to 7 percent effective on December 1, 1984. We verified that these changes occurred, and determine that the rate shall be 6.70 percent *ad valorem* for cash deposit or bonding purposes.

B. *Income Tax Exemption for Export Earnings.* Under Decree-Laws 1158 and 1721, exporters of cast-iron pipe fittings are eligible for exemption from income tax on a portion of profits attributable to export revenue. Because this exemption is tied to exports and is not available for domestic sales, we determine it to confer a subsidy. Fundicao Tupy S.A. took an exemption from income tax payable in 1983 on a portion of export profits earned in 1982. We multiplied that portion by the nominal corporate tax rate, and allocated the benefit over the total value of fiscal 1984 exports to calculate a subsidy rate of 0.48 percent *ad valorem*.

C. *Working Capital Financing for Exports (Resolutions 674 and 682/950).* Resolution 682 financing, administered by the Carteira do Comercio Exterior (CACEX) of the Banco do Brasil, provides short-term working capital to purchase inputs for the production of goods destined for export. On January 1, 1984, Resolution 682 superseded Resolution 674, under which such financing was previously granted. On August 21, 1984, Resolution 682 was modified by Resolution 950. Eligibility for 674/682/950 financing is based on the company's past export performance or on an acceptable export plan. The amount available for financing is calculated by making a series of adjustments to the dollar value of exports.

Following CACEX approval of their applications, participants receive certificates which represent portions of the total dollar amount for which they are eligible. Exporters may present the certificates to banks in return for cruzeiro loans at the exchange rate in effect on that date. Use of a certificate establishes a loan obligation with a term of up to one year (360 days). Certificates must be used within 12 months of the date of issue, and loans incurred as a result of their use must be repaid within 18 months of that date.

During the review period, the interest ceiling on loans obtained under the program was raised from 40 to 60 percent. Resolution 682 changed the interest rate to full monetary correction plus three percent, with the interest and principal payable on the expiration date of the loan. Resolution 950 changed the interest ceiling again to full monetary correction plus an interest rate such that the maximum difference between that interest rate and the prevailing interest rate is 10 percent. Since 674/682/950 financing is contingent on export performance, and provides funds to participants at interest rates lower than those available from commercial sources, we determine that this program confers an export subsidy.

To calculate the benefit, we compared the interest rates charged with the appropriate benchmark (the compounded minimum discount rate on accounts receivable) and applied the difference to the principal amounts, based on the date that interest was paid. We allocated the benefit over the total value all exports, and calculated a subsidy rate of 3.20 percent *ad valorem*.

D. *Export Financing Under the CIC–CREGE 14–11 Circular.* Under its CIC–CREGE 14–11 circular ("14–11"), the Banco do Brasil provides 180- and 360-day cruzeiro loans for export financing, on the condition that companies applying for these loans negotiate fixed-level exchange contracts with the bank. Companies obtaining a 360-day loan must negotiate exchange contracts with the bank in an amount equal to twice the value of the loan.

Companies obtaining a 180-day loan must negotiate an exchange contract equal to the amount of the loan. In addition to requiring exchange contracts, the Banco do Brasil requires that these loans be fully secured by collateral in the form of tangible property. The bank normally requires that the value of collateral equal at least 130 percent of the amount of the loan. The bank also charges a commission on all such loans.

All exporters of manufactured products with production cycles of less than 180 days may apply for these loans. The maximum level of eligibility is based on the value of the applicant's exports in the previous year. Companies that also receive Resolution 682 financing have a maximum eligibility of 10 percent; all others have a maximum eligibility of 15 percent.

Although this program does in certain aspects appear to operate on a commercial basis, the government of Brazil did not supply sufficient data to support its assertion that commissions, exchange contract requirements and collateral requirements serve to raise the effective rates on these loans to a level of comparability with those on short-term loans from other commercial sources. Without sufficient information with which to quantify these additional charges, we must compare unadjusted nominal rates on 14–11 loans with our commercial benchmark, *i.e.*, the nominal discount rate of accounts receivable, as

the best information available. This comparison shows that the rate on 14–11 loans is below the benchmark.

Fundicao Tupy S.A. obtained loans under this program. To calculate the benefit, we compared the interest rates charged with the appropriate benchmark and applied the difference to the principal amounts. We then allocated the benefit over the total value of Fundicao Tupy's exports, which resulted in a subsidy rate of 2.40 percent *ad valorem*.

E. *The CDI Program—Exemption of IPI Tax and Customs Duties on Imported Equipment.* Under Decree-Law 1137 and its successor Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council, or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed feasible and the recipient must demonstrate that there is a need for added capacity in Brazil.

CDI Resolution 22 of October 24, 1972, extended these benefits to "pilot industries" and permitted the CDI to recommend pilot industrial projects for financing by the National Economic Development Bank (FUNTEC), the Financier of Studies and Projects (FINEP), and by the National Fund for Scientific and Technological Development (FNDCT). Resolution 1428 extended the right to grant exemptions from customs duties and from the IPI tax on imported equipment to other agencies within the government (CIEX among them).

Decree Law 1726 of December 7, 1979 repealed this program. Subsequently, no new projects were eligible for these benefits. However, companies whose projects were approved prior to repeal still receive these benefits pending completion of the project.

In prior cases (Certain Carbon Steel Products from Brazil; Final Affirmative Countervailing Duty Determination (49 FR 17988), it was determined that the CDI exemption from customs duties and the IPI tax on imported equipment is limited to projects in fourteen industries approved by the government. Based on the record of this and earlier Brazilian countervailing duty investigations, we have no evidence that this requirement does not allow the government to target benefits to particular companies. For this reason, we determine that the CDI program confers a subsidy on the products under investigation. Neither the government of Brazil nor Fundicao Tupy S.A. provided sufficient evidence to establish that benefits were not provided to Fundicao Tupy S.A. under the CDI program during the review period. Therefore, we used the best information available, which in this case is information supplied by petitioner, to determine a subsidy of 0.38 percent *ad valorem*.

F. *The BEFIEX Program.* The Comissao para a Concessao de Beneficios Fiscais a Programas Especiais de Exportacao (Commission for the Granting of Fiscal Benefits to Special Export Programs, or BEFIEX) grants at least three categories of benefits to Brazilian exporters:

- Under Decree-Law 77.065, BEFIEX may reduce by 70 to 90 percent import duties and the IPI tax on the importation of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI tax on imports of components, raw materials and intermediary products;
- Under article 13 of Decree No. 72.1219, BEFIEX may extend the carry-forward period of tax losses from 4 to 6 years; and
- Under article 14 of the same decree, BEFIEX may allow special amortization of pre-operational expenses related to approved projects.

This program has been found to confer a subsidy in the past, and neither the government of Brazil nor Fundicao Tupy S.A. provided sufficient information to establish that this program was not used. Therefore, we used the best information available, which in this case is information supplied by petitioner, to determine a subsidy of 0.50 percent *ad valorem*.

G. *The CIEX Program.* Decree-Law 1428 authorized the Comissao para Incentivos à Exportaçao (Commission for Export Incentives, or CIEX) to reduce import taxes and the IPI tax up to 10 percent on certain equipment for use in export production. This program has been found to confer a subsidy in previous investigations. Because neither the government of Brazil no Fundicao Tupy S.A. provided sufficient information to verify that this program was not used, we used the best information available, which in this case is information supplied by petitioner, to determine subsidy of 0.25 percent *ad valorem*.

H. *Long-Term Loans Under the ADTEN (Apoio ao Desenvolvimento Technologico da Empresa Nacional) of FINEP (Financiadora de Estudos e Projetos).* During the course of the investigation, we discovered and verified that Fundicao Tupy S.A. received a number of long-term loans from FINEP, a government agency charged with promoting scientific and technological development in Brazil.

FINEP works in conjunction with the CNPq of (Conselho Nacional de Desenvolvimento Cientifico e Technologico) to approve and grant loans through state-owned regional development banks in conformity with the Secretaria de Planejamento (SEPLAN) and to implement the objectives of the Third Basic Plan of Scientific and Technological Development (III BPDCT). FINEP has a number of loan programs, the largest of which is ADTEN. ADTEN grants loans for projects which: develop new products; adapt and absorb new technology; train human resources to absorb new technology; commercialize new products and implement management techniques to employ new technology; develop quality control techniques; establish new research and development centers in the country; and engage in pure research. Companies negotiate the terms of each loan with the regional development banks with whom they deal. They must submit to the terms of the loan imposed by the bank and by FINEP, which disburses the funds in allotment, and maintains project oversight throughut the life of the loan. These loans are granted at preferential rates of interest and are partially indexed to inflation. Moreover, the Brazilian government was unable to demonstrate that these loans were not provided to specific enterprises, industry or group of enterprises or industries. Therefore, we determine that these loans are countervailable.

Fundicao Tupy S.A. had a number of commercial loans which were fully indexed to inflation and granted at rates of interest that were higher than those charged on FINEP loans. We used these as our benchmark. We calculated the reductions in: (1) The rate of interest payable and (2) the increase in principal outstanding resulting from the partial indexation, and found a subsidy of 0.26 percent *ad valorem*.

II. Programs Determined not to Confer Subsidies

A. *Income Tax Deductions for Foreign Selling Expenses.* Petitioner alleged that the govenment of Brazil offers companies income tax deductions for selling expenses incurred or export sales, but does not offer comparable deductions for domestic selling expenses. At verification we found that

income tax deductions for foreign selling expenses are granted under the same general criteria as equivalent domestic expenses; such expenses are deductible regardless of whether the expense was for domestic or export purposes. Therefore, we determine this program not to confer a subsidy.

III. Programs Determined not To Be Used

We determine that manufacturers, producers or exporters in Brazil of certain cast-iron pipe fittings did not use the following programs listed in our notice, Initiation of a Countervailing Duty Investigation: Cast-Iron Pipe Fittings from Brazil (49 FR 40431):

A. *IPI Tax Rebates for Capital Investment.* Decree-Law 1547, enacted in April 1977, provides funding for approved expansion projects in the Brazilian steel industry through a rebate of the IPI, a value-added tax imposed on domestic sales.

We verified that producers of pipe fittings are not eligible for IPI rebates under Decree-Law 1547. Accordingly, we determine that this program was not used by the producer of the products under investigation.

B. *Resolution 330 of the Banco Central do Brasil.* Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. Exporters of cast-iron pipe fittings would be eligible for financing under this program. However, we verified that Fundicao Tupy S.A. did not participate in this program during the review period.

C. *Resolution 68 (FINEX) Financing.* Resolution 68 of the Conselho Nacional do Comercio Exterior (COCEX) provides that CANCEX may draw upon the resources of the Fundo de Financiamento a Exportacao (FINEX) to extend dollar-denominated loans to foreign buyers of Brazilian goods. Financing is granted on a transaction-by-transaction basis.

We verified that Fundicao Tupy S.A. did not receive Resolution 68 financing on transactions with the United States during the review period.

D. *Accelerated Depreciation for Capital Goods Manufactured in Brazil.* Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws. We verified that Fundicao Tupy S.A. did not participate in this program during the review period.

E. *Local Tax Incentives.* Petitioner alleges that the respondent benefited from certain unspecified local tax measures and incentives in Brazil. We verified that Fundicao Tupy S.A. did not receive any local tax benefits.

F. *Incentives for Trading Companies.* Petitioner alleges that the respondent distributes its export sales through such intermediaries as trading companies, and that under Resolution 643 of the Banco Central do Brasil, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 674/682. We verified that Fundicao Tupy S.A. did not use this program.

G. *Government Guarantees on Long-Term Loans.* Petitioner alleges that the respondents benefited from certain government guarantees on long-term foreign-currency loans. We verified that Fundicao Tupy S.A. did not use this program.

H. *The PROEX Program.* Petitioner alleges that short-term credits for exports were established under the Programa de Financiamento a Producao para a Exportacao (PROEX), previously referred to as the Apoio a Exportacao program during the review period. We verified that Fundicao Tupy S.A. did not use this program.

IV. Programs Determined Not To Exist

A. *The Foundry Plan.* Petitioner alleges that Fundicao Tupy S.A. receives incentives under the "Foundry Plan" of the Third Basic Plan of Scientific and Technological Development—1980–1985 (III–PBDCT). That plan calls for the "strengthening of indigenous foundries with the active participation of the government."

We verified that the III–PBDCT provides neither financial benefits nor any other types of assistance. It is simply a policy statement intended to stimulate the use of available public sector resources for scientific and technological development. Funds are provided through on-going programs of various Brazilian government ministries and agencies. An example of this is the long-term financing through FINEP which we have found to be countervailable in this determination. We found no evidence to the contrary at verification and therefore determine that this program, as alleged, does not exist.

Petitioner's Comments

Comment 1: Petitioner claims that, based on information in the petition, the Department should not have accepted the Brazilian government's response that the Foundry Plan does not provide benefits for purposes of the preliminary determination. Petitioner contends that the Department's practice of accepting this type of response rewards evasive and otherwise uncooperative respondents.

DOC Position: Unless we have persuasive evidence to the contrary, we accept a foreign government's denial that a program exists or its statement that a particular firm does not receive benefits under a program for purposes of the preliminary determination. In the case of the Foundry Plan, we requested further information to explain the discrepancy between petitioner's claims and the Brazilian government's response. For the final determination, we have verified that the Foundry Plan, as alleged, does not exist.

Comment 2: With regard to any grant or loan received by Fundicao Tupy S.A. for research and development, petitioner contends that these benefits are not generally available, that the results of the R&D would not have broad applicability, and should be considered countervailable.

Respondents rebut petitioner's contention by arguing that the research and development assistance received by Fundicao Tupy S.A. is not countervailable because it is for research and development of a product unrelated to cast iron pipe fittings. However, even if the benefits could be tied to the product under investigation, similar assistance is provided to a variety of industries and the results of the research and development will have wide application and be available to the public. Finally, they contend that no commercial benefit is conferred by this program.

DOC Position: We have countervailed against those partially-indexed FINEP loans which we found to be related to cast iron products. We did not receive sufficient evidence that these loans were generally available or that the results of the R&D projects have been disseminated to the public.

Comment 3: Petitioner argues that program-wide changes, such as those effected by the phase-out of the IPI export credit premium, should not be taken into account if they occur after the period of investigation. Moreover, should the Department accept the program-wide change, petitioner believes that the November and December 1984 reductions cannot be documented because of the delay of receipt of the IPI payment.

DOC Position: As a general rule, we take into account program-wide changes that occur after the period of investigation and prior to a preliminary determination if we have verified information on the change and the

magnitude of the resulting subsidy. Our practice reflects our concern that bonding/deposit rates correspond as nearly as possible to the eventual duty liability and that the petitioners have an opportunity to make comments on the program-wide changes during the investigation. Therefore, when a program-wide change occurs after the period of review and before the preliminary determination and where that change is verifiable, our net subsidy calculation is adjusted to reflect the change. With regard to the November and December 1984 IPI reductions, our practice is to calculate the benefit on the basis of the IPI that is applied for or earned, not on the amount of IPI received. We verified that the amounts applied for in November and December 1984, were consistent with the announced reductions.

Comment 4: Petitioner claims that the Department should have investigated the upstream subsidy allegedly conferred on producers of cast-iron pipe fittings through purchases of subsidized pig iron. In particular, petitioner contends that because Brazilian pig iron producers receive domestic subsidies, the price paid for the pig iron should be adjusted upwards to reflect these subsidies. Also, petitioner objects to the Department's test of the effect of the pig iron subsidy on the cost of producing cast iron pipe fittings.

DOC Position: We declined to initiate an investigation of upstream subsidies in this case because we determined that petitioners did not demonstrate that domestic subsidies to Brazilian pig iron producers conferred a competitive benefit on Brazilian cast-iron pipe fittings or that the subsidies to the pig iron producers had a significant effect on the cost of producing cast-iron pipe fittings. In the first instance, the mere existence of a domestic subsidy is not sufficient to demonstrate that this subsidy is passed on, *i.e.*, that it confers a competitive benefit. With regard to the significant effect test, we have determined that a potential cost savings of less than 1 percent on an input that accounts for only 30–40 percent of the value of the final product is not significant.

Comment 5: Petitioner contends that there is sufficient evidence on the record on which to make a determination that imports of certain cast-iron pipe fittings have been massive over a relatively short period of time. Hence, the Department should make a final affirmative determination of critical circumstances in this case.

DOC Position: IM–146 statistics demonstrate that the volume of cast-iron pipe fittings from Brazil declined 8.5 percent in the three-month period following the filing of the petition and was 35 percent lower in the second half of 1984 than in the second half of 1983. Expressed as a percentage of total U.S. cast-iron pipe fittings imports, imports from Brazil dropped 51 percent in the same period. On the basis of that data, we determine that imports were not massive over a relatively short period of time, and therefore, that critical circumstances do not exist.

Comment 6: Petitioner argues that exemption of export credits and export insurance from indirect taxes constitutes a countervailable subsidy, because only indirect taxes on physically incorporated inputs may be rebated.

DOC Position: The IOF tax is included in the benchmark for short-term export financing and hence captures the additional benefit conferred by the tax exemption.

Respondents' Comments

Comment 1: Respondents claim that, based on its verification, the Department should conclude that Fundicao Tupy S.A. receives no benefits under the Basic Plan of Scientific and Technological Development (the Foundry Plan). They further contend that even if benefits were available they would not be countervailable because they are provided to more than a specific industry, enterprise or group of industries or enterprises.

DOC Position: See section IV(A) and Petitioner's Comment 1 of this notice.

Comment 2: Respondents argue that in its final determination, the Department should provide for decreases in the bonding/deposit rate corresponding to reductions in the IPI export credit premium rate scheduled for January 1, 1985 through May 1, 1985. They claim that it is not lawful to continue to assess duties or require deposits at levels in effect before the date of any reduction.

DOC Position: We cannot take into account program-wide changes that have not yet been implemented. As stated in our response to Petitioner's Comment 3, we calculate the bonding/deposit rate to correspond as closely as possible to the eventual assessment rate. Nevertheless, we must balance the desire for accuracy with the need to base our final determination on verified information and the need to allow petitioners an opportunity to comment on the alleged program-wide range. As a result, our "cut-off" date for taking into account program-wide changes has been the date of the preliminary determination. Verified post-preliminary program-wide changes will be taken into account in any administrative review that may occur under section 751 of the Act.

Comment 3: Respondents claim that the value of the subsidy arising from the IPI export credit premium should be based on the firm's actual utilization of the program rather than on the total amount available.

DOC Position: We agree. The bonding/deposit rate reflects the amount of the IPI export credit premium for which Fundicao Tupy S.A. applied.

Comment 4: Fundicao Tupy S.A. argues that in calculating the net subsidy conferred by the IPI export credit premium the Department should deduct the loss in value resulting from the government-mandated delay in receipt of the payment.

DOC Position: Under section 771(6)(B) of the Act, an offset is allowed for "any loss in the value of the subsidy resulting from its deferred receipt if the deferral is mandated by Government order." In the case of the IPI export credit premium, no such government mandate exists. Delays in a company's receipt of IPI credits are administrative, the result of a lengthy application and approval process. No offset is allowed in this case.

Comment 5: Respondents argue that the effective rather than the nominal corporate tax rate should be used in valuing the benefit from the income tax exemption for export earnings.

DOC Position: We verified that Fundicao Tupy S.A.'s effective tax rate is the same as its nominal tax rate, 35 percent.

Comment 6: Respondents claim that for short-term export financing the Department should calculate the benefit based on the changes effected by Resolutions 882 and 950, which came into force on January 1, 1984, and August 21, 1984, respectively.

DOC Position: As discussed elsewhere in this notice, we attempt to take into account program-wide changes that occur prior to our preliminary determination when the changes can be verified. However, for certain types of programs this is not possible. For example, modifications in short-term financing regimes can result in changed utilization rates and changed benchmarks. The effects of these changes are not easily quantified, nor do they occur immediately. A mechanical computation of benefits, based on assumptions such as those suggested by respondents, is unacceptable in these circumstances. Moreover, Fundicao Tupy S.A.'s experience under Resolution 950 is extremely limited and therefore does not form an adequate basis for calculating a bonding/deposit rate. Therefore, we have calculated the

subsidy based on Fundicao Tupy S.A.'s actual experience during the period of investigation. If the level of benefit has changed as a result of Resolution 950, this will be taken into account in any eventual 751 review.

Comment 7: Respondents argue that the benefits from Resolution 674/882/950 short-term export financing should be allocated by product and market because the bulk of Fundicao Tupy S.A's exports are to Europe and Southwest Asia.

DOC Position: While it is possible to tie the amount of financing a company qualifies for to its export of a specific product, it is not possible to attribute the use of working capital loans to a specific product destined for a specific market. Therefore, we allocate the benefit received from all loans over the value of all exports.

Comment 8: Respondents contend that the Department should use Fundicao Tupy S.A.'s monthly receivable discount rate as the benchmark for short-term export financing.

DOC Position: As stated in the Subsidies Appendix, we do not calculate company-specific benchmarks for short-term financing programs.

Comment 9: Respondents argue that the Department should use the effective interest rates on 674/882/950 loans, reflecting partial payment of interest during the term of the loan.

DOC Position: We agree.

Comment 10: For short-term export financing under Resolution 674/882/950 and CIC–CREGE 14–11, respondents claim that the Department erred in considering 1984 loans in calculating the subsidy.

DOC Position: The period of investigation is April 1, 1983 through March 31, 1984. Therefore, any loans on which interest was paid during the period are properly included in our calculations.

Comment 11: Respondents claim that the Department should allocate the benefits under CIC-CREGE 14–11 over the value of total exports.

DOC Position: We agree and have allocated the benefits over Fundicao Tupy S.A.'s fiscal 1984 export sales.

Comment 12: Respondents ask that the Department take into account any collateral requirements, foreign exchange contracts and the related costs of financing in computing the effective cost of CIC-CREGE 14–11 loans.

DOC Position: We could not verify these costs and hence did not include them.

Comment 13: Respondents have made additional comments claiming that: (1) The exemption from the IOF tax on export loans is not a countervailable subsidy, (2) the use of unweighted, average benchmarks is incorrect, and (3) the CIC-CREGE 14–11 financing is not countervailable because it is not a government program, and because it operates on a commercial basis, consistent with the standards enunciated in the Subsidies Code.

DOC Position: The Department's positions on these issues were most recently stated in the Final Affirmative Countervailing Duty Determination on Oil Country Tubular Goods from Brazil. Respondents have provided no new information which would cause us to change those positions.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, on December 12, 1984, we instructed the U.S. Customs Service to suspend liquidation of all entries of cast-iron pipe fittings from Brazil (49 FR 48319). As of the date of publication of this notice in the Federal Register, the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended and the Customs Service shall require an *ad valorem* cash deposit or bond for each such entry of this merchandise as follows:

Manufacturers, producers and exporters	Ad valorem rate (percent)
Fundicao Tupy S.A.	14.17
All other manufacturers/producers/exporters	14.17

This suspension will remain in effect until further notice.

Final Negative Determination of Critical Circumstances

Petitioner alleged that critical circumstances exist within the meaning of section 705(a)(1) of the Act, with respect to cast-iron pipe fittings from Brazil. In determining whether critical circumstances exist, we examine whether:

(a) The alleged subsidy is inconsistent with the agreement, and

(b) There have been massive imports of the subject merchandise over a relatively short period.

In the case, information on the record does not indicate that there have been massive imports of the merchandise under investigation over a relatively short period of time within the meaning of section 705(a)(1) of the Tariff Act of 1930. Therefore, we determine that critical circumstances do not exist with regard to cast-iron pipe fittings from Brazil.

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will 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 written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure or threaten material injury to, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on cast-iron pipe fitings from Brazil entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the net subsidy amount indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671(d)).

February 28, 1985.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 85-5271 Filed 3-4-85; 8:45 am]

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APPENDIX B

LIST OF WITNESSES APPEARING AT THE PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Certain Cast-Iron Pipe Fittings from Brazil

Inv. No. : 701-TA-221 (Final)

Date and time: March 18, 1985 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

In support of the imposition of countervailing duties:

Rose, Schmidt, Dixon & Hasley--Counsel
Washington, D.C.
on behalf of

Cast Iron Pipe Fittings Committee

Thomas Cook, President, Manufacturing and Supply Group, ITT Grinnell Corporation

John McGarrah, President, Stanley G. Flagg and Company, Inc.

Peter Buck Feller)
Michael K. Tomenga)--OF COUNSEL
Lawrence J. Bogard)

- more -

In opposition to the imposition of countervailing duties:

Freeman, Wasserman & Schneider--Counsel
New York, N.Y.
on behalf of

Fundicao Tupy S.A., of Joinville, Santa Catarina, Brazil
and
Tupy American Foundry Corporation, Lancaster, Pennsylvaia

Mario Parucker, Sales Director, FundicaoTupy S.A.

Cherubin Schwartz, Technical Manager, Tupy American Foundry Corporation

John Lasko, Chairman, Kuhns Inc., Dayton, Ohio

Kenneth Guise, President, Kuhns Inc.

Philip Bentley, Barrister at the English Bar

Jack Gumpert Wasserman)
Philip Yale Simons)
Patrick C. Reed)--OF COUNSEL
John Rioux)

APPENDIX C

INCOME-AND-LOSS EXPERIENCE OF INDIVIDUAL PRODUCERS

Table C-1.--Income-and-loss experience of U.S. producers on their operations producing malleable and nonmalleable cast-iron pipe fittings, by firms, 1982-84 1/

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

APPENDIX D

MONTHLY IMPORT DATA

Table D-1.--Cast-iron pipe fittings: U.S. imports for consumption from Brazil, by months, January 1982-January 1985

(In short tons)

Period	Nonmalleable	Malleable	Total
1982:			
January	0	14	14
February	0	0	0
March	0	37	37
April	0	28	28
May	0	46	46
June	0	0	0
July	0	45	45
August	0	13	13
September	0	0	0
October	0	68	68
November	0	9	9
December	0	3	3
Total	0	263	263
1983:			
January	0	0	0
February	0	0	0
March	0	0	0
April	0	6	6
May	0	0	0
June	0	0	0
July	0	16	16
August	0	173	173
September	0	0	0
October	0	292	292
November	501	210	711
December	551	0	551
Total	1,052	698	1,750
1984:			
January	351	70	421
February	403	0	403
March	36	127	163
April	68	195	263
May	17	121	138
June	97	178	276
July	0	446	446
August	0	31	31
September	0	17	17
October	0	54	54
November	0	0	0
December	0	399	399
Total	972	1,637	2,609
1985:			
January	10	107	117

Source: Compiled from official statistics of the U.S. Department of Commerce.

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