

**CERTAIN PAINT FILTERS AND STRAINERS
FROM BRAZIL**

**Determination of the Commission
In Investigation No. 701-TA-280
(Preliminary) Under the Tariff Act
of 1930, Together With the
Information Obtained in the
Investigation**

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**Determination of the Commission
In Investigation No. 731-TA-337
(Preliminary) Under the Tariff Act
of 1930, Together With the
Information Obtained in the
Investigation**

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigations Nos. 701-TA-280 (Preliminary) and
731-TA-337 (Preliminary)

CERTAIN PAINT FILTERS AND STRAINERS FROM BRAZIL

Determination

On the basis of the record 1/ developed in the subject investigations, 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 2/ by reason of imports from Brazil of disposable paint filters and strainers of paper, containing cotton gauze, provided for in item 256.90 of the Tariff Schedules of the United States (TSUS), or of cotton gauze, containing paper, provided for in TSUS item 386.53, or of nylon mesh, containing paper, provided for in TSUS item 389.62, which are alleged to be subsidized by the Government of Brazil. 3/ The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured 2/ by reason of imports from Brazil of these disposable paint filters and strainers, provided for in TSUS items 256.90, 386.53, and 389.62, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On July 15, 1986, a petition was filed with the Commission and the Department of Commerce by Louis M. Gerson Co., Inc., Middleboro, MA, alleging

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

2/ Commissioner Stern determines that there is a reasonable indication that an industry in the United States is threatened with material injury.

3/ The Department of Commerce notified the Commission on August 21, 1986, that it was modifying the scope of investigation to reflect nylon mesh strainers provided for in TSUS item 389.62.

that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and LTFV imports of certain paint filters and strainers from Brazil. Accordingly, effective July 15, 1986, the Commission instituted preliminary countervailing duty investigation No. 701-TA-280 (Preliminary) and preliminary antidumping investigation No. 731-TA-337 (Preliminary).

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, DC, and by publishing the notice in the Federal Register of July 23, 1986 (51 FR 26476). The conference was held in Washington, DC, on August 6, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

We determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of paint filters and strainers from Brazil that are allegedly subsidized and that are allegedly sold at less than fair value (LTFV). 1/ 2/ 3/

Like product/domestic industry

Title VII requires the Commission to determine the domestic industry before it assesses the impact of unfairly traded imports. 4/

The imported products covered by these investigations are all disposable paint strainers. 5/ 6/ Generally, they are paper cones with a mesh of cotton

1/ Material retardation is not an issue in these investigations.

2/ Commissioner Stern finds that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports from Brazil. See her Additional Views, infra.

3/ See Chairman Liebel's Additional Views, infra.

4/ Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as "the domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 19 U.S.C. § 1677(4)(A). "Like product" is 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" 19 U.S.C. § 1677(10). The "article subject to an investigation" is defined by the scope of the investigation as set forth by the Department of Commerce (Commerce).

5/ In its notice of initiation, Commerce defined the articles subject to investigation as "[p]aint filters and strainers of paper, containing cotton gauze, provided for in item 256.9080 of the Tariff Schedules of the United States Annotated (TSUSA), and paint filters and strainers of cotton gauze, containing paper, provided for in item 386.5300 of the TSUSA." 51 Fed. Reg. 28,739, 28,740 (Aug. 11, 1986). On Aug. 12, 1986, the petitioner notified the Commission and Commerce that it intended the scope of investigation to include "[a]ll disposable paint filters or strainers, in any shape or material, composed of an imperforate body with a cut out portion of perforate material, manufactured in Brazil." On Aug. 21, 1986, Commerce notified the Commission that it was modifying the scope of investigation to reflect "[d]isposable paint filters and strainers from Brazil, the mesh portions of which may be paper, cotton or other materials."

6/ Although these investigations cover all disposable paint filters and strainers, these products are commonly known as "paint strainers" in the industry. Report of the Commission (Report) at A-2.

gauze covering openings in the smaller end. 7/ The paint strainers are made with four different mesh sizes: extra fine, fine, medium, and coarse.

However, 80 percent are made of medium mesh. 8/

The paint strainers are used primarily by automotive body shops to remove lumps or impurities from paint before use in spray guns, thereby giving the paint a smooth and even consistency. A smaller market exists for strainers in the health industry, where they are used to strain the urine of kidney patients. 9/

Disposable paint strainers made of paper and cotton gauze mesh are produced in the United States. The respondent urged the Commission to determine that the domestic disposable paint strainers are of such superior quality so as not to be like the paint strainers imported from Brazil. However, the record shows that the differences between any of the domestic strainers and the imported strainers do not amount to a significant difference in quality.

Because all disposable paint strainers have a similar appearance, are used for identical purposes, are interchangeable or substitutable for each other, and have similar channels of distribution, we determine that all domestic disposable paint strainers are like the paint strainers imported from Brazil.

The Commission also considered whether the like product in these investigations is limited to disposable paint strainers whose bodies are

7/ The imports subject to investigation also include disposable paint strainers whose cut out portion contains synthetic nylon mesh. These paint strainers currently are being sold only in Europe. Transcript of the conference (Tr.) at 95.

8/ Report at A-2; Post-Conference Brief of the Petitioner at 3.

9/ Report at A-2.

mainly composed of textile and paper, or whether the like product includes reusable paint strainers made from materials such as nylon, plastic, or brass. Based on conference testimony, data submitted in briefs, and responses to questionnaires, the evidence now available supports a finding that reusable paint strainers differ in characteristics and uses from disposable paint strainers. Reusable paint strainers differ in that they: (1) are made of different materials; (2) can be used indefinitely if cleaned properly, while the disposable paint strainers are thrown away after each use; (3) differ substantially in cost; (4) are made by different producers from those making disposable paint strainers; and (5) are purchased by consumers whereas disposable paint strainers are received by automotive body shops at no additional cost with the purchase of paint.

Therefore, we conclude that the domestic like product is all disposable paint strainers and filters and that the domestic industry consists of the producers of the disposable paint strainers and filters.

Condition of the domestic industry

In assessing the condition of the domestic industry the Commission considered, among other factors, the production, capacity, capacity utilization, shipments, employment, and financial data of the domestic industry. 10/

There are currently only two producers of disposable paint strainers in the United States, the petitioner Gerson and AdTec Products, Inc.

10/ See 19 U.S.C. § 1677(7)(C)(iii).

(AdTec). 11/ 12/ Two additional firms, Lake City Products (Lake City) and Reliable Strainer Manufacturing Co. (Reliable) ceased production in 1985. Lake City was purchased in 1979 by Dorn Colorcard Co. to supplement its primary business, colorcards. However, the firm's sales declined steadily from 1980 to 1985. In 1985, the company determined that it could use the space dedicated to producing paint strainers to better advantage by producing colorcards and ceased production of paint strainers. 13/ Reliable, the first strainer producer in the United States which began operations over 50 years ago, reportedly was closed when the cost of producing paint strainers exceeded the cost of importing them from Brazil. 14/

The data show a deteriorating industry throughout the period of investigation. 15/ The Commission obtained information from all four firms for 1983-85. Data obtained after 1985 were limited to Gerson and AdTec. 16/ U.S. production declined by almost 10 percent from 1983 to 1985. 17/ The combined capacity and employment for Gerson and AdTec remained constant during 1983-85. 18/ Combined total shipments declined from 178 million strainers to 154 million, or by 14 percent from 1983-85. 19/ Production, capacity, and employment declined after Lake City and Reliable stopped production. 20/

11/ Report at A-5.

12/ At a Commission meeting held on May 24, 1976, the Commission established guidelines it would follow to determine if information should be classified as confidential. All business data will be deleted in the case of: (1) one firm composing the domestic industry; (2) two firms composing the domestic industry; (3) three firms, one of which produces 75 percent of the domestic production; and (4) two firms producing 90 percent of the domestic production. Thus, much of the data in these investigations that relate to Gerson and AdTec can only be discussed in general terms.

13/ Report at A-5.

14/ Id.

15/ Id. at A-4.

16/ Id. at A-6.

17/ Id.

18/ Id. at A-7-A-8.

19/ Id.

20/ Id.

Sales and profitability were down for the industry during the period of investigation. 21/

Therefore, on the basis of the record in these preliminary investigations, we determine that there is a reasonable indication that the domestic disposable paint strainer industry is materially injured. 22/ 23/

Reasonable indication of material injury by reason of allegedly subsidized imports and imports allegedly sold at LTFV from Brazil 24/

In making its determination whether there is a reasonable indication that material injury to the domestic industry is by reason of allegedly LTFV or subsidized imports, 25/ 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 impact of such imports on the relevant domestic industry. 26/

Imports of disposable paint strainers from Brazil rose from 4 million strainers in 1983, when imports of paint strainers from Brazil first entered the United States, to 30 million strainers in 1985. 27/ Imports continued to

21/ Id. at A-9.

22/ Commissioner Stern does not regard it as analytically useful or appropriate to consider the question of material injury completely separate from the question of causation. Although she does join in the discussion of the condition of the domestic industry, she does not join in this conclusion. See Additional Views of Chairwoman Stern in Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. No. 1786 at 18-19 (Dec. 1985).

23/ Commissioner Eckes believes that the Commission is to make a finding regarding the question of material injury in each investigation. See Cellular Mobile Telephones and Subassemblies Thereof, Inv. No. 731-TA-207 (Final), USITC Pub. No. 1786 at 20-21 (Dec. 1985).

24/ Commissioner Stern finds only a reasonable indication of a threat of material injury to the domestic industry. See Commissioner Stern's Additional Views, *infra*. Commissioner Stern incorporates by reference the data discussed in this section in her examination of threat.

25/ 19 U.S.C. § 1673(b).

26/ 19 U.S.C. § 1677(7).

27/ Report at A-10.

increase from 15 million disposable paint strainers in January-June 1985 to about 21.1 million in January-June 1986, or by 41 percent. 28/ The ratio of imports from Brazil to apparent U.S. consumption rose sharply from 1983 to 1985. 29/

Price and availability were generally cited by purchasers as the most important factors in choosing suppliers. 30/ However, the Commission has found that any differences between the disposable paint strainers is not significant.

The Commission requested producers and importers to provide quarterly price data during January 1983-June 1986 on their largest single quarterly sales to wholesalers/distributors and to jobbers of paint strainers. The price data received by the Commission are limited, but data indicate that the Brazilian strainers generally undersold U.S.-produced regular paint strainers on a delivered basis, especially in recent quarters. 31/ 32/ Although costs went up, domestic prices were relatively stable during the period of investigation. 33/ Thus, the record in these preliminary investigations

28/ Id. at A-10-A-11.

29/ Id. at A-11.

30/ Id. at A-11-A-17.

31/ Id. at A-15.

32/ Vice Chairman Brunsdale notes that title VII requires the Commission to "consider whether there has been significant price undercutting by the imported merchandise as compared with the price of like products of the United States" 19 U.S.C. § 1677(7)(C)(ii)(I). She believes, however, that the information generally collected by the Commission about "underselling" does not have much bearing on "price undercutting." Accordingly, the Vice Chairman does not generally consider the "underselling margins" set forth in the Commission reports to be particularly persuasive evidence of price undercutting or probative of the issue of causation. In brief, when there are price differences between the foreign and domestic products, they are usually explained by differences in the items compared. Rarely will all of the characteristics of the imported product exactly match those of the domestic product. For a more general discussion of underselling, see Memorandum from Director, Office of Economics, EC-J-010 (Jan. 7, 1986) at 8-22.

33/ Report at A-13.

indicates that the presence of increasing volumes of low-priced imports from Brazil may have suppressed domestic prices, thereby decreasing the profitability of the domestic industry. The Commission also received and verified several allegations of lost sales and revenues due to price competition from imported Brazilian paint strainers. 34/ 35/

Therefore, we find there is a reasonable indication that the domestic industry producing disposable paint strainers is experiencing material injury by reason of allegedly subsidized and allegedly LTFV imports from Brazil.

34/ Id. at A-20-A-24.

35/ Vice Chairman Brunsdale does not generally consider the Commission's use of anecdotal lost sales accounts to be useful in determining whether the subject imports are a cause of material injury. For a general discussion of lost sales data, see Memorandum from Director, Office of Economics, EC-J-010 (Jan. 7, 1986) at 1-7.

Although the Vice Chairman does not consider the Commission's data on underselling or lost sales persuasive in this investigation, she finds on the record that there is a reasonable indication that domestic production has been reduced and prices have been suppressed by reason of the allegedly dumped and subsidized imports.

The demand for paint strainers is highly inelastic because one disposable paint strainer is used to paint each automobile and the cost of the paint strainer is only a very small fraction of the cost of the entire job. Consequently, the demand for disposable paint strainers is determined primarily by the demand for automobile paint jobs, which implies that the total sales of paint strainers is essentially fixed without regard to price. Thus, to the extent that the domestic industry can increase production, sales made by dumped or subsidized imports are at the expense of domestic sales. The record shows that Brazilian imports have increased significantly since 1983, Report at A-10, and suggests that it would have been possible for domestic producers to have increased production significantly. See id. at A-6-A-7.

Although the price of regular domestically produced strainers does not appear to have changed significantly over the period of investigation, id. at A-13-A-20, the petitioner alleges that as a result of dumped and subsidized imports from Brazil it has been forced to change its product mix somewhat in order to maintain sales, resulting in the reduction of its profit margin on strainers. See Petition at 34 (confidential information). Unfortunately, this discussion is somewhat cryptic because the petitioner has requested that the details be kept confidential. However, on the record and according to the reasonable indication standard, I find that prices and profit margins have declined. See American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986).

ADDITIONAL VIEWS OF CHAIRMAN LIEBELER

Inv. No. 701-TA-280 (Preliminary) and 731-TA-337 (Preliminary), Certain paint filters and strainers from Brazil.

I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of paint filters and strainers from Brazil that are allegedly subsidized and allegedly sold at less than fair value (LFTV).¹ I concur in the discussion of the majority with respect to like product, domestic industry, and condition of the industry.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a preliminary investigation, the Commission must determine that there is a reasonable indication that the allegedly dumped or subsidized imports cause or threaten to cause

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Material retardation is not an issue because the industry is well established.

material injury to the domestic industry producing the like product. First, the Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material injury. Second, the Commission must determine whether any injury or threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds a reasonable indication of both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one must resort to the legislative history in order to interpret the relevant sections of the antidumping law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful meaning are subject to such statutory interpretation.²

The statutory language used for both parts of the two-part analysis is ambiguous. "Material injury" is

²

Sands, Sutherland Statutory Construction Sec. 45.02 (4th Ed.)

defined as "harm which is not inconsequential, immaterial,³ or unimportant." This definition leaves unclear what is meant by harm. As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would otherwise prevail. If a downward effect on price, accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down were all that were required for an affirmative determination, there would be no need to inquire further into causation.

³

19 U.S.C. sec. 1977(7)(A) (1980).

But the legislative history shows that the mere presence of LTFV imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

[T]he ITC will consider information which indicates that harm is caused by factors other⁴ than the less-than-fair-value imports.

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."⁵

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination of the ITC with respect to causation, is under current law, and will be, under section 735, complex and difficult, and is matter for the judgment of the ITC."⁶

⁴ Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 75 (1979).

⁵ Id.

⁶ Id.

Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a

7

United States industry.

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

[T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market

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Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

⁸
price.

This "difficult and complex" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions of traditional microeconomic theory is that firms attempt to maximize profits.⁹ Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear."¹⁰

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain

⁸
Id.

⁹
See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45 (12th ed. 1985); W. Nicholson, Intermediate Microeconomics and Its Application 7 (3d ed. 1983).

¹⁰
Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."¹¹

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit an affirmative finding under the law interpreted in light

¹¹

Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

of the cited legislative history.

The stronger the evidence of the following . . . the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping margins, (3) homogeneous products, (4) declining prices and (5) barriers to entry to other foreign producers (low

13

elasticity of supply of other imports).

The statute requires the Commission to examine the volume of imports, the effect of imports on prices, and the

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general impact of imports on domestic producers. The legislative history provides some guidance for applying these criteria. The factors incorporate both the statutory criteria and the guidance provided by the legislative history. Each of these factors is evaluated in turn.

Causation analysis

Examining import penetration data is relevant because unfair price discrimination has as its goal, and cannot

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Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebler).

13

Id. at 16.

14

19 U.S.C. 1677(7)(B)-(C) (1980 & cum. supp. 1985).

take place in the absence of, market power. Imports of disposable paint strainers and filters from Brazil increased from 3.8 million units in 1983 to 30 million in 1985.¹⁵ The quantity of imports continues to accelerate; 15 million units were imported between January-June 1985, while 21.1 million were imported between January-June 1986.¹⁶ This resulted in a significant increase in imports as a percentage of apparent U.S. consumption. The ratio of imports in 1985¹⁷ was eight times the ratio in 1983.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more likely it is that the product is being sold below the competitive price¹⁸ and the more likely it is that the domestic producers will be adversely affected. In a preliminary investigation, the Commerce Department has not yet had time to calculate any margins. I therefore rely on the margins alleged by petitioner. There is no

¹⁵
Report at A-10.

¹⁶
Id.

¹⁷
Report at A-11.

¹⁸
See text accompanying note 8, supra.

allegation with respect to the specific level of the
¹⁹subsidy. Using the constructed value method,
 petitioner calculated LTFV margins equal to 70.03
²⁰percent. The alleged LTFV margin is high and is not
 inconsistent with a finding of unfair price discrimination.

The third factor is the homogeneity of the products.
 The more homogeneous the products, the greater will be the
 effect of any allegedly unfair practice on domestic
 producers. There appears to be no substantial difference
 between domestic and imported disposable paint strainers
 and filters.²¹ All disposable strainers have a similar
 appearance, are used for identical purposes, are
 substitutable for each other, and have similar channels of
 distribution.²² Thus, the products appear to be
 homogeneous.

As to the fourth factor, evidence of declining
 domestic prices, ceteris paribus, might indicate that

¹⁹
 Report at A-2.

²⁰
 Report at A-2-A-3.

²¹
 Report at A-2-A-3.

²²
Id.

domestic producers were lowering their prices to maintain market share. For the products investigated, f.o.b. prices for regular U.S. produced strainers do not appear to have changed throughout the period under²³ investigation. I note, however, that in some cases²⁴ meaningful price trends could not be developed. Price data should be further investigated in the event of a final determination in this case.

The fifth factor is barriers to entry (foreign supply elasticity). If there are barriers to entry (or low foreign elasticity of supply) it is more likely that a producer can gain market power. Brazil is the only source of U.S. imports of disposable paint strainers and²⁵ filters. This is not inconsistent with a finding of unfair price discrimination.

These five factors must be balanced in each case to reach a sound determination. At present, import

²³
Report at A-13-A-14.

²⁴
Id.

²⁵
Report at A-10.

penetration, the alleged LTFV margin, and the absence of imports from other countries all support an affirmative decision in these preliminary investigations.

Conclusion

Therefore, I conclude that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of paint filters and strainers from Brazil that are allegedly subsidized and allegedly sold at less than fair value.

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Although there are no quantified allegations with respect to the magnitude of the subsidy margins, I determine that it would be inappropriate to terminate an investigation because of the absence of such allegations.

ADDITIONAL VIEWS OF COMMISSIONER STERN

After analyzing all data including the factors of capacity utilization of the Brazilian producer CELUPA and the possibility of diversion of CELUPA's paint filters and strainers from the European market to the United States, I have decided that it is more appropriate to conclude that an industry in the United States is threatened with material injury by reason of imports of paint filters and strainers (strainers) from Brazil. 1/

Although CELUPA is operating at almost maximum capacity, several factors must be considered. 2/ First, strainers are a simple product mainly produced by hand in Brazil. Thus, it is possible to increase production by merely hiring additional employees and adding a room to the existing facility.

1/ Section 612 of the Trade and Tariff Act of 1984 added a new subparagraph 771(7)(F) which directs the Commission to consider a number of economic factors in assessing threat of material injury. Such factors include:

- the nature of the subsidy;
- the ability and the likelihood of the foreign producers to increase the level of exports to the United States due to increased production capacity or unused capacity;
- any rapid increase in penetration of the United States market by imports and the likelihood the penetration will increase to injurious levels;
- the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on the domestic prices of the merchandise;
- any substantial increases in inventories of imported merchandise in the United States;
- underutilized capacity for producing the merchandise of the exporting country;
- any other demonstrable adverse trends that indicate the probability that importation of the merchandise will be the cause of actual injury; and
- the potential for product-shifting.

2/ Transcript of the conference at (Tr.) 87. Post-Conference Brief of the Respondent at 27.

Second, CELUPA is a paper filter and paper coffee filter manufacturer. Therefore, it already produces the paper used in the paint strainers. Because of similarities in the manufacture and composition of the products, the company can easily shift production from the coffee filters to paint strainers. Third, CELUPA is a subsidiary of Melitta, which also produces filters. 3/ With Melitta's help, CELUPA could easily expand capacity.

Furthermore, at the Conference, the respondent CELUPA confirmed that it was manufacturing disposable synthetic mesh strainers but asserted that they were only being sold in Europe. 4/ The Commission has obtained information that from 1984 to 1986, CELUPA exported significant quantities of paint strainers to Europe. 5/ Although these strainers have features that are patented in the United States, the manufacturing process that is involved in making these strainers easily allows for simple design modifications. With minor modification, the European strainers can be imported in the United States without violating the patent laws. Thus, exports can be diverted to the presently expanding U.S. market.

Considering these factors in conjunction with the rapid growth in volume and market penetration of the Brazilian strainers, the effect of the imports on prices in the United States for the like product, and the impact of the imports on the domestic industry, I conclude that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of paint filters and strainers from Brazil.

3/ Melitta manufactures paper filters and paper coffee filters in Brazil.

4/ Tr. at 95.

5/ Letter dated August 21, 1986, from counsel for CELUPA to Kenneth R. Mason.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On July 15, 1986, the U.S. International Trade Commission and the U.S. Department of Commerce (Commerce) received a petition from counsel on behalf of Louis M. Gerson Co., Inc., a producer of paint filters and strainers located in Middleboro, MA, alleging that imports of certain paint filters and strainers from Brazil, provided for in items 256.90 and 386.53 of the Tariff Schedules of the United States (TSUS), are being subsidized by the Government of that country and that an industry in the United States is materially injured and threatened with material injury by reason of such imports. The petition also alleges that imports of certain paint filters and strainers from Brazil are being sold at less than fair value (LTFV) and that an industry in the United States is materially injured and threatened with material injury by reason of such imports.

The Commission, therefore, instituted preliminary countervailing duty and antidumping investigations under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)), respectively, 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 such imports. The statute directs that the Commission make its determinations within 45 days after its receipt of the petition, or in these cases, by August 29, 1986.

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, DC, and by publishing the notice in the Federal Register on July 23, 1986 (51 F.R. 26476). 1/ The public conference was held in Washington, DC, on August 6, 1986. 2/ The briefing and votes in these investigations were held on August 25, 1986.

Nature and Extent of Alleged Unfair Imports

The petitioner alleges that imports of certain paint filters and strainers from Brazil are being subsidized by the Government of Brazil and, additionally, are being sold in the United States at LTFV. The specific allegations, presented on pages 16-26 of the petition, are briefly summarized below.

Allegedly subsidized imports

The petitioner specifies 11 programs which are believed to confer subsidies, bounties, or grants on exports of paint strainers and filters from

1/ A copy of the Commission's notice of institution is presented in app. A. Copies of Commerce's notices of investigation are also presented in app. A.

2/ A list of witnesses appearing at the conference is presented in app. B.

Brazil. The petitioner does not present an estimated total level of subsidies conferred under these programs.

Alleged sales at LTFV

The petitioner used two methods to calculate LTFV margins. In one, the foreign market value of paint filters and strainers was calculated by using data on sales to Western Europe. The U.S. price was calculated by making permissible deductions from the selling price of an U.S. importer. Based on these calculations, LTFV margins of 22.96 percent exist.

The petitioner states, however, that the foreign market value of paint filters and strainers should not be calculated in the above manner since sales to all export markets have been made at prices below the Brazilian producer's costs of production. When the constructed value method is used by petitioner to determine foreign market value, LTFV margins of 70.03 percent are derived.

The Product

Description and uses

The paint filters and strainers 1/ covered by these investigations are conical in shape, with the open end generally made of cup stock paper 2/ and the small end containing several perforations covered by cotton gauze. These disposable strainers are primarily used by auto body shops to remove lumps and thoroughly mix paint before it is placed in spray guns. A second, much smaller market for strainers exists in the health industry, where strainers are used to catch passed kidney stones. 3/

The size and configuration of the gauze-covered openings in the strainer varies depending on the producer. However, all strainers achieve essentially the same result irregardless of the differences in the openings; i.e., the removal of lumps or solids from liquid. 4/ Strainers are sold in four mesh sizes: extra fine, fine, medium, and coarse. Approximately 80 percent of all strainers are medium mesh, which is the only size exported by Brazil to the United States. Between 15 and 30 percent of all U.S. produced strainers are imprinted with a firm's name or message, a method of economical advertising.

1/ These products are commonly known as "strainers" in the industry and are referred to as such hereafter in this report.

2/ Cup stock paper is medium weight and calendered. Calendered paper is passed between heavy rotating rollers to achieve a smooth, nonporous finish. Paper that is not calendered is porous, such as that in coffee filters and tissue paper.

3/ The strainers used for hospital applications are essentially the same as those used for industrial purposes. However, different glue is used in hospital strainers.

4/ Transcript of the conference, p. 38. Also, conversation between David Coombs, Commission staff, and Joseph Fischer, President, Fleetwood Products.

Strainers from Brazil are not imprinted as the Brazilian producer does not own printing equipment.

Strainers may be produced by machine or by hand. Both current U.S. producers use specially designed machinery to produce this product. The Brazilian producer, as well as at least one former U.S. producer, assembles strainers by hand. By comparison, the highly automated process used by Gerson involves * * * which produce filters from the raw materials of paper and gauze. In this process * * *. Parts for the machines are unavailable commercially and thus are made in the plant by staff machinists.

As mentioned, the strainers manufactured by the U.S. producers and those imported from the sole Brazilian producer are made of paper and cotton gauze. These strainers are generally thrown out after one use. Other strainers are available in the market that also serve the function of straining paint. 1/ However, these products, which are made of materials ranging from plastic to bronze to nylon, are not commonly discarded after one use or given by paint jobbers to auto body shops at no charge. The reason for this is price. Unlike the paper and gauze strainers, those produced with other materials cost \$1.00 or more, a significant difference from the 3-5 cents for the subject strainers.

U.S. tariff treatment

U.S. imports of the paint strainers covered by these investigations are classified in item 256.90 of the TSUS if in chief value of paper, and in TSUS item 386.53 2/ if in chief value of cotton (gauze). Imports from Brazil and other beneficiary developing countries enter duty-free under the Generalized System of Preferences (GSP) if classified in TSUS item 256.90, whereas other most-favored-nation imports receiving the column 1 rate of duty 3/ are dutiable at 5.7 percent ad valorem. Imports classified in TSUS item 386.53 are not eligible for duty-free entry under the GSP, and therefore those from Brazil and other countries receiving the column 1 rate of duty are dutiable at

1/ Counsel for Celupa provided a list of firms producing or selling "paint strainers and dispensers" to the Commission in a letter dated Aug. 5, 1986. Calls to firms on this list by Commission staff disclosed that with the exception of Gerson and AdTec, no other companies produced the strainers covered by these investigations. See notes of C.B. Stahmer.

2/ The petition included TSUS item 386.40 in lieu of TSUS item 386.53 due to a clerical error. The petition was amended to substitute TSUS item 386.53 in place of TSUS item 386.40 by a letter from Sidney N. Weiss, counsel for the petitioner, dated July 29, 1986.

3/ The rates of duty in col. 1 are most-favored-nation rates applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(d) of the TSUS, unless eligible for preferential treatment as indicated in the Special rates of duty column by the symbols "A" (Generalized System of Preferences (GSP)), "E" (Caribbean Basin Economic Recovery Act (CBERA)), or "I" (Israel).

8.2 percent ad valorem. The column 1 rates of duty for TSUS items 256.90 and 386.53 will be reduced to 5.3 percent ad valorem and 7 percent ad valorem, respectively, effective January 1, 1987, reflecting the final stage of the duty reductions negotiated during the Tokyo Round of trade negotiations.

U.S. Market and Channels of Distribution

Apparent U.S. consumption

Apparent U.S. consumption of paint strainers * * * slightly from * * * million strainers in 1983 to * * * million strainers in 1985, or by about * * * percent (table 1). Apparent U.S. consumption then * * * by about * * * percent from * * * million strainers in January-June 1985 to * * * million strainers in January-June 1986.

Table 1

Paint strainers: U.S. producers' domestic shipments, imports for consumption, and apparent U.S. consumption, 1983-85, January-June 1985, and January-June 1986

* * * * *

The great bulk of the subject strainers are sold to the autobody paint market. 1/ U.S. producers and importers sell strainers directly to both wholesaler/distributors and to jobbers. 2/ Wholesale/distributors specializing in the automotive replacement market sell strainers to jobbers, who then provide strainers to their autobody-shop customers at no charge to promote the purchase of automotive paint. One producer reported that whether or not strainers are sold directly to jobbers depends largely on the presence or absence of wholesaler/distributors in a particular region. Gerson, the petitioner, reported that in 1985 it sold approximately * * * percent of its strainers to wholesaler/distributors and almost * * * percent to jobbers. AdTec, the other * * * U.S. producer, reported that in 1985 it sold * * * percent of its strainers to wholesaler/distributors and * * * percent to jobbers. Dynatron Bondo, a major importer of strainers from Brazil, estimated that * * * of its total 1985 strainer sales were to wholesaler/distributors and * * * were to jobbers.

1/ In addition, some strainers are sold directly to hospitals for use in kidney stone procedures involving the use of ultrasound. This relatively small market is reportedly expanding.

2/ Domestic producers also sell strainers to automotive paint manufacturers. Although Gerson's sales to this customer-type * * * (* * * percent of total Gerson sales in 1985), AdTec reported that its sales to paint manufacturers accounted for * * * percent of its total sales in 1985.

U.S. producers

The only producers of strainers in the United States are the petitioner and AdTec, both of whom are located in Massachusetts. The petitioner, Gerson, began producing strainers in the late 1950's. The firm specializes in the production of disposable items and also produces face masks, treated automobile wiping cloths, and paint paddles.

AdTec, the other U.S. producer, was founded by an engineer who assisted in the production of Gerson's strainer machinery as an employee of that company. In addition to strainers, AdTec sells paint paddles and strainer stands.

Two additional firms have produced strainers in the past. One, Lake City Products, was purchased in 1979 by Dorn Colorcard Co. as a method of * * * from its primary business, colorcards. 1/ The firm's sales declined steadily from about * * * million strainers in 1980 to * * * in 1985. In late 1985, Dorn decided that it could utilize the space dedicated to producing strainers to better advantage by producing colorcards and ceased production of strainers. However, in order to continue to serve its strainer customers, Dorn began purchasing strainers from * * *. According to Mr. Dillon of Dorn, * * *." 2/

The other former producer is Dynatron Bondo Corp., which purchased Reliable Strainer Manufacturing Co. in 1979. Reliable, the first strainer producer in the United States, began operations over 50 years ago in Los Angeles, CA. The purchase of Reliable by Dynatron Bondo, a large producer of auto body filler, allowed Dynatron Bondo to access the strainer, paint paddle, and yardstick markets. According to Mr. David Machamer, V.P. of Dynatron Bondo, Reliable's traditional West Coast market had been accessed in recent years by both imports and sales by Gerson and AdTec, and most sales since 1979 were to Dynatron Bondo. 3/ Mr. Machamer stated that Reliable was closed in early 1985 when the cost of producing strainers exceeded the cost of importing them from Brazil. 4/ Reliable was the * * * largest U.S. producer in 1983, with production and sales of about * * * million strainers.

U.S. importers

Imports from Brazil are sold thru a broker, Fleetwood Products, Inc. The president of Fleetwood, Mr. Joseph Fischer, is a former sales representative for Gerson. Imports are sold to two major customers, Dynatron Bondo and Keystone. These firms are very large distributors of professional automobile

1/ Colorcards are small strips of paper containing several shades of colors which are used to assist customers in purchasing paint.

2/ Conversation between David Coombs, Commission staff, and Hal Dillon, Dorn Colorcard Co., July 28, 1986.

3/ Conversation between David Coombs, Commission Staff, and David Machamer, V.P. of Dynatron Bondo, Aug. 1, 1986.

4/ Letter from David D. Machamer to David Coombs, Aug. 6, 1986.

repair and paint products. Mr. Fischer also acts as the Brazilian producer's sales representative in Europe.

Foreign producers

The only known producer of paint strainers in Brazil is Industrial Celulose Papel y Guaiba (Celupa), which is in turn owned by Melitta-Werke, a large paper conglomerate headquartered in West Germany.

Celupa produces the paper to be used in strainers, but the assembly of the strainers is conducted by a small subcontractor. Celupa employs about * * * production workers and operates two shifts per day, * * * days per week. According to Mr. Karolyi, the firm's controller, a third shift is not possible because the assembly operation is considered "women's work" by local people and women are prohibited from working a night shift by Brazilian law. According to Mr. Karolyi, the firm's optimum capacity is * * * containers per month, or about * * * million strainers per year. Celupa began production in 1983, and shipped about * * * containers (* * * million strainers) in 1985. Most sales are to the United States, although the company has sold in smaller amounts to Europe, Japan, and Australia. All sales are handled by a broker, Fleetwood Products. The only other known producer is in West Germany. However, this firm has never shipped to the United States.

The Question of a Reasonable Indication of Threat of Material Injury

Data concerning the rate of increase of imports from Brazil are presented in the "U.S. imports" section of this report. Data concerning the capability of Celupa to generate exports are presented in the "Foreign producer" section of this report.

The Question of a Reasonable Indication of Material Injury

At the present time there are only two U.S. producers of strainers. Data were obtained from two former U.S. producers regarding quantity of sales during 1983-85; however, these firms were unable to provide any additional data regarding their operations. In 1983, the last year all four producers were operating at normal levels, the two current producers accounted for about * * * percent of total U.S. production. Data presented in the following sections are for Gerson and AdTec only, unless otherwise noted.

U.S. production, capacity, and capacity utilization

Production of paint strainers by Gerson and AdTec * * * from * * * million strainers in 1983 to * * * million strainers in 1985, or by * * * percent (table 2). Production then * * * by * * * percent from * * * million strainers in January-June 1985 to * * * million strainers in January-June 1986.

Table 2

Paint strainers: U.S. production, capacity, and capacity utilization, 1983-85, January-June 1985, and January-June 1986

* * * * *

The combined capacity of Gerson and AdTec * * * million strainers per year during 1983-86. Neither firm * * *. Combined capacity utilization of these firms * * * from * * * percent in 1983 to * * * percent in 1985, but then * * * from * * * percent in January-June 1985 to * * * percent in January-June 1986.

Shipments

Combined total shipments (domestic and export) by Gerson, AdTec, Reliable, and Lake City during 1983 - January-June 1986 are shown in the following tabulation:

<u>Period</u>	<u>Total shipments 1,000 strainers</u>
1983.....	177,745
1984.....	161,208
1985.....	153,583
January-June--	
1985.....	***
1986.....	***

These shipments declined by 14 percent from 1983-85, and then by an additional * * * percent from January-June 1985 to January-June 1986.

Combined total shipments by Gerson and AdTec * * * from * * * million strainers in 1983 to * * * million strainers in 1985, or by * * * percent (table 3). Combined total shipments by these firms then * * * from * * * million strainers in January-June 1985 to * * * million strainers in January-June 1986, or by about * * * percent.

The value of these shipments * * * by * * * percent during 1983-85, from * * * million to * * * million. The value of shipments * * * slightly from * * * million in January-June 1985 to * * * million in January-June 1986.

Table 3

Paint strainers: Domestic shipments, exports, and total shipments by U.S. producers, 1983-85, January-June 1985, and January-June 1986

* * * * *

Inventories

AdTec reported that it * * *. Gerson also * * *. Gerson's end-of-period inventories * * * during 1982-86, as shown in the following tabulation:

<u>Period</u>	<u>End of period inventory</u> (1,000 strainers)
1982.....	***
1983.....	***
1984.....	***
1985.....	***
January-June--	
1985.....	***
1986.....	***

Employment and wages

The number of production and related workers employed by Gerson and AdTec * * * at * * * during 1983-86 (table 4). Questionnaire responses by these firms indicated that the hours worked by these employees also * * * throughout the period. Average hourly wages paid to these workers * * * from * * * in 1983 to * * * in January-June 1986. Employees at neither firm are represented by a union. The number of employees at Reliable Strainer * * * from * * * in 1983 to * * * in 1984 and * * * in 1985. Employment at Lake City totaled * * * employees.

Financial experience of U.S. producers

The two largest U.S. producers, which accounted for about * * * percent of total U.S. production of paint strainers during the period of investigation provided usable income-and loss data for both their overall establishment operations and on their operations producing paint strainers. * * *.

Table 4

Paint strainers: Production and related workers, hours worked, and wages paid, 1983-85, January-June 1985, and January-June 1986

* * * * *

Paint strainers.--Aggregate net sales of paint strainers * * * from \$* * * million in 1983 to \$* * * million in 1984, or by * * * percent, and were * * * in 1985 (table 5). Interim period data were provided by Gerson only; its 3-month sales for the interim periods ended March 31 * * * from \$* * * in 1985 to \$* * * in 1986, a * * * of * * * percent.

Table 5

Income-and-loss experience of U.S. producers on their operations producing paint strainers, accounting years 1983-85, and interim periods ended March 31, 1985 and March 31, 1986

* * * * *

The aggregate gross profit margin was * * * at almost * * * percent during 1983-85. Gerson's gross margin during the interim periods * * * from * * * percent in 1985 to * * * percent in 1986.

Aggregate operating income * * * from \$* * * in 1983 to \$* * * in 1984, or by * * * percent, then * * * slightly to \$* * * in 1985. The operating income margins during 1983-85 were * * * percent, * * * percent, and * * * percent, respectively. During the interim periods, Gerson's operating income * * * from \$* * * in 1985 to \$* * * in 1986, or by * * * percent; its operating margin * * * from * * * percent in 1985 to * * * percent in 1986. Neither producer reported an operating loss during any period of the investigation.

Sales and profit data by individual firm are summarized in the tabulation below:

* * * * *

Overall establishment operations.--Aggregate net sales * * * from \$* * * million in 1983 to \$* * * million in 1985, * * * of * * * percent (table 6). Gerson's 3-month sales during the interim periods ended March 31 * * * from \$* * * million in 1985 to \$* * * million in 1986, a * * * of * * * percent. However, operating results * * * as aggregate operating income * * * by * * * percent from \$* * * in 1983 to \$* * * in 1984, and an operating * * * of * * * was incurred in 1985. The operating income margins in 1983 and 1984 were * * * percent and * * * percent, respectively; the operating * * * margin

Table 6

Income-and-loss experience of U.S. producers on the overall operations of their establishments within which paint strainers are produced, accounting years 1983-85, and interim periods ended March 31, 1985 and March 31, 1986

* * * * *

in 1985 was * * * percent. Gerson reported operating * * * of \$* * * in interim 1985 and \$* * * in interim 1986. AdTec was * * * in all three years 1983-85. Gerson * * * in 1984, 1985, and interim 1986.

Gerson's operating * * * had a significant impact on aggregate overall establishment results, as shown in the tabulation below:

* * * * *

Gerson's overall establishment operating * * * were caused entirely by * * *. This is evident in the following tabulation in which income-and-loss data on all other products are isolated and compared with overall establishment and paint strainer operations:

* * * * *

There are three major factors which contributed to Gerson's operating * * * on all other products, none of which had any direct impact on operations producing paint strainers. * * *.

The Question of the Causal Relationship Between Alleged Material Injury and Imports from Brazil

U.S. imports

Imports from Brazil, the only source of U.S. imports, increased from 4 million strainers in 1983 to 30 million strainers in 1985, as shown below:

<u>Period</u>	<u>Imports from Brazil</u> <u>(million strainers)</u>
1983.....	3.8
1984.....	16.6
1985.....	30.0
January-June--	
1985 1/.....	15.0
1986 2/.....	21.1

1/ Estimated by the staff of the U.S. International Trade Commission.

2/ Thru July 18, 1986.

Imports then continued to increase from 15 million in January-June 1985 to about 21.1 million in January-June 1986, or by 41 percent.

Market penetration

Imports of paint strainers from Brazil first entered the United States in 1983. As a share of apparent U.S. consumption, imports rose steadily from * * * percent in 1983 to * * * percent in 1985 (table 7). Imports from Brazil then increased from * * * percent of apparent U.S. consumption during January-June 1985 to * * * percent during January-June 1986.

Table 7

Paint strainers: Imports from Brazil, apparent U.S. consumption, and the ratio of imports from Brazil to apparent U.S. consumption, 1983-85, January-June 1985, and January-June 1986

Period	Imports From Brazil	Apparent U.S. consumption	Ratio of imports from Brazil to apparent U.S. consumption
	-----Million strainers-----		Percent
1983.....	3.8	***	***
1984.....	16.6	***	***
1985.....	30.0	***	***
January-June--			
1985.....	15.0	***	***
1985.....	21.1	***	***

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

Prices

The demand for the subject strainers is determined largely by the total pool of motor vehicles and the average age of the vehicles in the pool. A U.S. producer reported that the demand for strainers has increased steadily since the 1970's, as the increased costs of automobiles have encouraged vehicle owners to repair their cars rather than buy new ones. Seasonal variations in the demand for refinishing reportedly have only a small effect on strainer sales. Because autobody shops have become accustomed to receiving free strainers from their jobber-suppliers, jobbers consider their strainer purchases a cost of doing business. Strainer purchases represent a necessary input and a small percentage of jobbers' total costs, of which the major one is paint. Thus, it is likely that the total demand for strainers is relatively price inelastic. Price and availability are generally cited by purchasers as the most important factors in choosing suppliers.

The price of paint strainers depends largely on the quantity purchased but is also affected by imprinting and the mesh size of the strainer's textile portion. Producers and importers reported that the vast majority of paint strainers sold in the U.S. market have a "medium"-mesh of approximately 44 by 36 threads per square inch and are not imprinted. Strainers imprinted with a purchaser's logo are generally purchased by jobbers or paint manufacturers and are not produced by the Brazilian manufacturer.

Paint strainers are priced on a per case basis. Each case of strainers contains 1,000 strainers. U.S. producers generally sell paint strainers on an f.o.b. price basis, while importers sell Brazilian strainers on a delivered price basis. U.S.-inland transportation costs can be significant for paint strainers because they are low-value products. Thus, transportation costs can represent a large proportion of the delivered price. Producers and importers publish price lists, with producers showing several net f.o.b. prices for different quantity levels and importers normally showing one delivered price. Discounts are often negotiated from the importer's list price.

Producers' price lists show net f.o.b. prices for three types of mesh and five different quantity levels. The price for each quantity level can apply to a single shipment or to an annual blanket order. For blanket order purchases, a customer provides its annual requirements and automatic shipment dates. In return, the pricing for each shipment is based on the quantity-related price corresponding to the customer's total annual requirements.

Because jobbers generally purchase U.S.-produced and imported Brazilian strainers in smaller quantities than do wholesaler/distributors and tend to also purchase fewer strainers annually, prices to jobbers are generally higher than prices to wholesaler/distributors. Jobbers typically purchase quantities of 10-25 cases per shipment, whereas wholesaler/distributors generally purchase 100 or more cases per shipment.

The two U.S. producers of strainers, Gerson and AdTec, publish nearly identical price lists, with the same five quantity-level breakouts and the same net f.o.b. prices for the various quantities and mesh sizes. Purchasers commented that Gerson and AdTec are usually within a penny or two of each other on specific f.o.b. price quotes. Because these producers are both located in the same general area of Massachusetts, delivered prices on purchases of strainers from the two producers should also be approximately the same.

Price data.--The Commission requested producers and importers to provide quarterly price data during January 1983-June 1986 on their largest single quarterly sales to wholesale/distributors and to jobbers of the most-common type of paint strainers described below:

Plain (unimprinted) paint strainers composed of a paper cone and a medium-mesh textile tip with a thread count of 44 by 36 threads per square inch.

The Commission received detailed pricing data from the petitioner, Gerson, representing * * * percent of domestic shipments of strainers in 1985, and from one importer, Dynatron Bondo, representing * * * percent of all imports of Brazilian strainers in 1985. AdTec, accounting for approximately * * * percent of domestic shipments of strainers in 1985, did not report price data as requested but submitted a written discussion of pricing practices and price trends for the period under investigation.

Gerson reported f.o.b. price data for its largest quarterly sales of plain medium-mesh strainers for each quarter from January 1983 to June 1986. Gerson's quarterly price data submitted for sales to wholesaler/distributors during July 1985-June 1986, however, involved considerably larger sales compared to earlier periods of a new "generic" plain medium-mesh strainer sold at lower prices than prices of its regular plain medium-mesh strainer. In addition, Gerson sold these generic strainers on a delivered rather than f.o.b. price basis. Conversations with representatives of Gerson and with purchasers of the generic strainer revealed differences in the physical characteristics and sales terms of the two strainers for which quarterly price data were reported. Thus, f.o.b. price data for Gerson's regular strainer sold during July 1985-June 1986 were subsequently obtained, and the generic strainer is treated separately in the following discussion.

Requiring at least * * * cases per order, minimum purchase quantities of Gerson's generic strainers are much higher than average purchase quantities for sales of regular strainers to its largest wholesaler/distributor customers. The physical differences between generic and regular strainers, both of which meet the Commission's questionnaire definition for plain, medium-mesh strainers, are many. 1/ Unlike their regular strainers, Gerson's generic strainers do not have Gerson's patented filter tip, do not have Gerson's name and "USA" stamped into the seam, do not have holes, along the top of the strainer, and are packed in a box that does not have the Gerson name on it. In short, these generic strainers are similar to Brazilian strainers in physical characteristics.

Domestic price trends.--F.o.b. prices for regular U.S.-produced strainers do not appear to have changed throughout the period under investigation. Gerson's reported prices on sales to wholesaler/distributors, shown in table 8, were constant at * * * per case f.o.b. for its largest quarterly sales from January 1983 to June 1986. Meaningful price trends could not be developed for Gerson's sales to jobbers because reported prices varied considerably with the customers' shipment sizes and/or blanket orders. 2/ AdTec reported that the f.o.b. selling prices of its U.S.-produced strainers did not change during the period under investigation. According to a letter written August 1, 1986, in response to staff's questions about price trends and practices, AdTec's counsel replied that, "* * *."

1/ Gerson officials insist that the physical differences between their regular and their generic strainers are largely cosmetic.

2/ Based on comparisons of backup computer price sheets submitted by Gerson for sales to jobbers, most of Gerson's prices on sales to jobbers could be identified as March 1986 price-list prices for one of the 5 quantity levels; in 1983 and in 1986 these prices generally fell within a range of \$* * * to \$* * * per case.

Table 8

Paint strainers: U.S. producer's (Gerson's) f.o.b. prices and quantities sold for their largest single quarterly sales of plain (unimprinted), medium-mesh strainers to wholesaler/distributors, by quarters, January 1983-June 1986

* * * * *

During July-September 1985, Gerson introduced into the U.S. market its lower-priced U.S.-produced generic strainer to compete with Brazilian strainers. 1/ From July 1985 to June 1986, Gerson sold these generic strainers only to select wholesaler/distributors at delivered prices for large volume purchases. Delivered prices for Gerson's generic strainers are uniform geographically. Generic strainers currently represent approximately * * * percent of Gerson's domestic strainer shipments. Delivered price data reported by Gerson for its largest quarterly sales of the generic strainers to wholesaler/distributors are shown below:

* * * * *

At \$* * * per case delivered, the prices reported by Gerson for sales of its generic strainers to wholesaler/distributors from July-September 1985 to January-March 1986 were * * * percent lower than the f.o.b. prices of \$* * * per case reported for its regular strainers sold to wholesaler/distributors during the same period. During April-June 1986, Gerson's reported delivered prices of the generic strainers increased to \$* * * per case, or by * * * percent.

Importer's price trends.--Dynatron Bondo reported delivered transaction price data for its largest quarterly sales of imported Brazilian strainers during January 1985-June 1986. 2/ The delivered price series reported by Dynatron Bondo for its largest quarterly sales of Brazilian strainers to wholesaler/distributors and to jobbers show prices declining by approximately

1/ The generic strainers are not listed on Gerson's March 1986 price list. When asked at the Aug. 6, 1986, staff conference whether Gerson has produced any strainers without a filter tip during the period under investigation, Gerson officials stated that they would comment in their posthearing brief but only on a confidential basis.

2/ Due to constraints of Dynatron Bondo's computer system, some of the quantities reported may actually represent more than one shipment to the largest customer per quarter at the same price. Also, computer records available for sales made during July-December 1985 are not separable by quarters. The price data for July-December 1985 represent one or several shipments made to their largest customer during July-December 1985 at one price.

*** and *** percent, respectively. From January-March 1985 to April-June 1986, the importer's prices on sales to wholesaler/distributors fell from *** per case to *** per case, or by *** percent (table 9). Price decreases of approximately *** per case on sales to distributors occurred during July-September 1985, when Gerson began selling generic U.S.-produced strainers, and also during January-March 1986. Similarly, the importer's prices on its sales to jobbers fell from \$*** per case during 1985 to \$*** per case during January-March 1986, or by *** percent. ^{1/}

Table 9

Paint strainers: Importer's (Dynatron Bondo's) delivered prices and quantities sold for their largest quarterly sales of Brazilian plain (unimprinted) medium-mesh strainers, by customer type and by quarters, January 1985-June 1986

* * * * *

Price comparisons.--Price data provided by Gerson and Dynatron Bondo resulted in seven quarterly price comparisons on a delivered basis involving sales of U.S.-produced regular strainers during January 1985-June 1986 and three price comparisons involving sales of U.S.-produced generic strainers during July 1985-June 1986.

Sales of U.S.-produced regular strainers.--Price data received by the Commission indicate that Brazilian strainers have generally undersold U.S.-produced regular strainers on a delivered price basis, especially in recent quarters. Because Gerson sells its regular strainers on an f.o.b. price basis, Gerson's customers were contacted to obtain U.S.-inland transportation costs on these sales. While the quantities reported for sales of U.S.-produced regular strainers are generally comparable with quantities reported for sales of the imported Brazilian strainers (see tables 8 and 9), the U.S.-produced strainers were delivered to different locations than were the Brazilian strainers. Because transportation costs incurred for purchases of U.S.-produced strainers increase with the distance of the purchaser from Massachusetts and decrease with quantities purchased, the reader should exercise caution in analyzing these delivered price comparisons. Six delivered price comparisons involving sales of regular strainers to wholesaler/distributors are shown below and include the states in which the customers are located:

* * * * *

^{1/} Because the importer's low reported price for the April-June 1986 sale to jobbers involves the sale of significantly higher volumes than during previous periods, it may not be meaningful for the purposes of price trends.

During January-June 1985, U.S.-produced and Brazilian strainers were being sold at roughly the same price on a delivered basis. Beginning in July-September 1985, however, Brazilian strainers undersold U.S.-produced strainers on sales to wholesaler/distributors by margins ranging from \$* * * per case to \$* * * per case, or from * * * to * * * percent of the U.S. producer's price.

One delivered price comparison available for sales to jobbers showed underselling by the importer of Brazilian strainers of * * * percent of the U.S. producer's price. The price comparison concerns a January-March 1985 sale of * * * cases of regular Gerson strainers to a jobber in Oregon and a sale of * * * cases of imported Brazilian strainers to a jobber in California. The price data appear below:

* * * * *

Sales of U.S.-produced generic strainers.-- Price data received by the Commission indicate that Gerson's U.S.-produced generic strainers were sold to wholesaler/distributors in very large quantities at considerably lower delivered prices than Brazilian strainers sold to customers in the same general locations. The exact locations of delivery are less important for these comparisons because Gerson's delivered prices for the generic strainers are uniform geographically. In recent quarters, however, Gerson's price advantage over the imported Brazilian strainers has declined. These delivered price data are shown below and include the states in which the customers are located:

* * * * *

The price data reported for the 1985 sales to California of the U.S.-produced and Brazilian strainers were made to the same customer. Although reported sales quantities of the U.S.-produced generic strainers were * * * to * * * cases, or considerably larger than reported sales quantities for the Brazilian strainers (table 9), Gerson officials and purchasers have stated that Gerson's minimum purchase quantities to qualify for these prices are only * * * cases per order, or much closer to the importer's reported sales quantities. Thus, the differences in the reported sales quantities do not affect the quality of these price comparisons. During the second half of 1985, the U.S.-produced generic strainers were priced below Brazilian strainers by \$* * * per case, or by * * * percent. The most recent delivered price comparison on sales to California distributors indicates that Gerson's price increase on its generic strainers, combined with lower selling prices of Brazilian strainers, has reduced Gerson's price advantage to less than * * * percent.

Purchaser's price data.--None of the purchasers that submitted price data to the Commission reported prices for the U.S.-produced generic strainers. For purchaser's information concerning the generic strainers and additional price comparisons, see the lost sales and lost revenues sections.

Useable quarterly price data were received from * * * in * * * covering the period January 1983-March 1986. The price data are useful because the distributor has purchased U.S.-produced strainers from the now defunct U.S. producer, Reliable, and from Keystone, a major importer that did not submit useable price data to the Commission. In 1983, the distributor purchased * * * cases of U.S.-produced strainers from Reliable for a weighted-average delivered purchase price of \$* * * per case. In 1984, the distributor purchased * * * cases of U.S.-produced strainers from Reliable Strainers for a weighted-average delivered price of \$* * * per case and * * * cases of Brazilian strainers from Keystone for \$* * * per case. ^{1/} The distributor's price data provided only two direct quarterly price comparisons for its purchases of U.S.-produced and Brazilian strainers. These delivered price comparisons are shown below:

* * * * *

The lowest delivered purchase price paid by this distributor for Brazilian strainers was \$* * * per case from Keystone for purchases of * * * cases of strainers each during October-December 1985 and January-March 1986. This price was \$* * * per case lower than Keystone's price of \$* * * per case in 1984. Thus, it appears that Keystone's prices of Brazilian strainers, like those reported by Dynatron Bondo in its importer's questionnaire response, have declined in recent periods. In 1985, after Dynatron Bondo (formerly Reliable) began importing Brazilian strainers, the distributor purchased a total of * * * cases of U.S.-produced strainers and * * * cases of Brazilian strainers. The distributor's annual purchases of strainers have increased from * * * cases in 1983 to * * * cases in 1985, or by * * * percent.

Transportation costs

Currently, all U.S.-produced strainers are produced in Plymouth and Middleboro, Massachusetts. Reliable, a west coast producer ceased production of strainers in 1985. A limited and declining number of strainers were also produced until 1985 by Lake City. Producers and purchasers have stated that transportation costs for U.S.-produced strainers sold on an f.o.b. basis represent a significant proportion of the final delivered price. U.S.-inland transportation costs for Gerson's reported sales of its strainers to wholesaler/distributors ranged from \$* * * to \$* * * per case and averaged \$* * * per case. As a percentage of the final delivered price, these transportation costs to wholesaler/distributors ranged from * * * to * * * percent. U.S.-inland transportation costs on Gerson's reported sales to jobbers were slightly higher based on the smaller volumes transported. Transportation costs on sales to jobbers ranged from \$* * * to \$* * * per case and averaged \$* * * per case. As a percentage of the final delivered price, these transportation costs to jobbers ranged from * * * to * * * percent. Some purchasers contacted reported transportation costs to the west coast of more than \$* * * per case for small volume purchases.

^{1/} In 1983 and in 1984, the distributor also purchased * * * cases per year of Gerson's strainers for \$* * * per case delivered, or \$* * * to \$* * * more than it was paying for strainers from Reliable.

Dynatron Bondo, an importer, stated that it is able to be price competitive because it enjoys a considerable U.S.-inland transportation cost advantage. Because its strainers are usually shipped with sales of its main product, body filler, which is a heavier product and has a much higher value than strainers, the transportation costs that must be absorbed by strainers are very small. The importer stated that it would be very difficult to calculate the average U.S.-inland transportation costs on a per case basis because they are shipped with other items. This importer reported that its average U.S.-inland transportation costs for strainers are generally about * * * to * * * percent of its total freight bill on shipments.

Exchange rates

Table 10 presents indexes of the nominal and real exchange rates between the U.S. dollar and the Brazilian cruzeiro, and indexes of producer prices in the United States and Brazil, by quarters, from January-March 1983 (the base period) through January-March 1986. 1/ 2/ Presented in dollars/cruzeiros, the exchange rate indexes approximate quarterly changes in average prices or price levels of Brazilian products purchased with U.S. dollars. 3/ During the period under investigation, the nominal value of the Brazilian currency depreciated steadily, declining by 97 percent against the dollar since the base period. Because of the high rate of Brazilian inflation, the nominal-exchange rate index does not explain changes in the real value of the Brazilian currency. Adjusted for inflation, the real value of the cruzeiro fluctuated only moderately relative to the dollar during the period under investigation. At its lowest point in April-June 1983 the real value of the cruzeiro was 10 percent lower in real terms than during the base period. Since April-June 1985, the real value of the cruzeiro relative to the dollar has increased continuously on a quarterly basis, climbing to 8 percent above its base period value by January-March 1986.

Lost sales and lost revenues

The petitioner, Gerson, provided 11 allegations of lost sales and 6 allegations of lost revenues due to price competition from imported Brazilian paint strainers, all involving medium-mesh strainers. A spokesman for the other major U.S. producer, AdTec, told Commission staff that * * *.

1/ As part of a recent initiative to reduce inflation in Brazil, the cruzado replaced the cruzeiro as Brazil's official currency. The cruzado is worth 1,000 cruzeiros. Because the cruzeiro was the official currency up to the first or second quarter of 1986, the Brazilian currency is still referred to as the cruzeiro for the purposes of this discussion.

2/ Data for April-June 1986 are not yet available.

3/ The nominal exchange rate index uses quarterly period-average exchange rates between the dollar and the foreign country's currency as a rough estimate of quarterly changes in the average prices of foreign goods if purchased with U.S. dollars. Adjusted for relative changes in the wholesale price levels in the United States and in the subject foreign country, the real exchange rate index more accurately reflects real changes in average wholesale price levels of foreign goods if purchased with U.S. dollars.

Table 10

Indexes of producer prices in the United States and Brazil, 1/ and indexes of the nominal and real exchange rates between the U.S. dollar and the Brazilian cruzeiro, 2/ by quarters, January 1983-March 1986

(January-March 1983=100)				
Period	U.S. producer price index	Brazilian producer price index	Nominal- exchange- rate index	Real- exchange rate index
--Dollars per cruzeiro--				
1983:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	100.3	132.2	68.5	90.3
July-September.....	101.2	189.4	51.1	95.6
October-December....	101.8	266.9	37.6	98.6
1984:				
January-March.....	102.9	351.9	28.6	97.7
April-June.....	103.6	467.4	21.5	97.2
July-September.....	103.3	623.8	16.3	98.2
October-December....	103.0	871.7	11.9	100.9
1985:				
January-March.....	102.9	1201.3	8.7	101.2
April-June.....	103.0	1536.3	6.2	93.0
July-September.....	102.2	2017.9	4.8	94.7
October-December....	102.9	2858.0	3.6	100.5
1986:				
January-March.....	101.3	4263.7	2.6	107.8

1/ Producer price indicators--intended to measure final product prices--are based on average quarterly indexes presented in line 63 of the International Financial Statistics.

2/ Exchange rates expressed in U.S. dollars per Brazilian cruzeiro.

Source: International Monetary Fund, International Financial Statistics.

For its lost sales allegations, Gerson reported an estimate of its customers' annual purchases from Gerson "based on available history." The lost sales allegations, covering the period January 1983-June 1985, involved a total of * * * cases of strainers and * * * in sales. The lost revenue allegations involved revenues lost in efforts to compete with lower-priced Brazilian strainers by selling a generic strainer at prices approximately \$* * * per case lower than its lowest distributor price for its regular strainer. Whether Gerson's actions represent lost revenue or reflect shifts in market demand to a lower-value product is open to question. The lower price of Gerson's generic strainer vis-a-vis the price of its regular strainer is consistent with the fewer product features and large minimum volume orders of the generic strainer compared to the regular strainer. Gerson officials contend, however, that its generic strainer is not substantially different

from its other strainers. Gerson reportedly sold at least * * * cases of these generic strainers during August 1985-June 1986. The total revenues allegedly lost under this program were \$* * * on sales of \$* * *.

Lost sales

Purchaser 1.--Gerson alleged that * * *, a jobber in * * *, has not purchased Gerson's strainers since * * *, when * * * was purchasing approximately * * * cases annually for \$* * * per case f.o.b. A spokesman for * * * reported that they used to buy U.S.-produced strainers directly from Gerson. Two years ago, the jobber began purchasing all of its strainers from a distributor in * * * to get better service at a slightly higher price. * * * spokesman did not know the source of * * * strainers. Staff contacted * * * and was told that the strainers being sold to * * * were U.S.-produced strainers produced by Gerson. Previously, * * * had to purchase at least * * * cases at a time from Gerson and distribute them to their several branches. Buying the Gerson strainers through * * * allows each * * * branch to buy one case at a time, thereby saving transportation and inventory costs.

Purchaser 2.--* * *, was cited in a lost sales allegation involving estimated annual strainer purchases of * * * cases, or \$* * *, which ceased in * * *. Gerson's price to * * * was reported as \$* * * per case f.o.b. A spokesman for this distributor confirmed that it had purchased U.S.-produced strainers from Gerson several years ago but had since switched to Brazilian strainers from Keystone because they were lower-priced than domestic strainers. Although the spokesman could not recall exactly when they switched suppliers, his available records indicate that * * * had not purchased strainers from Gerson in 1985 or in 1986. His purchase price for Brazilian strainers from Keystone was reportedly \$* * * per case delivered for * * * cases purchased in * * *. Annual strainer purchases reported by this distributor are approximately * * * cases.

Purchaser 3.--Gerson named * * * in a lost sales allegation involving annual strainer purchases of * * * cases or \$* * *. Gerson reported that its price to * * * was \$* * * per case. A spokesman for the distributor stated that they were unaware of purchasing Brazilian strainers and that, since sometime in 1985, all of their strainer purchases were from Dynatron Bondo. Staff notes that Dynatron Bondo stopped selling U.S.-produced strainers in February or March 1985 and instead imports Brazilian strainers. The spokesman did not know why * * * had changed suppliers because she was not a purchasing agent when the change occurred. The purchasing agent estimated that * * * purchases * * * cases of strainers annually.

Purchaser 4.--* * *, a distributor in * * *, was named in a lost sales allegation involving estimated strainer purchases of * * * cases or \$* * * annually, with the last sale to this purchaser in * * *. * * * returned a distributor's questionnaire to the Commission which confirmed that * * *, with reported strainer purchases of \$* * * in 1985, purchased U.S.-produced strainers from Gerson until April-June 1984 and has since purchased Brazilian strainers from both Keystone and Dynatron Bondo. The

distributor reported that the major factors pertinent to its sourcing decisions are, in descending order--availability, price, and quality. * * * submitted the following comment in its questionnaire response to the purchasing factor question: * * *.

Average lead times for its purchases of U.S.-produced strainers from Gerson were reportedly 6 weeks, while lead times from its suppliers of Brazilian strainers are 1 week on average. In 1983 through the first half of 1984, * * * was purchasing * * * cases of strainers at a time for \$* * * per case on an f.o.b. basis. With U.S.-inland transportation costs from Middleboro, MA, to * * *, of about \$* * * per case, * * * delivered purchase price was generally more than \$* * * per case. Reported quantities for 1985 and 1986 purchases of Brazilian strainers were considerably higher, at about 100 cases each, and the delivered purchase prices were lower at \$* * * to \$* * * per case. The owner of * * * sent a subsequent memo to the Commission staff stating that he has recently found out that Gerson is selling a generic strainer for \$* * * per case delivered for minimum purchases of * * * cases per order. When the owner asked Gerson about purchasing their generic strainers, he was told that Gerson did not want to sell to * * * at that price.

Purchaser 5.--Gerson alleged that * * *, with estimated annual purchases of * * * cases or \$* * *, began purchasing Brazilian strainers in * * *. Gerson's reported f.o.b. price to this distributor was \$* * * per case. A spokesman for the distributor confirmed that they began purchasing strainers from Keystone about 2 years ago because they were lower-priced than U.S.-produced strainers. The distributor currently pays \$* * * per case delivered for the Brazilian strainers and normally buys * * * cases each month. The spokesman was very irritated at Gerson's sales policies because she's heard that some distributors are able to purchase Gerson's strainers for \$* * * per case delivered. Gerson's sales representative that handles strainer sales in * * * area, and still sells other automotive paint supplies to * * *, repeated to her on * * * that * * * would have to pay \$* * * per case f.o.b., plus * * * to * * * per case in freight, for Gerson's strainers and was not eligible for the lower prices she's heard about. The spokesman is not aware of quality differences between any of the above mentioned strainers. Since * * * has been purchasing Brazilian strainers from Keystone, there have been no complaints from jobbers about the Brazilian strainers.

Lost revenues

Purchaser 1.--Gerson named * * * in an allegation of revenues lost by selling * * * cases of generic strainers to * * * during * * * at low prices to compete with Brazilian strainers. A spokesman for the distributor stated that it has never purchased Brazilian strainers before but has purchased Brazilian paddles through Gerson. In the past, the distributor has alternately purchased from Gerson and AdTec. A couple of years ago, * * * was purchasing * * * cases per order from Gerson at * * * per case plus \$* * * freight but switched to AdTec because lead times from Gerson were considered excessive at up to 2 months. AdTec's price to * * * was exactly the same as Gerson's price and lead times were as short as one day.

The distributor resumed purchasing strainers from Gerson after Gerson introduced its generic strainer program during * * *. The main change introduced with the generic strainer program is reportedly the minimum purchase quantities. To qualify for this program, * * * must purchase * * * cases of Gerson strainers every 3 months at \$* * * per case delivered. This price is lower than a recent quote for Brazilian strainers received from Dynatron Bondo at \$* * * per case delivered. The quality differences introduced with the Gerson's generic strainers do not make a difference to the * * * company because its customers, jobbers, buy the strainers as a "giveaway". The distributor's spokesman reported his belief that the introduction of the generic strainer was an effort to compete with the Brazilian strainers. The distributor recalled having difficulties selling U.S.-produced strainers produced by AdTec about 2 years ago and believed that its competitors were selling Brazilian strainers. The spokesman estimated that its strainer sales fell from * * * cases per month to * * * or * * * cases per month during that period.

Purchaser 2.--* * * was cited in a lost-revenue allegation involving * * * cases of Gerson's generic strainers purchased for \$* * * per case delivered during * * *. A spokesman for the firm stated that they purchase U.S.-produced strainers from Gerson. The distributor has never purchased imported Brazilian strainers, although it has been approached by Keystone with a price quote for imported Brazilian strainers of around \$* * * per case delivered. This price quote for imported Brazilian strainers was reportedly approximately \$* * * lower than its final delivered purchase price for top-grade U.S.-produced strainers from Gerson. Freight costs from Middleboro, MA, to the distributor's California location are \$* * * per case when shipped by common carrier.

Asked about price reductions received from Gerson, the spokesman stated that * * * has taken advantage of the generic strainer program Gerson introduced about a year ago. This program offers lower, delivered prices in exchange for much larger minimum purchases of a generic strainer. Minimum purchases for this strainer are * * * cases per order, and the strainers are priced at around \$* * * per case delivered, the same price level as that offered for the imported Brazilian strainers. Previously, Gerson's strainers had always been priced on an f.o.b. Middleboro, MA, basis. These strainers do not have Gerson's regular filter tip or Gerson's name on the outside of the case. While the purchase of the generic U.S.-produced strainers has helped * * * to compete with its rivals who are selling imported Brazilian strainers and maintain the traditional 20 to 25 percent gross margin on sales to jobbers, the generic strainers are negatively affecting customer loyalty. Previously, some jobbers were reportedly willing to pay as much as \$4.00-\$5.00 more per case for the regular Gerson strainer with its filter tip and "Gerson"-label packaging. Now, however, there is less difference between the quality and terms of the U.S.-produced generic strainers versus the imported Brazilian strainers and price has become a more important factor in its sales.

Purchaser 3.--Gerson allegedly lost revenues on sales of * * * cases of its generic strainers at low prices to * * *, from * * *. Gerson reportedly sold these strainers to * * * for \$* * * per case delivered to California. The purchasing agent for this paint and body shop equipment

distributor stated that * * * began purchasing Brazilian strainers approximately 1-1/2 years ago when Gerson's lead times were long due to a fire in their plant. Imported Brazilian strainers from Dynatron Bondo were priced at \$* * * per case delivered with no minimum purchase quantities of strainers required. The purchaser explained that Dynatron Bondo could sell strainers at that price because the strainers were always shipped with other products as well, including the supplier's main product, body filler, which makes up for the relatively high freight costs of the strainers. The distributor's spokesman complained that Brazilian strainers are not packed well and may fall apart in use.

The distributor resumed purchasing from Gerson about one year ago for several reasons: Gerson introduced a better pricing program at that time for generic strainers, Gerson strainers are of better quality than Brazilian strainers, and its supplier of imported Brazilian strainers, Dynatron Bondo, regularly has lead time problems. While Gerson used to quote f.o.b. Middleboro, MA, prices, Gerson's current price is \$* * * per case delivered, or \$* * * per case less than the price for imported Brazilian strainers. The distributor used to order * * * cases at a time from Gerson but now must purchase * * * cases at a time in order to receive the lower price. In addition, there were some "style changes" made to the Gerson strainer, including the removal of the filter tip. As far as this purchasing agent is concerned, these style changes are not that important and Gerson's generic strainers are still of better quality than the Brazilian strainers.

Purchaser 4.--* * * was cited in a lost revenue allegation involving sales of * * * cases of strainers purchased from Gerson during * * * for \$* * * per case delivered. A spokesman for the purchaser stated that they have purchased Brazilian strainers in the past and currently purchase U.S.-produced strainers from Gerson and Dynatron Bondo. The distributor typically orders * * * to * * * cases at a time, and this quantity will last 3 months.

The spokesman explained that there are "two different grades of strainers," and that the Brazilians do not produce the better strainer with a filter tip at the end. Regarding the top grade strainer, the distributor generally orders only * * * cases at a time for around \$* * * f.o.b. Massachusetts from Gerson, with freight costs of \$* * * per case. * * * also purchased Gerson's generic strainer once, which is offered only twice a year for around \$* * * per case delivered with minimum purchases of * * * cases. The purchasing agent noted that * * * has experienced long lead times when purchasing from Gerson. The distributor purchases generic-type strainers from Dynatron Bondo for \$* * * per case delivered. The purchaser believes that these strainers are produced in California, but staff notes that Dynatron Bondo has sold only imported Brazilian strainers since * * *.

Purchaser 5.--Gerson alleged that it lost revenues selling * * * cases of generic strainers to * * *, for \$* * * per case delivered during * * *. A spokesman for the distributor stated that they have never purchased Brazilian strainers. The distributor put pressure on Gerson to lower the prices of its strainers due to lower prices of Brazilian strainers that its competitors were selling. Since Gerson's generic strainers have been available, * * * has purchased both the generic strainers and the regular strainers from Gerson. The biggest physical difference between Gerson's regular and generic strainers is that the generic strainers do not have the filter tip. Gerson offers the generic strainers only every 4 or 5 months and insists on minimum purchases of * * * cases, which it sells to * * * for around \$* * * per case delivered. The regular Gerson strainers are priced on an f.o.b. basis and are ususally purchased in quantities of * * * or more cases at a time: U.S.-inland freight costs to the distributor range from \$* * * to \$* * * per case for quantities of from * * * to * * * cases. The spokesman stated that they still try to sell the regular Gerson strainers over the generic strainers as a better quality product.

Using Gerson's questionnaire submission and backup sales documentation provided for sales of their regular and generic strainers, staff further analyzed this customer's purchase history. Staff's comparisons of Gerson's total sales to * * * during * * * (prior to the introduction of the generic strainer) with total sales during January-June 1986 indicate that * * * purchases from Gerson more than doubled, from * * * cases in half-year 1985 to * * * cases in half-year 1986. In half-year 1985, the distributor purchased * * * regular Gerson strainers for \$* * * f.o.b. In half-year 1986, the distributor purchased only * * * cases of the regular strainer at \$* * * per case f.o.b. and purchased * * * cases of the generic strainers from Gerson at around \$* * * per case delivered and * * * of these generic strainers for \$* * * delivered. With the increase in units purchased since the introduction of the generic strainer, Gerson's total sales revenues on sales to this customer increased by more than \$* * * in interim 1986 over interim 1985, or by * * * percent. 1/

The spokesman also mentioned that the quality of the adhesive is an important quality characteristic, and that the adhesive on the Brazilian strainers is not as good as that on U.S.-produced strainers. The purchasing agent has noticed that the quality of the Brazilian strainers seems to be improving.

1/ If all of the generic strainers sold to this customer in interim 1986 had been Gerson's regular filter tip strainers sold for * * * per case, sales revenues on sales to this customer would have increased by more than \$* * *, or by an additional \$* * *. However, it is not clear that * * * would have purchased the regular strainers in such increased quantities in interim 1986.

APPENDIX A
FEDERAL REGISTER NOTICES

[Investigations Nos. 701-TA-280
(Preliminary) and 731-TA-337 (Preliminary)]

Paint Filters and Strainers From Brazil

AGENCY: International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-280 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of paint filters and strainers of paper, containing cotton gauze, provided for in item 256.90 of the Tariff Schedules of the United States (TSUS), or of cotton gauze, containing paper, provided for in TSUS item 386.53, which are alleged to be subsidized by the Government of Brazil.

The Commission also gives notice of the institution of preliminary antidumping investigation No. 731-TA-337 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of paint filters and strainers of paper, containing cotton gauze, provided for in TSUS item 256.90, or of cotton gauze, containing paper, provided for in TSUS item 386.53, which are alleged to be sold in the United States at less than fair value. As provided in sections 703(a) and 733(a) of the Act, the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in these cases by August 29, 1986.

For further information concerning the product of these investigations and rules

of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR 207), and part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 15, 1986.

FOR FURTHER INFORMATION CONTACT: David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002. Information may also be obtained via electronic mail by accessing the Office of Investigation's remote bulletin board system for personal computers at 202-523-0103.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on July 15, 1986, by the Louis M. Gerson Co., Middleboro, Massachusetts.

Participation in the investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, 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 these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 6, 1986, at the U.S. International Trade Commission

Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Robert Eninger (201-523-0312) not later than August 4, 1986, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before August 6, 1986, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.6 of the rules (19 CFR 201.6). All written submission 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 § 201.6 of the Commission's rules (19 CFR 201.6).

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

By order of the Commission.

Issued: July 17, 1986.

Kenneth R. Mason
Secretary

[FR Doc. 86-16579 Filed 7-22-86; 8:45 am]
BILLING CODE 7030-02-01

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT:

Judith L. Nehring or Charles E. Wilson,
Office of Investigations, Import
Administration, International Trade
Administration, U.S. Department of
Commerce, 14th Street and Constitution
Avenue, NW., Washington, DC 20230;
telephone: (202) 377-1776 or 377-5288.

SUPPLEMENTARY INFORMATION:

The Petition

On July 15, 1986, we received a petition in proper form filed by the Louis M. Gerson Co., Inc. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Initiation of Investigation

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

We have examined the petition on paint filters and strainers from Brazil and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether paint filters and strainers from Brazil are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 22, 1986.

Scope of Investigation

The products covered by this investigation are paint filters and strainers of paper, containing cotton gauze, provided for in item 256.080 of the *Tariff Schedules of the United States; Annotated (TSUSA)*, and paint filters and strainers of cotton gauze, containing paper, provided for in item 386.5300.

United States Price and Foreign Market Value

In its calculation of sales at less than fair value, the petitioner based United States price on actual sales or offers made by a United States purchaser of Brazilian paint filters and strainers, with

[A-351-607]

**Paint Filters and Strainers from Brazil;
Initiation of Antidumping Duty
Investigation**

AGENCY: International Trade
Administration, Import Administration,
Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether paint filters and strainers from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 29, 1986, and we will make ours on or before December 22, 1986.

deductions for foreign inland freight, warehousing and loading charges; ocean freight and marine insurance; island freight, brokerage and unloading charges in the U.S.; and United States importer's markup. The petitioner based foreign market value on the c.i.f. price at which this merchandise is sold to a European purchaser with deductions for Brazilian inland freight, warehousing and loading charges; ocean freight and marine insurance; and European inland freight.

The petitioner alleged sales at less than cost of production relative to third country sales only, as it avers there are insufficient sales in the home market for comparisons. The petition does contain some information that sales to at least one third country may be at less than cost of production. If, during the course of the investigation, we determine that there is not a viable home market, we will commence a cost of production investigation relative to third country sales. Based on the comparison of values calculated by the foregoing methods, the petitioner arrived at a weighted-average dumping margin of 22.96 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 29, 1986, whether there is a reasonable indication that imports of paint filters and strainers from Brazil are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 86-17991 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-05-M

injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 29, and we will make our preliminary determination on or before October 8, 1986.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Bradford Ward, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202/377-3174 or 202/377-2239.

SUPPLEMENTARY INFORMATION:

The Petition

On July 15, 1986, we received a petition in proper form filed by the Louis M. Gerson Co., Inc., a domestic producer of paint filters and strainers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Brazil of paint filters and strainers receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). In addition, the petition alleges that such imports materially injure, or threaten material injury to, a U.S. industry producing a like product. Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a U.S. industry.

Initiative of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the imposition of countervailing duties, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on paint filters and strainers from Brazil and have found that it meets the requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of paint filters and strainers as described in the "Scope of Investigation" section of this notice receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before October 3, 1986.

[C-351-608]

Initiation of Countervailing Duty Investigation: Paint Filters, and Strainers From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of paint filters and strainers, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of the subject merchandise from Brazil materially injure, or threaten material

Scope of Investigation

The products covered by this investigation are paint filters and strainers of paper, containing cotton gauze, provided for in item 256.9080 of the *Tariff Schedules of the United States Annotated (TSUSA)*, and paint filters and strainers of cotton gauze, containing paper, provided for in item 386.5300 of the TSUSA.

Allegations of Subsidies

The petition lists a number of practices by the government of Brazil which allegedly confer subsidies to manufacturers, producers, or exporters in Brazil of paint filters and strainers. We are initiating an investigation on the following programs:

- Working Capital Financing for Exporters
- Preferential Export Financing for Trading Companies
- Export Financing Under the CIC-CREGE 14-11 Circular
 - Financing for Storage of Exports
 - PROEX Export Financing
 - Resolution 68 (FINEX) Financing
 - Resolution 509 (FINEX) Financing
 - BEFIEX
- Income Tax Exemptions for Export Earnings
- CIEX
- Accelerated Depreciation for Brazilian-Made Capital Equipment
 - FINEP/ADTEN Long-Term Loans

We are not initiating an investigation on the following programs:

- Banco Nacional de Desenvolvimento Economico e Social (BNDES) Loans

The Department has previously investigated BNDES long-term loans and has found that these loans are not limited to a specific enterprise or industry or group of enterprises or industries. See *Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Products from Brazil*, 49 FR 17988. Because petitioner has not submitted any new evidence or alleged changed circumstances with respect to BNDES long-term loans, we are not initiating an investigation of this program.

- IPI Export Credit Premium

The Department has previously investigated this program and has determined that the program has been terminated by the Government of Brazil. However, we will investigate the possible continued receipt of benefits under this program pursuant to long-term BEFIEX contracts as noted above. See *Final Affirmative Countervailing Duty Determination: Certain Heavy Iron Construction Castings from Brazil*, 51 FR 9491.

Notification of ITC

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

Preliminary Determination by ITC

The ITC will determine by August 29, 1986, whether there is a reasonable indication that imports of paint filters and strainers from Brazil materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to statutory procedures. This notice is published pursuant to section 702(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 4, 1986.

[FR Doc. 86-17994 Filed 8-8-86; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B
WITNESSES APPEARING AT
THE CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigations Nos. 701-TA-280 (Preliminary)
and 731-TA-337 (Preliminary)

CERTAIN PAINT FILTERS AND STRAINERS FROM BRAZIL

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigations at 9:30 a.m. on August 6, 1986, in the Hearing Room of the USITC Building, 701 E Street, NW., Washington, DC.

In support of the imposition of antidumping
and/or countervailing duties

Law Offices of Sidney N. Weiss--Counsel
New York, NY
on behalf of--

Louis M. Gerson Co., Inc.
Middleboro, MA

Ronald Gerson, Chairman
Stanley Puza, Vice President-Finance

Sidney N. Weiss--OF COUNSEL

In opposition to the imposition of antidumping
and/or countervailing duties

Klayman & Gurley, P.C.--Counsel
Washington, DC
on behalf of--

CELUPA (Cia. Industrial Celulose e Papel Guaiba)

Mr. E. Karolyi

Joseph Fischer, President, Fleetwood Products, Inc.

Larry Klayman)
John M. Gurley)--OF COUNSEL
Rachelle Cherol)

UNITED STATES
INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

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