

PORCELAIN-ON-STEEL COOKING WARE FROM MEXICO, THE PEOPLE'S REPUBLIC OF CHINA, AND TAIWAN

**Determination of the Commission
in Investigation No. 701-TA-265 (Final)
Under the Tariff Act of 1930, Together
With the Information Obtained in the
Investigation**

**Determinations of the Commission in
Investigations Nos. 731-TA-297-299
(Final) Under the Tariff Act of 1930,
Together With the Information
Obtained in the Investigations**

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigations Nos. 701-TA-265 (Final)
and 731-TA-297-299 (Final)

PORCELAIN-ON-STEEL COOKING WARE FROM MEXICO,
THE PEOPLE'S REPUBLIC OF CHINA, AND TAIWAN

Determinations

On the basis of the record 1/ developed in the subject investigations, the Commission determines, 2/ pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)), that an industry in the United States is materially injured by reason of imports from Mexico of cooking ware of steel, enameled or glazed with vitreous glasses (porcelain-on-steel) other than teakettles, provided for in item 654.08 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be subsidized by the Government of Mexico. The Commission determines 3/ that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry materially retarded by reason of imports from Mexico of porcelain-on-steel teakettles, provided for in item 654.08 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be subsidized by the Government of Mexico.

Further, the Commission determines, 4/ pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), that an industry in the United States is materially injured by reason of imports from Mexico, the People's

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/ Commissioners Eckes, Lodwick, and Rohr made affirmative determinations. Chairman Liebler, Vice Chairman Brunsdale, and Commissioner Stern determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports from Mexico which are being subsidized. Pursuant to 19 U.S.C. sec. 1677(11) (1980), when the Commissioners voting on a determination by the Commission are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination.

3/ Commissioners Eckes and Lodwick dissenting.

4/ Commissioner Rohr dissenting with respect to imports of porcelain-on-steel teakettles.

Republic of China, and Taiwan of porcelain-on-steel cooking ware, provided for in item 654.08 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). Because Commerce made an affirmative final critical circumstances determination with regard to imports from one Mexican producer, the Commission is required to make an additional finding. Pursuant to section 735(b)(4)(a), the Commission unanimously determines that there is not material injury by reason of massive imports of the subject LTFV merchandise over a short period of time to the extent that it is necessary to impose the duty retroactively.

Background

The Commission instituted investigation No. 701-TA-265 (Final) effective March 4, 1986, following a preliminary determination by the Department of Commerce that imports of porcelain-on-steel cooking ware from Mexico were being subsidized within the meaning of section 701 of the Act (19 U.S.C. § 1671). The Commission instituted investigations 731-TA-297-299 (Final) effective May 20, 1986, following preliminary determinations by the Department of Commerce that imports of porcelain-on-steel cooking ware from Mexico, the People's Republic of China, and Taiwan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. § 1673). Notice of the institutions of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register of April 9, 1986 (51 F.R. 12220) and of June 25, 1986 (51 F.R. 23164). The hearing was held in Washington, DC, on October 9, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

We determine that an industry in the United States is materially injured by reason of subsidized imports of porcelain-on-steel cooking ware from Mexico, other than teakettles. ^{1/} ^{2/} We also determine that the industry is materially injured by reason of imports from Mexico, the People's Republic of China, and Taiwan of porcelain-on-steel cooking ware which are being sold at less-than-fair-value (LTFV). ^{3/} In addition, the Commission makes a negative critical circumstances determination with respect to LTFV imports from Mexico.

^{1/} Commissioner Eckes and Commissioner Lodwick find that subsidized imports of porcelain-on-steel cooking ware from Mexico are causing material injury to the domestic industry. Commissioner Rohr determines that such imports of porcelain-on-steel cooking ware, other than teakettles, from Mexico, are causing material injury to the domestic industry. See Additional Views of Commissioner Rohr, supra. Pursuant to 19 U.S.C. § 1677(11), an evenly divided vote of the Commission is considered an affirmative determination. Thus, the Commission makes an affirmative determination with regard to subsidized porcelain-on-steel cooking ware from Mexico, other than teakettles.

^{2/} Chairman Liebel, Vice Chairman Brunsdale and Commissioner Stern find that the domestic industry producing porcelain-on-steel cooking ware is not materially injured or threatened with material injury by reason of subsidized imports from Mexico. See Additional Views, supra. With regard to subsidized imports of teakettles, Commissioner Rohr determines that the domestic industry is not materially injured, or threatened with material injury. Thus, the Commission makes a negative determination with regard to subsidized imports of porcelain-on-steel teakettles from Mexico.

^{3/} Commissioner Rohr determines that the domestic industry producing porcelain-on-steel cooking ware, other than teakettles, is materially injured by less-than-fair-value imports and concurs with his colleagues in their affirmative determination. With regard to LTFV teakettle imports, Commissioner Rohr makes a negative determination.

Our determination is based on significant increases in the volume and value of imports, ^{4/} decreases in domestic production and employment, the large and increasing share of domestic consumption held by imports, and a coincident decline in the financial condition and overall performance of the domestic industry.

Like product and domestic industry ^{5/}

In a final title VII investigation, the Commission must determine if the domestic industry producing the like product is materially injured or threatened with material injury by reason of the subject imports. Section 771(4)(A) of the Tariff Act of 1930, as amended, defines "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. . . ." ^{6/} "Like product" is defined as "a product which is like, or in the absence of like, most similar

^{4/} Commissioner Eckes and Commissioner Rohr do not agree that information on import trends in terms of value is useful as an indicator of a causal link between unfair imports and material injury. Such data are inherently distorted and understated and must be relied upon with caution. These figures fail to reflect any duties assessed upon importation, any importers' markup before resale, or warehouse costs paid by importers prior to sale in the United States. This precludes any meaningful comparison with the value of shipments as reported by U.S. producers. Moreover, market penetrations based on these import values are understated because they do not include any unfairness related to dumping or subsidization.

^{5/} Commissioner Rohr determines that there are two separate like products and two domestic industries, that producing porcelain-on-steel teakettles and that producing porcelain-on-steel cooking ware. See Additional Views of Commissioner Rohr, supra.

^{6/} 19 U.S.C. § 1677(4)(A).

in characteristics and uses with, the article subject to an investigation." ^{1/} The Commission is required to make its "like product" and "domestic industry" determinations on a case-by-case basis.

The imported articles subject to investigation are porcelain-on-steel cooking ware, including teakettles, that do not have self-contained electric heating elements and are made of steel enameled or glazed with vitreous glasses. These articles are used for cooking and heating food and liquids, and include skillets, frypans, sauce pans, double boilers, dutch ovens, stockpots, steamers, canners, blanchers, coffee pots, teakettles, broiling pans, roasters and other articles, produced in a variety of sizes, colors, configurations, and weights. The entire domestic production of porcelain-on-steel cooking ware, including teakettles, is made by the petitioner, General Housewares Corporation (GHC), at a single factory in Terre Haute, Indiana. GHC makes over 500 different articles of porcelain-on-steel cooking ware.

Porcelain-on-steel cooking ware is made from a stainless steel vessel coated with vitreous glasses and baked to a high-gloss enamel finish. Both the imported and domestic product come in a variety of configurations and sizes according to their intended use and are produced from the same materials

^{1/} Section 771(10); 19 U.S.C. § 1677(10). The legislative history of title VII makes it clear that "[t]he requirement that a product be 'like' the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation." S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

using essentially the same production methods. GHC produces a line of porcelain-on-steel cooking ware having the same configurations and with the same characteristics and uses as the subject imports.

In this final investigation, the Commission has reconsidered its prior like product determination and finds that teakettles do not constitute a separate like product. We have examined the data and evidence on certain functional and decorative aspects of teakettles. Notwithstanding certain differences in the uses to which teakettles are put, we conclude that their intrinsic qualities and essential characteristics are not sufficiently distinctive from all other porcelain-on-steel cooking ware to constitute a separate like product. Cooking ware is produced in a wide variety of configurations--each of which is primarily adapted to a particular cooking application. The differences in configuration and uses between teakettles and other porcelain-on-steel cooking ware are no greater than the differences between other forms of porcelain-on-steel cooking ware. All porcelain-on-steel cooking ware, including teakettles, are steel vessels glazed with porcelain enamel, that provide a clean, non-porous surface, may be brightly-colored and highly decorated, and have the same cooking properties. Although teakettles have additional uses--including use as kitchen decoration--that make them somewhat different from other cooking ware, we do not find these uses indicate the existence of a separate like product. ^{8/} Consequently, for the purposes of this investigation, the

^{8/} Moreover, although factors such as production on the same production
(Footnote continued on next page)

Commission finds that there is one like product -- all domestically produced porcelain-on-steel cooking ware -- and one domestic industry -- the domestic producer of that product.

Condition of the Domestic Industry ^{9/}

In determining the condition of the domestic industry, the Commission considers, among other factors, U.S. production, capacity, capacity utilization, shipments, inventories, employment, and profitability. ^{10/}

GHC's production of porcelain-on-steel cooking ware declined steadily from 1983 to 1985 and declined markedly in January through June 1986 as compared to the same period in 1985. ^{11/} Domestic capacity for porcelain-on-steel cooking ware remained constant during the period of investigation. ^{12/} Capacity utilization was highest in 1983, fell during 1984 and 1985, and continued to decline in January - June 1986 when compared to the first half of 1985. ^{13/}

Domestic shipments of all porcelain-on-steel cooking ware declined sharply each year from 1983 to 1985 and declined in the 1985-1986 interim

(Footnote continued from previous page)

lines with the same workers and the same or similar channels of distribution are not determinative of a separate like product, we note that those similarities are present in these cases.

^{9/} Because there is only one domestic producer, most of the data obtained in this investigation are confidential and cannot be discussed in detail.

^{10/} 19 U.S.C. § 1677(7)(C)(iii).

^{11/} Report of the Commission (Report) at A-7 and A-8, Table 1.

^{12/} Id. at A-8, Table 1.

^{13/} Id.

period as well. ^{14/} Employment factors also trended downward. The average number of workers producing porcelain-on-steel cooking ware declined, as did the number of hours worked. ^{15/}

GHC's financial position declined steadily throughout the period of investigation. Net sales, gross profits, operating income, and net income before taxes all fell markedly from 1983 to 1985. Net sales continued to decline in the 1986 interim period, and contributed to GHC's weakened financial condition. ^{16/}

Based on a consideration of all of the statutory factors, we find that the domestic industry is materially injured. ^{17/ 18/}

^{14/} Report at A-8, Table 2.

^{15/} Id. at A-9, Table 4.

^{16/} Id. at A-10, Table 5.

^{17/} 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. See Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 at 18-19 (1985) (Additional Views of Chairwoman Stern).

^{18/} 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. 1786 at 20-21 (1985) (Additional Views of Commissioner Eckes).

Cumulation 19/ 20/ 21/ 22/ 23/

The Trade and Tariff Act of 1984 added section 771(7)(C)(iv) to title VII of the Tariff Act of 1930, which requires that the impact of imports be

19/ Chairman Liebler and Vice Chairman Brunsdale cumulatively assessed the volume and effect of alleged LTFV imports from Spain with LTFV imports from Mexico, the People's Republic of China, and Taiwan to make their final affirmative LTFV determination. They have also cumulatively assessed the effects of the allegedly subsidized imports from Spain with subsidized imports from Mexico to make their final countervailing duty determination.

20/ Commissioner Eckes notes that his affirmative determination on subsidized imports from Mexico is based on the impact of those imports together with LTFV imports from the People's Republic of China and Taiwan. See Bingham & Taylor, Division Virginia Industries, Inc. v. United States, 627 F. Supp 793 (CIT, 1986). In the absence of LTFV imports which are the subject of a final Commerce determination, he still would have reached an affirmative determination based only on the impact of subsidized imports from Mexico. Imports from Mexico increased sharply during the first half of 1986 at the same time consumption turned downward. During the period covered by this investigation, the performance of the domestic industry steadily worsened, at the same time import competition increased from a variety of sources, both fair and unfair.

Commissioner Eckes also made an affirmative determination on LTFV imports from Mexico, the People's Republic of China, and Taiwan. These determinations were based on the cumulative impact of the unfair imports from those countries which are the subject of final affirmative determinations by Commerce.

In these determinations, Commissioner Eckes did not find it necessary to reach the question of whether the impact of allegedly subsidized and alleged LTFV imports from Spain should be cumulated with the imports from Mexico, the People's Republic of China, and Taiwan which are subject to final determinations by Commerce. However, Commissioner Eckes notes that he cumulated imports subject to a Commission preliminary determination in making a recent negative final determination. See Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-211 (Final), USITC Pub. 1799 (Jan. 1986). In that instance, the consideration of the cumulative impact of such allegedly unfair imports was appropriate in making a negative final determination.

Accordingly, Commissioner Eckes concurs only with the discussion in this section which explains why cumulation of imports from Mexico, the People's Republic of China, and Taiwan is appropriate.

21/ In reaching an affirmative determination Commissioner Stern does not now find it appropriate or necessary to cumulate imports from Spain.

22/ Commissioner Lodwick cumulatively assessed LTFV imports from Mexico, the People's Republic of China and Taiwan and allegedly LTFV imports from Spain. He cross-cumulated the volume and effect of imports from the People's Republic of China, Taiwan and Spain to reach his determination regarding subsidized imports from Mexico. See Bingham & Taylor, Division Virginia Industries, Inc. v. United States, 627 F. Supp 793 (CIT, 1986).

23/ Commissioner Rohr notes that with respect to cumulation there is no question that cumulation in the LTFV cases is appropriate with respect to

(Footnote continued on next page)

cumulatively assessed when certain criteria are met:

[T]he Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market. 24/

The Commission has interpreted this provision to require that imports be cumulatively assessed if they compete with other imports and the domestic like product, are marketed within a reasonably coincidental period, and are all subject to investigation. In these cases we find that the criteria for cumulation are met. 25/ 26/

(Footnote continued from previous page)

Mexico, the People's Republic of China and Taiwan. The issue in the LTFV case is whether it is appropriate to include imports from Spain in the cumulative analysis. He notes that as a result of petitioners own timing of the filing of these investigations there has as yet been no preliminary LTFV finding by Commerce in the Spanish investigation. He does note however that he did consider the affect of all imports including those from Spain and he concluded that the inclusion or exclusion of Spanish imports would affect neither his affirmative findings with regard to porcelain-on-steel cookware nor his negative findings regarding porcelain-on-steel teakettles. With respect to the Mexican subsidy investigation, he notes that the decision on whether to cumulatively assess the imports from Spain, Mexico, the People's Republic of China and Taiwan does not affect the outcome of his analysis. See footnote 32 and his additional views.

24/ Section 612(a)(2)(A) of the Trade and Tariff Act of 1984, amending the Tariff Act of 1930, as section 771(7)(C)(iv), 19 U.S.C. § 1677(7)(C)(iv).

25/ To determine if the criteria are met, the Commission has considered several factors, among them:

- the degree of fungibility between imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;
- the existence of common or similar channels of distribution for imports from different countries and the domestic like product;
- whether the imports are simultaneously present in the market.

No single factor is determinative.

26/ Chairman Liebelier notes that the second criterion is but one factor to be considered when determining whether products compete.

Imports from Mexico, the People's Republic of China, and Taiwan were simultaneously present in the market during the period of the investigation. ^{27/} The data compiled by the Commission and evidence presented at the hearing establish that imports of porcelain-on-steel cooking ware from all three countries compete with each other and with the domestic like product. Notwithstanding minor differences among the products, there is a high degree of substitution in the U.S. market between domestically produced porcelain-on-steel cooking ware and the imports from the three countries. The same or similar articles of porcelain-on-steel cooking ware are imported from all of the countries under investigation and are produced domestically. There are common channels of distribution for imports from all of the countries.

^{27/} Chairman Liebel and Vice Chairman Brunsdale have cumulated imports from Spain to reach their final determinations. See their Additional Views, supra.

Imports from all of the countries are marketed throughout the United States: 29/ 30/ 31/ 32/

Material injury by reason of unfairly traded imports 33/ 34/ 35/ 36/

Section 771(7)(B) of the Tariff Act of 1930 directs the Commission to consider, among other factors, the volume of imports of the merchandise under

29/ In previous preliminary investigations the Commission cumulated imports from Mexico, the People's Republic of China, and Taiwan. See Porcelain-On-Steel Cooking Ware from Mexico, the Peoples Republic of China, and Taiwan, Invs. Nos. 701-TA-265-266 (Preliminary) and 731-TA-297-299 (Preliminary), USITC Pub. 1800 (Jan. 1986); Porcelain-On-Steel Cooking Ware from Spain, Invs. Nos. 701-TA-279 (Preliminary) and 731-TA-336 (Preliminary) USITC Pub. 1883 (August 1986).

30/ In these investigations Chairman Liebler, Vice Chairman Brunsdale, Commissioner Stern, and Commissioner Rohr did not find it appropriate or necessary to cross-cumulate.

31/ Chairman Liebler notes that she believes that it is inappropriate to cumulate LTFV and subsidized imports. See e.g., Certain Carbon Steel Products from Austria, Czechoslovakia, East Germany, Hungary, Norway, Poland, Romania, Sweden, and Venezuela, Invs. Nos. 701-TA-225-234, 731-TA-213-217, 219, 221-226, and 228-235 (Preliminary), USITC Pub. 1642 (Feb. 1985).

32/ Commissioner Rohr notes with respect to the issue of "cross cumulation" that he considered the volume and effect of imports both with and without "cross cumulation" and notes that his conclusions remain the same.

33/ Chairman Liebler's Additional Views on causation are found, supra, and she does not join this section of the opinion.

34/ Chairman Liebler, Vice Chairman Brunsdale, and Commissioner Stern determine that the domestic industry is not materially injured or threatened with material injury by reason of subsidized imports from Mexico. Their Additional Views are contained, supra.

35/ Commissioner Rohr determines that the domestic industry producing porcelain-on-steel teakettles is not materially injured or threatened with material injury by reason of subsidized imports from Mexico and by LTFV imports from Mexico, the People's Republic of China and Taiwan. See Additional Views of Commissioner Rohr, supra.

36/ Vice Chairman Brunsdale joins in this section to the extent it is consistent with her additional views. See Additional Views of Vice Chairman Brunsdale, supra.

investigation, the impact of imports on the domestic industries, and the effect of imports on domestic prices. ^{37/}

The cumulated volume of imports of porcelain-on-steel cooking ware from Mexico, the People's Republic of China, Taiwan, and Spain rose 52 percent from 1983 to 1985. ^{38/ 39/ 40/} In terms of value, imports from these four countries also increased, rising by 25 percent from 1983 to 1985. ^{41/ 42/}

United States consumption of porcelain-on-steel cooking ware increased by 2.0 percent from 1983 to 1984, and thereafter declined by 0.3 percent in 1985 and by 3.7 percent in interim 1986 when compared to the 1985 interim period. ^{43/} GHC's share of domestic porcelain-on-steel consumption declined from 1983 through 1985. ^{44/} During the same period, imports from Mexico, the People's Republic of China, Taiwan, and Spain, as a share of total porcelain-on-steel apparent consumption increased by almost 14 percentage

^{37/} 19 U.S.C. § 1677(7).

^{38/} Report at A-17.

^{39/} Commissioner Eckes did not cumulate imports from Spain, but notes that the cumulative import volume trend for the unfair imports from Mexico, the People's Republic of China, and Taiwan is the same. See Commissioner Eckes' footnote 20.

^{40/} Commissioner Lodwick cross cumulated the volume and effect of imports to reach his affirmative subsidy determination.

^{41/} Id. at A-18.

^{42/} See Commissioner Eckes' and Commissioner Rohr's footnote 4 regarding reliance on import data on a value basis.

^{43/} Id. at A-19

^{44/} Id. at A-20.

points from 1983 to 1985 and continued to increase from January through June 1985 to January through June 1986. ^{45/}

Pricing data are difficult to assess due to the nature of the product and its marketing. Porcelain-on-steel is a consumer good so factors such as features and style have a significant impact on pricing. Also models are frequently changed making it difficult to develop price series. Nonetheless what is evident is (1) that during the surge in imports from 1983 to 1985 the domestic producer's prices were unable to keep pace with costs, driving financial margins down; and (2) anecdotal information collected from purchasers indicates instances of undercutting by the subject imports.

Accordingly, we find that the domestic industry is materially injured by reason of LTFV imports of porcelain-on-steel cooking ware from Mexico, the People's Republic of China, and Taiwan and is materially injured by reason of subsidized imports of porcelain-on-steel cooking ware, other than teakettles, from Mexico.

Critical Circumstances

On October 10, 1986, the Department of Commerce issued its final affirmative determination that porcelain-on-steel cooking ware from Mexico is being sold at less-than-fair-value (LTFV). Commerce further determined that critical circumstances exist with respect to imports from Troqueles y

^{45/} Report at A-20.

Esmaltes, S.A.(TRES). ^{46/} Thus, for those imports, the Commission must determine whether:

the material injury is by reason of massive imports ... to the extent that, in order to prevent such material injury from recurring, it is necessary to impose [antidumping duties] retroactively. ^{47/}

The Commission's application of the critical circumstances provision was recently upheld by the Court of International Trade in ICC Industries, Inc. v. United States, 632 F. Supp 35, 41 (CIT, 1986). ^{48/} The Court rejected the argument that material injury must be attributed to the massive imports alone rather than to the entire corpus of "massive and normal" imports. ^{49/}

^{46/} 51 Fed. Reg. 36447. The Commerce notice stated that critical circumstances exist with regard to "all other" producers of Mexican cooking ware that are importing their product to the United States. During the period of investigation only two Mexican firms, TRES and Cinsa, S.A. (Cinsa) have imported cooking ware. Commerce made a negative critical circumstances determination with regard to Cinsa.

^{47/} 19 U.S.C. § 1673d(b)(4)(A).

^{48/} In ICC Industries the Court held:

Massive imports which arrive during the investigation and are found by the Commerce Department to have a history of dumping or to be knowingly bought at less-than-fair-value do not have to be the subject of a separate injury analysis. Their injurious effect, coming on top of previous importations found to be injurious, may be easily and legitimately inferred. As to them, the requirement of additional findings is not meant to complicate the Commission's analysis of causation, but merely to require the Commission to determine whether the extent of massive imports will carry the injury already found to have occurred, beyond its normal duration unless retroactive duties are imposed.

^{49/} Id. at 40. There the court said:

In the opinion of the Court, where a finding has been made that imports priced at less-than-fair-value are being knowingly entered in massive quantities during an investigation, the ITC is not

(Footnote continued on next page)

An affirmative critical circumstances determination involves a finding that, absent retroactive relief, the massive imports that occurred after the case was filed but before Commerce made its preliminary determination will prolong or will cause a recurrence of material injury to the domestic industry. The purpose of the provision is to provide relief from a surge of imports that occurred immediately prior to the suspension of liquidation and to deter importers from attempting to circumvent the antidumping laws by massive shipments immediately after the filing of an antidumping petition. ^{50/}

In this case, Commerce made an affirmative critical circumstances determination with regard to only one Mexican producer, TRES. ^{51/} We considered the massive imports from TRES from January 1986 through May 1986,

(Footnote continued from previous page)

required by law or considerations of fairness to isolate the massive quantities and make them the separate subject of an injury determination.

In those circumstances it is sufficient if the ITC concentrates on the capacity of the massive imports to render ineffectual the normal imposition of duties (prospective from the date of publication of the preliminary determination) and thereby bring about a recurrence of material injury primarily caused by normal levels of importation.

^{50/} H.R. Rep. No. 317, 96th Cong., 1st Sess. 63 (1979).

The provision is designed to provide prompt relief to domestic industries suffering from large volumes of, or a surge over a short period of, imports and to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of the investigation and a preliminary determination by the Authority.

^{51/} Because the data for a single firm are confidential, we are able to discuss the basis for our negative critical circumstances determination in general terms only.

the period from the initiation of the investigation to the preliminary affirmative determination by the Department of Commerce. ^{52/} ^{53/} The available data establish that while the value of imports from TRES increased significantly during the critical circumstances period, the trends continued even more sharply in the three months which followed. With regard to inventories, questionnaire respondents reported no inventories from TRES. Therefore, because the massive imports from TRES have been sold, and were not kept in inventory, it does not appear that these imports were not an attempt to circumvent the antidumping laws. Moreover, given the low import penetration ratios by imports from TRES, we do not find that the imposition of a retroactive duty is necessary to provide effective relief.

^{52/} 51 Fed. Reg. 18469 (May 20, 1986).

^{53/} The Commission was not able to develop data concerning prices or the volume of imports from TRES during the critical circumstances period.

ADDITIONAL VIEWS OF COMMISSIONER ROHR

I determine that an industry in the United States is materially injured by reason of imports from Mexico (Inv. No. 731-TA-297), the People's Republic of China (Inv. No. 731-TA-298), and Taiwan (Inv. No. 731-TA-299) of porcelain-on-steel cooking ware (P-O-S cookware), except P-O-S teakettles, that are being sold at less-than-fair-value (LTFV) and by reason of imports from Mexico (Inv. No. 701-TA-265) of P-O-S cookware, except P-O-S teakettles, that are being subsidized. Further, I determine that an industry in the U.S. is not materially injured by reason of LTFV imports of P-O-S teakettles from Mexico, the People's Republic of China (PRC), and Taiwan or by subsidized imports of P-O-S teakettles from Mexico. Finally, I make a negative determination on critical circumstances in regard to imports from Mexico of P-O-S cookware.

Therefore, I concur with the Commission majority's affirmative determinations in Inv. Nos. 731-TA-297, 298, and 299 and 701-TA-265, and negative critical circumstances determination in Inv. No. 731-TA-297, as they affect P-O-S cookware other than teakettles. I also concur with the Commission majority's negative determination in Inv. No. 701-TA-265 as it affects P-O-S teakettles. I dissent from the Commission majority's affirmative determinations in Inv. Nos. 731-TA-297, 298, and 299 as they affect P-O-S teakettles.

Like product and domestic industry

The imported articles subject to this investigation include P-O-S cookware of various different shapes, uses, and applications. In both the preliminary investigations involving these articles and these final investigations, the Commission considered arguments that, while all P-O-S cookware, including P-O-S teakettles, is subject to investigation, such teakettles should be viewed as a separate like product from P-O-S cookware. As a consequence, the impact of imports of such teakettles on a specific domestic P-O-S teakettle industry should be considered separately from the impact of P-O-S cookware on the domestic production of such products.

Based upon the data available in this investigation, taking into consideration the different characteristics and use of teakettles, I determine that P-O-S teakettles constitute a separate like product from P-O-S cookware. Unlike articles of cookware, even those adapted primarily for a particular cooking applications, teakettles are not used for cooking. Teakettles are used solely to boil water, which may then be used to prepare hot beverages or then used in cooking utilizing some type of cookware.

Typically, they remain at all times on top of a stove. Consequently, apart from their functional qualities, they often are considered kitchen decoration. Because P-O-S teakettles are available in many different styles, colors, and decorations, they are often valued and purchased for their decorative qualities alone. As such, they are a consumer item particularly responsive to fad and fashion.

It is also clear that certain characteristics of general P-O-S cookware, such as its propensity to chip or to become discolored or scratched, are major considerations for purchasers of such cookware. From the information received in this investigation, it appears that such considerations are, at best, minor factors for purchasers of P-O-S teakettles.

Additionally, P-O-S teakettles are typically marketed as separate items from other

P-O-S cookware. Although sometimes they are manufactured to coordinate with other articles of P-O-S cookware, they are also manufactured to coordinate solely with commercial lines of kitchenware. They are frequently marketed with kitchenware, rather than with cookware.

Channels of distribution exist for P-O-S teakettles which do not exist for P-O-S cookware. Teakettles are marketed as items of giftware. The additional giftware market for teakettles reflects the perception of P-O-S teakettles as an item of kitchen decoration apart from its more utilitarian features.

This investigation presents a somewhat unusual situation because there is only a single company producing either P-O-S cookware or teakettles. In this case, I do not find it determinative that both P-O-S cookware and teakettles are produced by a single company in the same facilities. It is noteworthy that the domestic producer purchased additional equipment to aid in the production of teakettles in the period 1983-1985. As the domestic producer admits, it has focussed a considerable amount of its recent research and development, marketing, and capital investment specifically on teakettles, during a period in which the product was changed from a one and one half to a two quart capacity and the marketing of the product was given additional emphasis. It must also be noted that while the producer has been involved in the P-O-S cookware industry for some time, it made a separate decision, as recently as 1980, to try to become a significant participant in the P-O-S teakettle market.

The data demonstrate that the producer itself viewed teakettles somewhat differently from the rest of its P-O-S production. The domestic producer has provided separate data concerning production, shipments, and inventories of teakettles and other P-O-S cookware. It has not provided separate profitability and employment data. The domestic producer indicates that such data are not susceptible to quantification because all workers and equipment at its factory produce both P-O-S cookware and P-O-S teakettles. In such cases, the statute permits me to aggregate data to the extent necessary. Where possible, I have considered data specific to cookware or teakettles. Where data is not available, I have used my discretion under section 771(4)(D) to consider the aggregate data provided by the single domestic producer.

Condition of the domestic industry

With respect to the condition of the domestic industry producing P-O-S cookware, other than teakettles, I concur with the analysis presented by the Commission majority's opinion. I note that the trends in the P-O-S cookware data not broken out for P-O-S teakettles would not differ significantly if the latter data were broken out. Given the better performance of P-O-S teakettles over P-O-S cookware discussed below, the trends in the data for P-O-S cookware are, in fact, worse.

For the domestic industry producing P-O-S teakettles, I note that the 1983 to 1985 trends in the industry data display movements opposite to those for P-O-S cookware. Production, domestic shipments, domestic producer's market share, and U.S. exports of P-O-S teakettles all showed upward trends from 1983 to 1985 in contrast to the downward trends of these indicators for P-O-S cookware. These trends reflect the fairly recent large scale entry of the domestic industry into the P-O-S teakettle market. In analyzing the employment and financial performance of this industry, I have used aggregate data for the producer as permitted by section 771(4)(D). The data does not reflect "uninjured" performance in either instance. I therefore conclude that the domestic P-O-S teakettle industry is currently experiencing material injury.

Material injury by reason of unfairly traded imports

I conclude that there is a causal connection between the material injury to the domestic P-O-S cookware industry, other than teakettles, and the unfairly traded imports from Mexico, the PRC, and Taiwan. I concur with the analysis, including that on cumulation,

presented by the Commission majority on these issues. As in the analysis of the condition of the domestic industry, exclusion of data relating to teakettles does not affect the analysis of causation.

For the domestic P-O-S teakettle industry, I conclude that there does not exist a causal link between the material injury it is experiencing and the unfairly traded imports of P-O-S teakettles from Mexico, the PRC, and Taiwan, even on a cumulated basis. The domestic P-O-S teakettle industry has undergone substantial change since 1983, at which time it was in a nascent stage of development. Since that time, the domestic producer has succeeded in moving from minor to significant participation in a substantial domestic P-O-S teakettle market previously developed and dominated by foreign producers and U.S. importers.

P-O-S teakettles can rightfully be characterized as a differentiated product subject to fad and fashion, and as such, important aspects of the nature of competition in the P-O-S teakettle market are those concerning choices in the shape, design, trim, size, packaging, and color of the product. In recognition of this, the domestic producer undertook efforts to more effectively compete on these grounds by introducing a wider range of P-O-S teakettles starting in 1984. Nevertheless, the domestic producer still has a restricted product range, compared to some of its foreign competitors. This stems in part from its decision to utilize longer production runs for a limited number of products, rather than shorter production runs on a wider range of products as is the case with some of the foreign producers.

I note that U.S. industry data broken out for P-O-S teakettles, including domestic production, shipments, market share, and exports, increased significantly from 1984 to 1985. At that time, the U.S. P-O-S teakettle market experienced a 16.5 percent overall decline in consumption. Moreover, in comparing the volume of imports and apparent consumption during the period of investigation, I note that during this time period domestic apparent consumption declined by approximately 15 percent while Mexican imports declined by 47 percent, cumulated Mexican and Spanish imports declined by 55 percent, and imports from all countries with whom cumulation is possible declined 16 percent. Import market share also declined, Mexico by 44 percent, Mexico and Spain by 16 percent, and from all possible cumulated countries by more than 1 percent. This compares to an increase in market share over the period by the domestic industry of 556 percent.

In regard to prices, I note that from the time of introduction of the domestic producer's expanded range of P-O-S teakettles, its price for this product remained stable over several quarters and then increased in recent quarters. This contrasts with a decreased average unit value of subsidized imports from Mexico and Spain and a stable average unit value of LTFV imports from Mexico, Spain, the PRC, and Taiwan in interim 1986 compared to interim 1985. Moreover, for the seven importers that provided the Commission with usable price series for 2-quart teakettles, five of them sold their P-O-S teakettles at prices higher than those of the domestic producer.

Based upon my analysis of these considerations, I conclude that there is no causal relationship between the condition of the domestic P-O-S teakettle industry and the imports subject to these investigations.

No threat of material injury by reason of unfairly traded imports of P-O-S teakettles

Section 771(7)(F) directs the Commission to consider the following criteria in determining whether an U.S. industry is threatened with injury by reason of imports: the nature of any subsidy, any increase in capacity or existing unused capacity in the exporting country, any rapid increase in import penetration, the probability of price depression and/or suppression, any substantial increase in importers' inventories, the existence of underutilized capacity in the exporting country, any other demonstrable adverse trends, and the potential for product shifting. I have considered each of these criteria below, and I conclude there is no real and imminent threat of material injury to the domestic industry from the subject imports.

The total subsidy to Mexican producers in Inv. No. 701-TA-265 was determined by the

Department of Commerce to be 1.90 percent *ad valorem*. The export subsidy component of this overall subsidy was 1.62 percent *ad valorem*. This factor is not relevant to the antidumping investigations.

With respect to the trends in the volume of imports, I note, in comparing interim 1986 to interim 1985, that the volume of imports and the import market share of P-O-S teakettles from the PRC and Taiwan have decreased. Although the volume and market share of imports from Mexico have increased, such imports represent a very small share of the U.S. market. Importers' inventories of Mexican P-O-S cookware have decreased, and those from the PRC and Taiwan have increased from interim 1985 to interim 1986 but nevertheless do not pose an imminent threat to the domestic P-O-S teakettle industry.

From the data available in this investigation, I see no evidence of probable suppression and/or depression of the U.S. producer's prices of P-O-S teakettles. Further, manufacturers of P-O-S teakettles from Mexico and Taiwan are operating at relatively high capacity utilization rates (with no data presently available on PRC manufacturers). Finally, although product shifting from other P-O-S cookware to teakettles is possible (given that both products utilize the much of the same workers, machinery, and equipment) I see no evidence that this is likely to occur in a fashion that presents an imminent threat to the domestic P-O-S teakettle industry. I therefore conclude that imports from the countries subject to this investigation do not pose a real and imminent threat of material injury to the domestic industry.

ADDITIONAL VIEWS OF CHAIRMAN LIEBELER

Porcelain-on-Steel Cooking Ware
from Mexico, The People's Republic of China, and Taiwan
Invs. Nos. 701-TA-265, 731-TA-297-299 (Final)

Based on the record in these investigations, I determine that an industry in the United States is materially injured by reason of dumped imports of porcelain-on-steel cooking ware from Mexico, The People's Republic of China, and Taiwan. I also determine that an industry in the United States is not materially injured, or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of subsidized imports of porcelain-on-steel cookware from Mexico. I concur with my colleagues in their definitions of like product and domestic industries, and their findings with respect to the condition of the industry and critical circumstances.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a final investigation, the Commission must determine that there is an indication that the dumped or subsidized imports cause or threaten to cause material injury to the domestic industry producing the like product. The Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material injury, and whether any injury or

threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds 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 import relief 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

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such statutory interpretation.

The statutory language used for both parts of the analysis is ambiguous. "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."² As for the causation test, "by reason of" lends itself to no easy interpretation, and has been

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

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19 U.S.C. § 1977(7) (A) (1980).

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.

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 other than the

less-than-fair-value imports.³

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."⁴

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 a matter for the judgment of the ITC."⁵ 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.

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

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Id.

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Id.

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

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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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price.

This "complex and difficult" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions

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

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Id.

of traditional microeconomic theory is that firms attempt

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to maximize profits. 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."

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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 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

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

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

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."

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 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

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

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

share, (2) high dumping margins, (3) homogeneous products, (4) declining prices and (5) barriers to entry to other foreign producers (low

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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 will be discussed in turn after a discussion of cumulation issues.

Cumulation

I have determined to cumulate the imports of the countries subject to the current dumping investigations with imports of porcelain-on-steel cookware from Spain that are subject to an ongoing dumping investigation. In the countervailing duty investigation, I have determined that it is only appropriate to cumulate the imports of

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Id. at 16.

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

Mexico with those from Spain.

Causation analysis

Examining import penetration is important because unfair price discrimination has as its goal, and cannot take place in the absence of, market power. In the dumping investigations, the cumulated import penetration ratio has risen rapidly from 1983 to over 50 percent in 1985.¹⁵ For January-June 1986, the ratio increased again. Import penetration is high and increasing.

As noted above, for the subsidy case I have only cumulated Mexican imports with those from Spain. The

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For a discussion of my views on cumulation, see Oil Country Tubular Goods from Canada and Taiwan, Invs. Nos. 701-TA-255, 731-TA-276-277 (final), USITC Pub. 1865 (1986); Certain Carbon Steel Products from Austria, Czechoslovakia, East Germany, Hungary, Norway, Poland, Romania, Sweden, and Venezuela, Invs. Nos. 701-TA-225-234, 731-TA-218-217, 219, 221-226, and 228-235 (preliminary), USITC Pub. 1642 (1985). The Commerce Department reached a negative preliminary determination in the subsidy investigation concerning Spanish imports. Because my decision in this case does not depend on whether imports from Spain are cumulated, I have cumulated to provide petitioner with its strongest case. I reserve final judgment on this issue.

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The exact figures are confidential.

resulting penetration ratios are considerably lower than for the dumping case. For example, in 1985 the figure was below 20 percent. During interim 1986, import penetration from these two countries rose slightly. Import penetration is moderate and increasing.

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 price¹⁶ and the more likely it is that the domestic producers will be adversely affected. The Commerce Department has determined the weighted-average dumping margins ranged from 6.8 percent in Taiwan to 66 percent in the PRC.¹⁷ The range of dumping margins is varied but is not inconsistent with a finding of unfair price discrimination. As for the subsidy case, the Mexican subsidy was estimated by Commerce to be 1.90 percent ad valorem. The preliminary Commerce subsidy determination with respect to Spain was negative. The

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See text accompanying note 7, supra.

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The margin in Mexico was 29.52 percent. Report at A-4. The preliminary determination for Spain has not yet been announced. Report at A-3.

subsidy margins are extremely low and thus not consistent with such a finding.

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 is some evidence that the imports and domestic products differ in terms of size, decoration, and

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certain other characteristics. Overall, however, although manufacturers' products are not completely identical, they are generally very similar. I find that these products are substitutable.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. Domestic prices did not follow the same trend for the different products covered by the investigation. Many of the representative prices were
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fairly stable over the the period of investigation.

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Report at A-5.

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Report at Table 12.

Certain products, such as teakettles and stewpots, which comprise a substantial segment of the industry, did suffer large price declines. The pricing data is inconclusive on the issue of unfair price discrimination.

The fifth factor is foreign supply elasticity (barriers to entry). If there is low foreign elasticity of supply (or barriers to entry) it is more likely that a producer can gain market power. At the beginning of the period, Japan accounted for nearly 50 percent of the imports. Other countries accounted for an additional 9 percent. By 1985, Japan and these other countries

accounted for less than one-third of the imports.²⁰ Because the PRC and Taiwan are not countries under investigation for the subsidy case, the imports by countries not subject to investigation account for between 67 and 75 percent of the total imports during the period of investigation.²¹ Thus, for the subsidy case, clearly there are no barriers to entry. For the dumping investigations, the notable trend toward decreasing

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Report at Table 10.

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Id.

imports from third-party countries indicates that the supply elasticity from these countries may be decreasing.

These factors must be considered in each case to reach a sound determination. For the dumping case, the high and increasing import penetration ratio is the major factor. The dumping margins are also fairly high. The other factors are not inconsistent with a finding of unfair price discrimination. I have therefore made an affirmative determination. In the subsidy case, however, the margin is very low, penetration is only moderate, and there are many suppliers not subject to a subsidy investigation. I have thus made a negative determination in the subsidy investigation.

Conclusion

Therefore, I determine that an industry in the United States is materially injured by reason of dumped imports of porcelain-on-steel cookware from Mexico, The People's Republic of China, and Taiwan. I also determine that an industry in the United States is not materially injured, or threatened with material injury, and that the establishment of an industry in the United States is not

materially retarded, by reason of subsidized imports of
porcelain-on-steel cookware from Mexico.

ADDITIONAL VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

701-TA-265 and 731-TA-297 to 299 (Final)

Porcelain-on-steel Cooking Ware from Mexico, China, and Taiwan

In these additional views I set forth my reasons for reaching an affirmative determination with respect to dumped imports of porcelain-on-steel cooking ware from Mexico, The People's Republic of China (China), and Taiwan, and my reasons for reaching a negative determination with respect to subsidized¹ imports from Mexico. I join the majority's discussion of like product, domestic industry, condition of the domestic industry, and cumulation. I join in the discussion of material injury by reason of dumped imports only to the extent that it is consistent with these views.

Material injury by reason of dumped imports from Mexico, China, and Taiwan

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Because an unusually large amount of the data in this investigation are confidential, this opinion is written in very general terms.

In making my determinations in the three antidumping investigations I have cumulated imports from Mexico, China, and Taiwan, which Commerce has found to be dumped, with imports from Spain, for which Commerce has still not made a preliminary² determination.

Section 771(7)(C)(i) of the Tariff Act of 1930, as amended, directs the Commission to consider whether the volume of imports³ or any increase in that volume is significant. The market share held by cumulated dumped and allegedly dumped imports is significant and has increased markedly over the period of investigation, rising sharply in 1984 and rising again but by a smaller amount in 1985.⁴ Coincident with the rise of dumped and allegedly dumped imports into the United States, the market share of the one domestic producer declined significantly in 1984⁵ and declined again but by a smaller amount in 1985.

Not only have dumped and allegedly dumped imports risen over the period of investigation, but they have captured a large share

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See Views of the Commission, supra, at 9-12.

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19 U.S.C. sec. 1677(7)(C)(i) (1982).

⁴
Report at A-20 (Table 11).

⁵
Id.

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of the U.S. market. Dumped imports having a large share of the U.S. market would exert only a small impact on domestic prices and production if the demand for the product were highly elastic.⁷ Although several substitutes for porcelain-on-steel cookware are available, and porcelain-on-steel cookware has only a small share of the entire cookware market,⁸ the record suggests that other cookware is not such a very close substitute for the porcelain-on-steel variety that U.S. prices are unaffected by imports of the latter.⁹ Thus, the evidence suggests that demand is not highly elastic, and therefore cumulated imports of dumped and allegedly dumped porcelain-on-steel cookware have had an adverse material impact on either domestic production, or prices, or both.

There are two ways to measure the market penetration of imports: in terms of dollar values or in terms of physical

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See Report at A-20.

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See Certain Ethyl Alcohol from Brazil, Invs. Nos. 701-TA-239 and 731-TA-248 (Final), USITC Pub. 1818, 15 (1986); See also Memorandum from Director, Office of Economics, EC-J-010 (January 7, 1986).

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Report at A-46

9
See Memorandum from International Economist, EC-J-420, at 5.

quantities. Which method is more appropriate in a particular case depends not only on the data available¹⁰ but on the types of products that are involved as well. When there are significant differences in the qualities of the different articles that are included in the domestic like product or in the comparison between the domestic like product and the subject imports, it is more appropriate to measure market penetration by value. In this case it is clear that there are significant quality differences, even for the same article. For example, there can be substantial differences in the gauge of steel used in a one-quart saucepan, and hence in the durability of the pan.¹¹ Thus when two pans provide the same service but one has a thicker gauge of steel and lasts twice as long as the other, there is a significant quality difference. This quality difference would be reflected by the fact that the higher quality pan sells for a higher price in the market. In addition, different cookware articles, such as one-quart saucepans and oven roasters, provide different services and are expected to have

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In this case we have reasonably accurate data for both measures.

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Questionnaire responses indicate that the gauge of steel used is important to retailers, and thus presumably to consumers. See Memorandum from the Office of Economics, EC-J-420, at 4-5 (November 3, 1986).

different qualities. Once again, the quality differences would be reflected by differences in market prices. Under these conditions it is not appropriate to measure the market for all cookware sales by adding numbers of physical units of different cookware. Such a total implicitly treats all individual pieces as equivalent or interchangeable when in fact they are not. Instead, it is more appropriate to measure the market by adding the dollar value of sales for different pieces of cookware.

Section 771(7)(B)(ii) directs the Commission to consider the¹² effect of dumped imports on U.S. prices. The pricing data in this case are inconclusive. The trends vary from product to product and contain sharp drops and jumps as new products were¹³ introduced or as overstock was sold off. Thus, it is difficult to draw any general conclusions about what happened to prices over time. Thus, the pricing data neither support nor detract from an affirmative determination.

Therefore, based on the fairly large and increasing market penetration of dumped imports, the coincident decline in domestic

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19 U.S.C. sec. 1677(7)(B)(ii) (1982).

¹³

Report at A-24-26.

market share, and the absence of evidence that demand for porcelain-on-steel cookware is highly elastic, I conclude that the domestic industry producing porcelain-on-steel cookware is materially injured by reason of dumped imports from Mexico, China, and Taiwan.

No material injury by reason of subsidized imports from Mexico

In this case we consider for the first time the question whether in a final investigation the Commission can cumulate imports from a country (Spain) for which Commerce has made a negative preliminary determination but as of yet has made no final determination. Complainant in its countervailing duty case against Mexico urges the Commission to cumulate imports from Spain. Because I reach a negative determination cumulating imports from Spain and Mexico, I have cumulated imports in this case, and I reserve the more general question of cumulating imports in a final investigation from countries for which Commerce has made a negative preliminary determination for another day.

There is substantial support in the legislative history for the Commission to consider the subsidy margin in making a

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determination in a countervailing duty investigation. So as to avoid taking away in one paragraph what was given in the previous paragraph, I will not assume that the subsidy margin is zero. Nonetheless, because this is a final investigation, I cannot proceed on the basis that there is a reasonable chance that Commerce will later find a large margin, but I must rely on the evidence available. Because Commerce has made a preliminary negative determination, I can go no further than assume that any positive subsidy margin from Spain will be small.

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The net subsidy on imports of porcelain-on-steel cooking ware from Mexico is 1.90 percent. This is a very small subsidy. Consequently, any weighted subsidy on imports from Spain and Mexico must also be small. For subsidized imports to have, through the effect of a small subsidy, a disproportionate

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The House Report to the Trade Act of 1979 states: "[F]or one type of product, price may be the key factor in determining the amount of sales elasticity, and a small price differential resulting from the amount of the subsidy or the margin of dumping can be decisive; in others the margin may be of lesser significance." H. Rep. 317, 96th Cong., 1st Sess. 47 (1979) (emphasis added). S. Rep. 249, 96th Cong., 1st Sess. 88 (1979). The Senate Report contains similar language. See also H. Rep. 317 at 55; S. Rep. 249 at 57-58.

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Report at A-3.

effect on the domestic industry producing the like product both the domestic industry's supply curve and the demand curve facing the domestic industry must be highly inelastic.¹⁶ The available evidence indicates that neither curve is highly inelastic. With regard to the supply curve, GNC has substantial excess capacity, which makes it very likely that it could expand production without substantially increasing unit costs.¹⁷ On the demand side, there are several substitutes for porcelain-on-steel cooking ware, which has only a relatively small share of the entire cooking ware market.¹⁸ Therefore, both demand and supply are not likely to be highly inelastic.¹⁹

An examination of the market penetration ratios in this case is also consistent with a negative determination. The market share of the subsidized and allegedly subsidized imports

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See Memorandum from Director, Office of Economics, EC-J-010 (January 7, 1986).

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Report at A-8.

18

Report at A-46; Memorandum from Office of Economics, EC-J-420, at 4-5 (November 3, 1986).

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This finding is not inconsistent with the finding earlier that demand is not likely to be highly elastic, because demand lies in the region between highly elastic and highly inelastic.

increased sharply in 1984 and again in 1985 but declined between January-June 1985 and January-June 1986. On the other hand, while the market share held by GHC dropped sharply in 1984, it declined slightly in 1985 when subsidized and allegedly subsidized imports rose sharply, and declined only very slightly between interim 1985 and interim 1986 when subsidized and allegedly subsidized imports also declined. Thus, an examination of market penetration ratios does not indicate any clear causal connection between the subsidized and allegedly subsidized imports and domestic production.

Therefore, although subsidized and allegedly subsidized imports have captured a significant share of the U.S. market, the best evidence available indicates that any subsidy margins are likely to be small, that domestic supply and demand are not inelastic, and that the correlation between subsidized and allegedly subsidized imports and domestic production is not high. Consequently, I determine that subsidized imports of porcelain-on-steel cookware from Mexico are not a cause of material injury to the domestic industry producing the like product.

With respect to threat of material injury, I note that the

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Mexican subsidy is quite small, that Mexican capacity has not
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changed much over the period of investigation, that Mexican
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capacity utilization is high, and that the United States
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accounts for a large share of Mexican imports. Thus, it is
unlikely that subsidized imports from Mexico will increase and
threaten the domestic industry with material injury.

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See Report at A-5.

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Report at A-30.

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Id.

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Id.

ADDITIONAL VIEWS OF COMMISSIONER STERN

I determine that the imports of subsidized porcelain-on-steel cooking ware from Mexico are not materially injuring or threatening to materially injure the domestic porcelain-on-steel cooking ware industry. My determination is based on the low countervailable subsidy on cooking ware from Mexico, the low import penetration, recent trends in Mexican imports, and the absence of any demonstration that these imports will increase in the future.

In this determination, I find that it is not appropriate to cumulate the volume and pricing effects of imports from other countries subject to investigation. First, I do not find that it is necessary or appropriate to cumulate imports across statutes. Second, although imports from Spain are technically "under investigation," the Department of Commerce has issued a negative preliminary determination with regard to the alleged subsidy on porcelain-on-steel cooking ware from Spain. Neither the face of the statute nor its legislative history provide clear guidance as to how such imports should be considered in a final Commission investigation. Since Commerce has not issued a final determination that Spanish imports are countervailable and because the evidence presently available is that they are fairly traded, it is now my opinion that it is not appropriate to cumulate the impact of imports preliminarily found by Commerce not to be unfairly traded.

The volume and value of imports from Mexico fluctuated during the period of investigation, and were low in comparison to that of other imports. Market penetration of Mexican imports was under 11 percent in each of the years for which whole year data were available, and remained at that level throughout

the period of investigation. In terms of value, the ratio of imports to domestic consumption was under 5 percent in each of the last three years.

Further, the pricing data for Mexican imports are mixed and do not indicate price undercutting, suppression or depression. One of the products for which prices were available--stockpots--were priced above those produced by the petitioner. The price for the other product--roasters--although lower than the domestically produced product, increased steadily throughout the period of investigation.

These factors, when considered along with the low net subsidy--1.90 percent ad valorem--do not establish that the domestic industry has been materially injured by reason of subsidized imports from Mexico.

I also find that the domestic industry is not threatened with material injury by reason of imports from Mexico. The production capacity of Mexican producers of porcelain-on-steel cooking ware has remained static and capacity utilization high during the entire investigatory period. The relatively low unused capacity makes it unlikely that there will be a significant increase in imports from Mexico in the future.

Moreover, United States share of total Mexican exports decreased from 1981 to 1985. The ratio of inventories to Mexican imports was stable during the full years for which data is available, and decreased sharply from January to June 1986, when compared to the 1985 interim period. Moreover, there is no

evidence of the potential for product shifting or other adverse trends that would demonstrate beyond speculation that the domestic industry is threatened with material injury.

Therefore, for the foregoing reasons I determine that the domestic industry is not materially injured or threatened with material injury by reason of subsidized imports of porcelain-on-steel cooking ware from Mexico.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On December 4, 1985, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of General Housewares Corp., Terre Haute, IN, alleging that subsidized imports of porcelain-on-steel cooking ware from Mexico and Taiwan and less-than-fair value (LTFV) imports of such articles from Mexico, The People's Republic of China (China), and Taiwan are being sold in the United States and that an industry in the United States is materially injured and threatened with material injury by reason of such imports.

Accordingly, effective December 4, 1985, the Commission instituted countervailing duty investigations Nos. 701-TA-265-266 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and antidumping investigations Nos. 731-TA-297-299 (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 threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports.

On January 16, 1986, the Commission determined 1/ that there was a reasonable indication that industries in the United States are materially injured by reason of the alleged subsidized imports from Mexico and Taiwan. It also determined 1/ that there was a reasonable indication that industries in the United States are materially injured by reason of the alleged LTFV imports from Mexico, China, and Taiwan. Commerce, therefore, continued its investigations into the questions of the alleged subsidized and LTFV imports. Commerce published its preliminary determinations with regard to the alleged subsidized imports in the Federal Register of March 7, 1986 (51 F.R. 7978). Commerce preliminarily determined that porcelain-on-steel cooking ware from Mexico is being subsidized within the meaning of the applicable statute. No subsidies were found in connection with imports from Taiwan. On the basis of Commerce's preliminary determinations, the Commission instituted a final countervailing duty investigation with regard to Mexico on March 4, 1986. Notice of the institution of this investigation 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 April 9, 1986 (51 F.R. 12220). 2/ Commerce published an affirmative final determination for Mexico and a negative final determination for Taiwan in the Federal Register of October 10, 1986 (51 F.R. 36447). Commerce published its preliminary determinations with regard to the alleged LTFV imports on May 20, 1986 (51 F.R. 18469). It preliminarily determined that porcelain-on-steel cooking ware from Mexico, China, and Taiwan is being sold, or is likely to be sold, in the United States at LTFV. On the basis of Commerce's preliminary determinations, the Commission instituted final anti-dumping investigations on May 20, 1986. Notice of the institution of these

1/ Vice Chairman Brunsdale did not participate in these investigations.

2/ A copy of the Commission's notice of institution of a final countervailing duty investigation is presented in app. A.

investigations and of a hearing to be held in connection with these investigations and with countervailing duty investigation No. 701-TA-265 (Final) 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 June 25, 1986 (51 F.R. 23164). 1/ Commerce published affirmative final determinations for all three countries in the Federal Register of October 10, 1986 (51 F.R. 36419). Commerce also determined that critical circumstances exist with respect to imports from one producer in Mexico (Troqueles Y Esmaltes, S.A.).

The Commission's schedules for investigation No. 701-TA-265 (Final) and for the subject antidumping investigations are identical, pursuant to Commerce's notice of postponement of its final determinations in the Federal Register of June 9, 1986 (51 F.R. 20862). The Commission is scheduled to make its final injury determinations by November 17, 1986. The hearing was held on October 9, 1986, 2/ and the briefing and the votes were held on November 5, 1986.

Previous Investigations

Porcelain-on-steel cooking ware has been the subject of four other investigations conducted by the Commission. In 1979, upon the receipt of a petition from General Housewares, the Commission conducted an investigation under section 201 of the Trade Act of 1974. In that investigation, No. TA-201-39, the Commission unanimously determined that the subject product was being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. 3/ On the basis of the Commission's recommendation, the President ordered import relief in the form of additional duties for 4 years, subject to the Commission's advice on the probable economic effect of termination of such relief after 2 years. 4/ On June 26, 1981, the Commission instituted investigation No. TA-203-10 under section 203(i)(2) of the Trade Act of 1974 (19 U.S.C. 2253(i)(2)) to so advise the President and unanimously determined that the termination or reduction of the import relief would have an adverse economic effect on the domestic industry concerned. 5/ On July 20, 1983, the Commission instituted investigation No. TA-203-15 under section 203(i)(3) of the Trade Act of 1974 (19 U.S.C. 2253(i)(3)) at the

1/ A copy of the Commission's notice of institution of final antidumping investigations and of a hearing to be held in connection with these investigations and with investigation No. 701-TA-265 (Final) is presented in app. A.

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

3/ Nonelectric Cooking Ware: Report to the President on Investigation No. TA-201-39, USITC Publication 1008, November 1979.

4/ President Carter imposed additional duties on Jan. 2, 1980, of 20 cents per pound in the first 2 years of import relief beginning Jan. 1980-81; 15 cents per pound in the third year of import relief (1982), and 10 cents per pound in the fourth year of import relief, which expired on Jan. 16, 1984.

5/ Porcelain-On-Steel Cooking Ware: Report to the President on Investigation No. TA-203-10, USITC Publication 1190, October 1981.

request of General Housewares to advise the President on the appropriateness of extending import relief; however, General Housewares withdrew its petition on September 16, 1983. The relief continued until January 17, 1984. More recently, in response to a petition submitted by General Housewares on June 30, 1986, the Commission conducted preliminary countervailing duty and antidumping investigations involving porcelain-on-steel cooking ware from Spain (investigations Nos. 701-TA-279 and 731-TA-336 (Preliminary)). On August 11, 1986, the Commission unanimously determined that there is a reasonable indication that an industry in the United States is materially injured by reason of the alleged subsidized imports from Spain, and also that there is a reasonable indication that an industry in the United States is materially injured by reason of the alleged LTFV imports from Spain. ^{1/} Commerce's preliminary determination on the alleged LTFV sales is due by December 8, 1986. Its determination on the alleged subsidized sales, published in the Federal Register of September 29, 1986 (51 F.R. 88440), was negative. Commerce's final determination will be made by February 20, 1987.

Nature and Extent of Subsidies and Sales at LTFV

In its final determination, Commerce estimated that a net subsidy of 1.90 percent ad valorem is being provided to manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Mexico. The period for which subsidies were estimated is calendar year 1985. The specific benefits and programs that Commerce found to constitute subsidies include export loans (offered at rates of interest that are lower than those on comparable commercially available loans) and long-term industrial development loans (available in certain geographic regions). These loans are discussed in detail in Commerce's notice of final affirmative countervailing duty determination (Federal Register of Oct. 10, 1986 (51 F.R. 36447)).

Commerce's final LTFV determinations were based on an examination of certain articles of porcelain-on-steel cooking ware exported to the United States by two Mexican firms, one Chinese firm, and six Taiwan firms during July 1-December 31, 1985. These firms account for virtually all of their respective country's exports to the United States.

For the purpose of determining whether these exports were, or were likely to be, sold at LTFV, Commerce compared the U.S. purchase price (if sold to an unrelated customer) or the exporter's sales price (if sold to a related customer) with a fair market price based in some instances on home-market and third-country sales and in some instances on constructed value or on sales of porcelain-on-steel cooking ware in the United States by countries other than those under investigation. For China, Commerce compared a United States price based largely on U.S. Customs Service f.o.b. foreign port-of-export value with a foreign market price based on corresponding values for imports from other countries, the best information available. Using these criteria, Commerce found dumping margins on sales of all of the firms examined. Of the total value of sales compared for Mexico (* * *) and Taiwan (* * *), * * * percent (* * *) and * * * percent (* * *), respectively, were found to be at LTFV.

^{1/} Porcelain-On-Steel Cooking Ware from Spain: Determinations of the Commission in Investigations Nos. 701-TA-279 and 731-TA-336 (Preliminary), USITC Publication 1883, August 1986.

The weighted-average margins are as follows (in percent):

<u>Mexico:</u>	<u>Margin</u>
Cinsa, S.A.....	17.47
Troqueles y Esmaltes, S.A.....	58.73
All others.....	29.52
<u>China:</u>	
China National Light Industrial Products Import and Export Corp.....	66.65
All others.....	66.65
<u>Taiwan:</u>	
Tian Shine Enterprises Co., Ltd.....	1.99
Tou Tien Metal (Taiwan) Co., Ltd.....	2.67
Li-Mow Enamelling Co., Ltd.....	6.48
First Enamel Industrial Corp.....	9.04
Li-Fong Industrial Corp.....	2.63
Receive Will Industry Co., Ltd.....	23.12
All others.....	6.82

The Product

Description and uses

Porcelain-on-steel cooking ware are articles of porcelain-coated steel used as receptacles in the cooking and heating of food. ^{1/} Related items of porcelain-coated steel used only to handle or process food, i.e., porcelain-on-steel kitchen ware, such as mixing bowls and colanders, are not included. Porcelain is an opaque glass, suffused onto the steel during the production process by means of intense heat.

Articles of porcelain-on-steel cooking ware are primarily identified according to the kind of cooking they are designed to perform and/or the kind of food they are designed to heat. Among the most common of such articles are skillets, frypans, sauce pans, double boilers, dutch ovens, stock pots, steamers, canners, blanchers, coffee pots, egg poachers, teakettles, broiling pans, and roasters.

All of the most common articles of porcelain-on-steel cooking ware identified above are sold in a wide variety of shapes, sizes, configurations, steel thicknesses, colors, decorative patterns, trim, handle design (either wood, phenolic or various metals), and/or price ranges. In recent years these articles have become increasingly differentiated, particularly in terms of style and decoration. No two manufacturers' products are completely identical, although they are often very similar. Several variations of a single article may be offered by a single producer. Most articles of porcelain-on-steel cooking ware are sold individually. The remainder are sold in sets, the

^{1/} The petition specified non-electric porcelain-on-steel cooking ware, i.e., porcelain-on-steel cooking ware without self-contained electrical heating elements. Porcelain-on-steel cooking ware with such elements are not known to be produced or sold in the United States.

most common consisting of seven pieces, including a skillet, dutch oven, two sauce pans, and three lids, one lid serving both the skillet and dutch oven.

All of the most common articles of porcelain-on-steel cooking ware are imported into the United States from one or more of the countries complained of, and there is no article being imported that is not also being produced domestically. There may, however, be considerable variation between the U.S. produced and imported articles in terms of size, decoration, and other characteristics identified above. Neither Mexico, China, nor Taiwan individually exports all of the most common articles of porcelain-on-steel cooking ware to the United States.

To produce porcelain-on-steel cooking ware, steel blanks are pressed into the shape of the desired article, coated with porcelain enamel, and then fired at high temperatures. The presses and other equipment used to form one article can be used to form all others with minimal retooling. The workers are also interchangeable, often shifting from the production of one article to that of another. 1/

In addition to porcelain-on-steel, articles of cooking ware may also be made of stainless steel, cast iron, porcelain-on-iron, aluminum, aluminum with non-stick surfaces (such as Teflon and Silverstone), copper, tin, and in some cases ceramic or glass. Although they are all similar in configuration and function, they may vary significantly in other respects. Differences in weight, heat conductivity and distribution, chemical stability, ease of handling and cleaning, durability, and other factors may make one type of cooking ware more suitable than another in a specific cooking situation. Prices vary widely. Tin and cast iron cooking ware, for example, are generally less expensive than the porcelain-on-steel variety, whereas cast aluminum and copper are generally more expensive; stainless is similarly priced or more expensive, depending on the manufacturer and style of the cooking ware.

U.S. tariff treatment

Porcelain-on-steel cooking ware is currently provided for in TSUS item 654.08, a tariff classification that also includes porcelain-on-steel kitchen ware. 2/ The column 1 (most-favored-nation) rate of duty for this item, applicable to imports from China and Taiwan, is currently 2.8 percent ad valorem. 3/ This rate will be reduced to 2.7 percent ad valorem on January 1, 1987, the

1/ A more detailed discussion of the production process is presented in app. C.

2/ This item came into effect on Jan. 17, 1984. Prior to this time, porcelain-on-steel cooking ware was provided for in item 654.02.

3/ The rates of duty in col. 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(d) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply if preferential tariff treatment is sought and granted to products of developing countries under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or to products of Israel or of least developed developing countries (LDDC's) as provided under the special rates of duty column.

last in a series of duty reductions granted in the Tokyo Round of the Multilateral Trade Negotiations. The special duty rate, applicable to imports from Mexico under the Generalized System of Preferences (GSP), is free. 1/

U.S. Producers

Since 1978, the petitioner, General Housewares Corp., has been the sole U.S. producer of porcelain-on-steel cooking ware. At least 12 firms have ceased producing this type of cooking ware since World War II. Headquartered in Stamford, Conn., General Housewares manufactures a variety of household articles at four locations in the Northeastern United States. It manufactures porcelain-on-steel cooking ware at a single plant in Terre Haute, IN. At other plants, it manufactures cooking ware of cast iron and cast aluminum. Porcelain-on-steel cooking ware accounts for about * * * percent of General Housewares' overall sales.

General Housewares has also imported porcelain-on-steel cooking ware, albeit in relatively small quantities. * * *.

U.S. Importers

At least 50 firms have imported porcelain-on-steel cooking ware from Mexico, China, and/or Taiwan since 1983. Nearly all were either houseware distributors, such as * * *; mass merchandisers, such as * * *; or large mail-order houses, such as * * *. Most are unrelated to the producers from which they import, and none modify or otherwise add value to the imported product.

U.S. Market and Channels of Distribution

Most porcelain-on-steel cooking ware sold in the United States by U.S. and foreign producers is either sold to large retailers, such as mass merchandisers, department stores, and mail-order houses, or to large houseware distributors, which serve the smaller retailers. (Porcelain-on-steel cooking ware imported from Mexico, China, and Taiwan has also been sold domestically through supermarket continuity programs since 1983, but only in relatively small quantities). The use of one channel in favor of the other may characterize imports from different countries. Mexican-produced material, for example, is sold predominantly to distributors, whereas Chinese-produced material is sold predominantly to large retailers. Material from Taiwan is sold to both types of buyers in relatively equal quantities. The vast majority of endusers are household consumers.

1/ The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after Jan. 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries. Although Taiwan, like Mexico, is a GSP country, imports from Taiwan under the subject item are excluded from GSP treatment.

As a household consumer product, porcelain-on-steel cooking ware is very much subject to fashion, impulse, image, aesthetic appeal, and other aspects of consumer behavior, which in turn make sales subject to considerable variation. Sales of most types of cooking ware tend to peak first during April-May because of Mother's Day and the traditional wedding season, and then again around Thanksgiving and Christmas. How well one type of cooking ware will sell relative to another type is less predictable. Some articles of cooking ware, such as oval roasters, have traditionally been of porcelain-on-steel. Other articles, such as sauce pans and skillets, are available in a wide variety of types and styles. In general, sales of porcelain-on-steel cooking ware and other low- to medium-priced cooking ware tend to increase relative to the more expensive types during recessionary periods. According to data compiled by the Commission on U.S. consumption of various types of cooking ware, shown in app. D, porcelain-on-steel cooking ware's share of the cooking ware market has been relatively small and declining in recent years. Cooking ware of aluminum and stainless steel account for the vast bulk of U.S. consumption.

Consideration of Alleged Material Injury

Teakettles account for a relatively large portion of porcelain-on-steel cooking ware sold in the United States (about 19 percent during January 1985-June 1986) and are the only article of such ware for which separate import data are available. Separate data for teakettles, therefore, are shown in the following sections, except for capacity, employment, and financial performance, for which General Housewares maintains data only for all articles of porcelain-on-steel cooking ware combined. This practice is consistent with the basic homogeneity of the plant. Equipment and workers are not differentiated along product lines. General Housewares, the sole producer of porcelain-on-steel cooking ware in the United States, responded to all sections of the Commission's questionnaire. The data shown in the following sections, therefore, represent 100 percent of U.S. production.

U.S. production, capacity, and capacity utilization

As stated previously, General Housewares produces porcelain-on-steel cooking ware at a single plant in Terre Haute, IN. The entire plant is devoted to the production of articles of porcelain-on-steel, and no article requires specialized equipment or labor to produce. 1/ * * * percent of the plant's time is used for the production of the subject product. The production of kitchen ware, such as plates and cups, and "contract" ware, such as ashtrays and Christmas-tree stands, utilizes the remaining time. General Housewares determines its production requirements at * * * on the basis of * * *. Production is seasonal, normally peaking in * * *.

General Housewares' production of porcelain-on-steel cooking ware declined by * * * percent from 1983 to 1985, and by * * * percent from

1/ One piece of equipment, however, * * *, is used solely for the production of teakettles at this time. * * *.

January-June 1985 to January-June 1986 (table 1). The plant reported no losses in production because of employment-related problems, sourcing problems, transitions, power shortages, natural disasters, or any other unusual circumstances, nor does its decline in production reflect a reallocation of resources to any foreign subsidiary. Contrary to the trend for all porcelain-on-steel cooking ware, U.S. production of teakettles increased almost * * * between 1983 and 1985. Production in January-June 1986, however, was * * * percent lower than in January-June 1985. As a share of General Housewares' total porcelain-on-steel cooking ware production, teakettles accounted for * * * percent in 1983, * * * percent in 1984, * * * percent in 1985, and * * * percent in January-June 1986.

Table 1

Porcelain-on-steel cooking ware: U.S. production, average capacity, and capacity utilization, by types, 1983-85, January-June 1985, and January-June 1986

* * * * *

From 1983 through January-June 1986, annual U.S. capacity to produce porcelain-on-steel cooking ware remained at * * * units. There is no capacity used exclusively for the production of teakettles or any other articles of porcelain on steel. Relatively more or less of a particular article may be produced from time to time in response to the market. General Housewares' level of capacity reflects a normal product mix and the operation of its facilities 120 hours per week, 50 weeks per year. The plant's furnaces, which can only heat a certain number of articles at a time, are * * * in the production process. In keeping with the trend in production, capacity utilization declined from * * * percent in 1983 to * * * percent in 1985, and from * * * percent in January-June 1985 to * * * percent in January-June 1986.

Domestic shipments and exports

Shipment trends approximated those for production (table 2). Total shipments of U.S.-produced porcelain-on-steel cooking ware declined by * * * percent from 1983 to 1985 and by * * * percent from January-June 1985 to January-June 1986. Shipments of teakettles, on the other hand, increased almost * * * from 1983 to 1985 before declining by * * * percent from January-June 1985 to January-June 1986. Exports, which have remained at between * * * percent of total annual shipments, declined similarly. * * *.

Table 2

Porcelain-on-steel cooking ware: General Housewares' domestic shipments and exports of U.S. production, by types, 1983-85, January-June 1985, and January-June 1986

* * * * *

Inventories

Like its production and shipments, General Housewares' end-of-period inventories have declined in recent periods, by * * * percent from 1983 to 1985 and by * * * percent from January-June 1985 to January-June 1986 (table 3). Teakettle inventories, unlike inventories of all porcelain-on-steel cooking ware, increased more than * * * from 1983 to 1985 but were * * * percent lower on June 30, 1986, than on June 30, 1985. As a share of annual shipments, inventories declined throughout the period for which data were collected.

Table 3

Porcelain-on-steel cooking ware: General Housewares' end-of-period inventories of U.S. production, by type, 1983-85, January-June 1985, and January-June 1986

* * * * *

Employment

As General Housewares reduced its production, it also reduced its workforce. The average number of production and related workers producing porcelain-on-steel cooking ware in General Housewares' Terre Haute facility declined by * * * percent, from * * * in 1983 to * * * in 1985 and continued to decline, by * * * percent, from January-June 1985 to January-June 1986 (table 4). The hours worked by these workers and the total compensation paid to them declined similarly, as shown in table 4. Except for certain articles of porcelain-on-steel kitchen ware and "contract" ware, which accounted for * * * percent of their production time, workers at the Terre Haute facility did not produce products other than porcelain-on-steel cooking ware.

Table 4

Average number of production and related workers producing porcelain-on-steel cooking ware in U.S. establishments, hours worked by and total compensation and average hourly compensation paid to such workers, output, and unit labor cost, 1983-85, January-June 1985, and January-June 1986

* * * * *

Despite declines in employment, hours worked, and total compensation paid, hourly compensation and the average cost of labor per unit produced increased from 1983 to 1985, by * * * percent and * * * percent, respectively. Both indexes, however, were lower in January-June 1986 than in January-June 1985. The only index shown in table 4 to have increased in this period is productivity, measured in terms of average number of units produced per worker hour (output). After declining by * * * percent from 1983 to 1985, output increased by * * * percent from January-June 1985 to January-June 1986.

General Housewares' financial experience

Income-and-loss data--porcelain-on-steel cooking ware.--Income-and-loss data for General Housewares' porcelain-on-steel cooking ware operations are shown in table 5. General Housewares' net sales of porcelain-on-steel cooking ware * * * by * * * percent from * * * in 1983 to * * * in 1985, and * * * by * * * percent from January-June 1985 to January-June 1986. Operating income * * * in 1983 to * * * in 1985. For January-June 1986, the company reported operating * * * of * * *, equivalent to * * * percent of net sales; compared with an operating * * * of * * * in January-June 1985. ^{1/}

Table 5.

Income-and-loss experience of General Housewares on its porcelain-on-steel cooking ware operations, 1983-85, January-June 1985, and January-June 1986

* * * * *

As a share of net sales, cost of goods sold * * * from * * * in 1983 to * * * in 1985. * * * gross profit margin * * *. "Other factory costs" (i.e., overhead) accounted for * * *, indicating that as the production and sales of porcelain-on-steel cooking ware * * *, the fixed cost per unit * * *. While raw material costs * * * from * * * of cost of goods sold in 1983-84 to * * * in 1985, factory overhead * * *. (Direct labor costs were * * *.) Selling prices * * * during 1983-85. * * * the gross profit margin * * * during January-June 1986, compared with a gross profit margin of * * * in the corresponding period of 1985. This * * * can be attributed to * * * in the average selling price and to * * * of direct labor and overhead costs as a share of net sales. General, selling, and administrative expenses * * * in absolute dollars throughout the period under investigation and * * * in relation to net sales, from * * * in 1983 to * * * in 1984. It then * * * in 1985 and * * * in January-June 1986 because of * * *.

Interest expense * * * in 1985 after * * * from 1983 to 1984. Such expenses * * * from January-June 1985 to January-June 1986. Net income or loss before income taxes * * * as operating income or loss. Cash-flow from operations * * * in 1983 to * * * in 1985. Cash-flow was * * * during January-June 1986, compared with * * * in the corresponding period of 1985.

Income-and-loss data--porcelain-on-steel teakettles.--Because fixed costs, such as depreciation and executive salaries, cannot be separately identified with teakettle production (or the production of any other article)

^{1/} General Housewares reported its inventory adjustments, using the LIFO (last in, first out) method of inventory valuation, in "other income or expenses" during 1983-85. If such adjustments had been included in cost of goods sold, operating income margins would have been * * * percent in 1983, * * * percent in 1984, and * * * percent in 1985. In 1985, the favorable inventory adjustment of * * *, shown in table 5, resulted from * * *.

on a non-arbitrary basis, complete profit-and-loss data for teakettles are unobtainable. ^{1/} Variable costs, however, such as raw material, direct labor, and sales commissions, can be directly identified with teakettle production. The difference between sales of teakettles and all variable costs associated therewith, or the contribution margin, is shown in the following tabulation:

* * * * * *

The data, compiled by General Housewares, show that although net sales of teakettles * * * almost * * * from 1983 to 1985, the contribution margin * * *. It was * * * percent in January-June 1986, compared with * * * percent in January-June 1985. (The term "contribution" is used because the amount left from sales after variable costs are covered contributes toward covering fixed costs and producing profit).

Income-and-loss data--overall operations.--Selected financial data for General Housewares' overall and product group operations for 1983-85 are presented in table 6. For financial purposes, General Housewares segregates the articles it sells into two groups, cookware and giftware. (It manufactures most of the products it sells). Porcelain-on-steel cooking ware accounts for * * *. It accounted for * * * percent of total cookware sales in 1983, * * * percent in 1984, and * * * percent in 1985. As a share of total company sales, it accounted for * * * percent, * * * percent, and * * * percent in the same periods, respectively. The cookware group represented 64 percent of total company sales in 1983 and 63 percent in 1985. As a share of total company operating income before corporate and interest expense, income from porcelain-on-steel cooking ware declined from * * * percent in 1983 to * * * percent in 1985, whereas income from the cookware group as a whole, which included cast iron and cast aluminum cooking ware, rose irregularly from 71 percent to 80 percent. Operating income margins and return on identifiable assets * * * continued to decline for the cookware group and for total company operations in 1985.

^{1/} In theory, such information could be compiled, but the resulting data would reflect more the compiler's bias in determining a basis for cost allocation than any real operation. General Housewares provided the following explanation for not compiling complete profit-and-loss separately for teakettles: "GHC's recordkeeping system does not permit preparation of a meaningful, unarbitrary, separate profit and loss statement for teakettles. GHC only publicly reports profit and loss information on a corporate and on a Cookware Group basis. In 1985, teakettles sales represented * * * percent of corporate sales, * * * percent of Cookware Group sales, and * * * percent of porcelain-on-steel cookware sales. Certain costs such as returns and allowances, material price, usage, and labor variances are either not specifically identified or are not accumulated in such a way as to make the information accessible. The facilities, equipment and employees used to manufacture all other porcelain-on-steel products are also used to manufacture teakettles. Therefore, the related costs such as indirect labor, depreciation, insurance, maintenance, taxes, utilities, etc., are not available and cannot be allocated on a reasonable, unarbitrary basis".

Table 6
Selected financial data for General Housewares on its total operations, cookware group operations, and giftware group operations, 1983-85

Item	Total Company			Cookware group			Giftware group		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Net sales.....1,000 dollars..	87,029	84,023	74,003	55,719	54,298	46,661	31,310	29,725	27,342
Operating income before corporate and interest expense.....do....	11,971	4,115	2,805	8,490	3,612	2,240	3,481	503	565
Corporate and interest expense, net do....	4,061	3,314	3,655	1/	1/	1/	1/	1/	1/
Provision for restructuring....do....	-	-	4,450	1/	1/	1/	1/	1/	1/
Income (loss) before income taxes do....	7,910	801	(5,300)	1/	1/	1/	1/	1/	1/
Income taxes (benefit).....do....	3,560	-	(2,544)	1/	1/	1/	1/	1/	1/
Net income or (loss).....do....	4,350	801	(2,756)	1/	1/	1/	1/	1/	1/
Capital expenditures 2/.....do....	2,702	5,024	1,412	1,790	4,432	1,080	702	592	332
Identifiable assets 3/.....do....	51,714	46,971	41,602	27,115	28,321	22,489	14,531	15,698	14,102
Ratio of operating income before corporate and interest expense to—									
Net sales.....percent..	13.8	4.9	3.8	15.2	6.7	4.8	11.1	1.7	2.1
Identifiable assets.....do..	23.2	8.8	6.7	31.3	12.8	10.0	24.0	3.2	4.0

1/ Not available.

2/ Total company data include \$210,000 corporate capital expenditures in 1983.

3/ Total company data include corporate assets.

Source. Compiled from General Housewares' 1985 annual report.

Financial data on General Housewares' overall operations for January-June 1985 and January-June 1986, compiled from its Form 10-Q (submitted quarterly to the Securities and Exchange Commission), is shown in the tabulation below: 1/

Item	January-June--			
	1985		1986	
	In thousands of dollars	Percent of net sales	In thousands of dollars	Percent of net sales
Net sales.....	35,045	100.0	33,430	100.0
Cost of goods sold.....	24,088	68.7	21,572	64.5
Gross profit.....	10,957	31.3	11,858	35.5
General, selling, and administrative expenses...	11,378	32.5	10,867	32.5
Operating income or (loss)...	(421)	(1.2)	991	3.0
Interest expense, net.....	777	2.2	691	2.1
Income or (loss) before income taxes.....	(1,198)	(3.4)	300	0.9
Income taxes (benefit).....	(659)	(1.9)	140	0.4
Net income or (loss).....	(539)	(1.5)	160	0.5

General Houseware's overall financial experience improved from an operating loss of \$421,000 (1.2 percent of net sales) in January-June 1985 to an operating income of \$991,000 (3.0 percent of net sales) in January-June 1986, despite declining sales. The company attributes this improvement mainly to the cost reduction and restructuring program implemented in the latter part of 1985.

Balance sheet data.--Balance sheet information and selected financial ratios for General Housewares with respect to its U.S. porcelain-on-steel cooking ware operations are presented in table 7.

Table 7

Balance sheet and selected financial ratios of General Housewares on its porcelain-on-steel cooking ware operations, as of Dec. 31, 1983-85

* * * * * *

Working capital and current ratios provide an indication of the company's ability to pay its short-term debts. General Housewares' working capital * * *. The working capital for the Terre Haute plant is * * *. The current ratio * * *. The property, plant, and equipment, valued at cost, * * *. Total assets * * *.

1/ Quarterly data are not available on a product group basis.

The short-term and long-term borrowings by General Housewares and its stockholders' equity are reflected on the corporate balance sheet. * * *. Such investment * * * from * * * in 1983 to * * * in 1985, or by * * * percent. The * * * in investment may be attributed, in part, to * * *.

The return-on-investment ratios, presented in table 7, measure the effectiveness of management in employing the resources available to it. All of the ratios shown * * * from 1983 to 1984 and * * * in 1985.

Capital expenditures and research and development expenses.--General Housewares' total capital expenditures related to its porcelain-on-steel cooking ware operations * * *. Capital expenditures were * * * in January-June 1986, compared with * * * in the corresponding period of 1985 (table 8). Most of General Housewares' capital expenditures during the period under investigation were for * * *.

Table 8

Capital expenditures and research and development expenses of General Housewares on its porcelain-on-steel cooking ware operations, 1983-85, January-June 1985, and January-June 1986

* * * * *

The research and development expenses shown in table 8 were allocated on the basis of total cookware group sales. An expense of * * * was * * * specifically identified with the subject product. General Housewares' research and development expenses * * *. The company estimated that * * *.

Impact of imports on General Housewares' growth, investment, and ability to raise capital.--The Commission requested General Housewares to describe and explain the actual and potential negative effects, if any, of imports of porcelain-on-steel cooking ware from Mexico, China, and Taiwan on its growth, investment, and ability to raise capital. The company's response is presented as follows:

"The effect of unfair import competition on the profitability of the Cookware Group and General Housewares is illustrated below:

* * * * *

The effect on the ability to raise capital is best illustrated by the decline in stock price from a high of \$29.75 per share in the 2nd quarter of 1983 to a low of \$9.75 per share in the 4th quarter of 1985 or a 67 percent drop in stock value."

In its 1983, 84, and 85 annual reports General Housewares attributed its relatively poor financial performance to import competition, 1/ among other factors such as "massive" retail inventory liquidations in the face of weak

1/ All of General Housewares Corp.

sales and direct import purchasing, a shift in consumer spending to big ticket categories and other types of cookware, high levels of new product spending, out-of-stock problems, and lack of promotional support by major retail customers.

Price range of General Housewares' common stock.--The common stock of General Housewares is traded on the New York Stock Exchange. There were about 2,400 stockholders during 1983-85. The price range of common stock of General Housewares by each quarter during 1983-85 is presented in the following tabulation, compiled principally from General Housewares' annual reports:

Period and item	Quarters			
	1st	2nd	3rd	4th
1983:				
High.....	\$24.75	\$29.75	\$27.63	\$18.88
Low.....	17.00	21.63	17.88	15.25
1984:				
High.....	19.50	17.88	16.88	14.00
Low.....	14.50	12.50	12.63	8.88
1985:				
High.....	12.88	10.88	10.75	12.25
Low.....	9.00	8.50	9.50	9.75
1986:				
High.....	13.63	13.63	12.50	
Low.....	9.88	11.25	10.63	

Although the data indicate a declining trend in stock prices, it should be noted that stock prices are affected by a multitude of factors.

Consideration of Alleged Threat of Material Injury

In the examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the nature of the subsidy, the rate of increase of imports and market penetration of such imports, probable suppression and/or depression of U.S. producers' prices, the capacity of producers in the exporting country to generate exports (including the existence of underutilized capacity) and the potential for product shifting, the availability of export markets other than the United States, and U.S. importers' inventories. Import, price, and market penetration trends for porcelain-on-steel cooking ware are discussed in the sections immediately following. Information on the nature of the subsidies is presented in the section entitled, "Nature and Extent of Subsidies and Sales at LTFV." A discussion of importers' inventories and foreign capacity and exports, to the extent such information is available, is presented below.

Data received from U.S. importers, which account for approximately 80 percent of the imports from Mexico, 31 percent of the imports from China,

and 23 percent of the imports from Taiwan, show that end-of-period inventories of porcelain-on-steel cooking ware have generally increased since 1983 (table 9). Inventories of imports from Mexico and Taiwan * * * from 1983 to 1985, whereas inventories from China, non-existent in 1983, increased by nearly 150 percent from 1984 to 1985. Whereas inventories of imports from China and Taiwan also increased from January-June 1985 to January-June 1986, inventories of imports from Mexico declined by about * * * percent.

Table 9

Porcelain-on-steel cooking ware: U.S. importers' end-of-period inventories by country of origin, 1983-85, January-June 1985, and January-June 1986

* * * * *

Data for four Taiwan firms, submitted during the Commission's preliminary investigations by counsel representing certain Taiwan manufacturers, 1/ show that annual capacity for these firms 2/ combined increased from * * * units in 1982 to * * * units in 1985, and that capacity utilization increased from * * * percent to * * * percent in the same periods, respectively. These firms accounted for about * * * percent of Taiwan's exports of porcelain-on-steel cooking ware to the United States in 1982-84. As a share of these firms' total production, exports increased from * * * percent in 1982 to * * * percent in 1983 and then declined to * * * percent in 1985. The United States' share of the exports increased from * * * percent in 1982 to * * * percent in 1984 and then declined to * * * percent in 1985.

Data for the Mexican firms, submitted during the Commission's preliminary and final investigations by counsel representing the Mexican producers and certain importers, 3/ show that annual capacity for these firms 4/ combined has remained at about * * * units in recent years and that capacity utilization has fluctuated between * * * percent. These firms have accounted for all of Mexico's exports to the United States since 1982. As a share of these firms' total shipments, exports increased from * * * percent in 1983 to * * * percent in 1984, and then dropped to * * * percent in January-September 1985. The United States' share of these exports fell from * * * percent in 1983 to * * * percent in 1984 and then to * * * percent in 1985.

Data for the Chinese firms were not available at the time of the preparation of this report.

1/ Post-conference brief of Ablondi & Foster, P.C., Jan. 2, 1986, confidential attachment 2.

2/ First Enamel, Receive Will, Li-Fong, and Tian Shine.

3/ Letter to the Commission from Adduci, Dinan & Mastriani, dated Jan. 7, 1986, Confidential exhibits A & B; and Posthearing Statement of Brownstein, Zeidman and Schomer, dated Oct. 16, 1986.

4/ Troqueles Y Esmaltes, S.A., and Cinsa, S.A.

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

U.S. imports

From 1983 to 1985, imports of porcelain-on-steel cooking ware from all countries increased by 21.9 percent from * * * units, valued at * * *, to * * * units, valued at * * * (table 10). Imports increased by less than 1 percent from January-June 1985 to January-June 1986. About 65 percent of total imports in this period were exported by the countries under investigation, including Spain. Japan accounts for most of the remainder.

Table 10

Porcelain-on-steel cooking ware: U.S. imports, by types and by principal sources, 1983-85, January-June 1985, and January-June 1986

Item and source	1983	1984	1985	January-June--	
				1985	1986
	Quantity (1,000 units) 1/				
Teakettles:					
Mexico.....	45	17	24	6	34
China.....	8	11	90	46	28
Spain.....	***	***	***	***	***
Taiwan.....	2,084	2,826	1,677	803	724
Total.....	***	***	***	***	***
Japan.....	2,919	2,310	1,512	677	696
All other.....	129	101	886	347	294
Grand total.....	***	***	***	***	***
All other:					
Mexico.....	1,051	2,331	1,822	951	1,453
China.....	465	602	1,886	1,043	447
Spain.....	***	***	***	***	***
Taiwan.....	3,684	4,642	5,013	2,257	2,847
Total.....	***	***	***	***	***
Japan.....	2,399	1,763	1,421	602	854
All other.....	1,265	1,756	1,798	720	617
Grand total.....	***	***	***	***	***
Total:					
Mexico.....	1,096	2,348	1,845	957	1,487
China.....	472	613	1,977	1,089	475
Spain.....	***	***	***	***	***
Taiwan.....	5,768	7,468	6,690	3,060	3,571
Total.....	***	***	***	***	***
Japan.....	5,317	4,073	2,932	1,280	1,550
All other.....	1,395	1,857	2,684	1,066	911
Grand total.....	***	***	***	***	***

See footnotes on next page.

Table 10

Porcelain-on-steel cooking ware: U.S. imports, by types and by principal sources, 1983-85, January-June 1985, and January-June 1986-- Continued

Item and source	1983	1984	1985	January-June--	
				1985	1986
Value (1,000 dollars) 1/ 2/					
Teakettles:					
Mexico.....	93	46	74	23	78
China.....	14	48	332	151	89
Spain.....	***	***	***	***	***
Taiwan.....	10,065	11,326	6,210	2,917	2,656
Total.....	***	***	***	***	***
Japan.....	14,343	10,840	6,289	2,902	3,380
All other.....	721	535	790	326	384
Grand total.....	***	***	***	***	***
All other:					
Mexico.....	2,012	3,963	2,853	1,466	2,276
China.....	268	1,322	2,973	1,304	760
Spain.....	***	***	***	***	***
Taiwan.....	11,492	14,276	13,304	6,983	5,561
Total.....	***	***	***	***	***
Japan.....	9,525	6,908	5,535	2,626	2,148
All other.....	4,380	3,770	3,987	1,400	1,466
Grand total.....	***	***	***	***	***
Total:					
Mexico.....	2,104	4,009	2,927	1,489	2,353
China.....	282	1,370	3,305	1,455	849
Spain.....	***	***	***	***	***
Taiwan.....	21,557	25,602	19,514	9,901	8,217
Total.....	***	***	***	***	***
Japan.....	23,869	17,748	11,824	5,528	5,528
All other.....	5,101	4,305	4,777	1,726	1,850
Grand total.....	***	***	***	***	***
Average unit value (dollars per unit) 1/					
Teakettles:					
Mexico.....	\$2.07	\$2.71	\$3.14	\$3.83	\$2.29
China.....	1.85	4.36	3.69	3.28	3.13
Spain.....	***	***	***	***	***
Taiwan.....	4.83	4.01	3.70	3.63	3.67
Average.....	***	***	***	***	***
Japan.....	4.91	4.69	4.16	4.29	4.86

1/ Because of rounding, figures may not add to totals shown.

2/ Customs import value.

Source: Imports from Spain compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; all other data compiled from official statistics of the U.S. Department of Commerce.

Collectively, imports from the countries under investigation reflect the trend for the aggregate, except that imports from these countries declined by about 1 percent from January-June 1985 to January-June 1986. Taiwan alone accounts for well over half of the imports from the countries under investigation. Imports from both Spain and China, which showed the most rapid growth to 1985, declined substantially in January-June 1986 compared with January-June 1985. Imports from Mexico and Taiwan continued to increase in this period.

Contrary to the trend for imports of all porcelain-on-steel cooking ware, imports of teakettles declined by 19.1 percent from 1983 to 1985 and by 5.8 percent from January-June 1985 to January-June 1986. Collectively, imports from the countries under investigation show a similar trend. Taiwan and Japan were the dominant sources of imports of these articles. Together they accounted for * * * percent of imports from 1983 through January-June 1986. Imports from Mexico, China, and Spain remained at substantially lower levels.

The dollar value of total imports from Troqueles Y Esmaltes, the Mexican firm for which Commerce found critical circumstances, is shown by month in the following tabulation:

* * * * * * *

The data supplied by counsel for Troqueles Y Esmaltes, 1/ show that from December 1985, the month in which Commerce initiated its preliminary investigation, through May 1986, the month in which Commerce issued its preliminary determination, porcelain-on-steel cooking ware valued at nearly * * * was exported to the United States, or * * * than were exported during the same period of the previous year. Total inventory levels of imports from Troqueles Y Esmaltes are unknown; however, questionnaire responses, which account for about * * * of Troqueles Y Esmaltes' exports to the United States, reported * * *.

The data in table 10 represent a large number of different articles and styles and a correspondingly wide range of values; moreover, the mix, or relative amounts of articles and styles varies from period to period. For this reason average unit values are shown only for teakettles. Even with respect to teakettles, there are a variety of styles imported from each country, and the mix of styles and corresponding values may change frequently.

U.S. consumption

After increasing by 2.0 percent from 1983 to 1984, U.S. consumption of porcelain-on-steel cooking ware declined by 0.3 percent from 1984 to 1985 and by 3.7 percent from January-June 1985 to January-June 1986 (table 11). The trend for teakettles is similar. In its 1984 and 1985 annual financial reports General Housewares partly attributed its less-than-favorable

1/ Posthearing Statement of Brownstein, Zeidman and Schomer, dated Oct. 16, 1986.

Table 11

Porcelain-on-steel cooking ware: Apparent U.S. consumption and ratio of imports to consumption, by types, 1983-85, January-June 1985, and January-June 1986

* * * * *

performance to a shift in consumer spending to higher priced items such as automobiles, appliances, and home entertainment centers (occasioned by declining interest rates), which affected the cookware industry as a whole; and to a corresponding shift to "better" cookware such as stainless steel and cast aluminum, which affected its porcelain-on-steel cooking ware operations. U.S. consumption of aluminum, stainless steel, and copper cookware, in addition to that of porcelain-on-steel, is shown in app. D. (In each case consumption was calculated by adding domestic shipments, as reported directly to the Commission by members of the respective industries, to official import statistics of the U.S. Department of Commerce, adjusted by U.S. Customs Service National and Commodity Import Specialists' estimates of the proportion of the data accounted for by cooking ware, where kitchen ware is also included). The data show that the consumption of these types of cooking ware combined declined by 8.8 percent from 1984 to 1985 after increasing by 4.2 percent from 1983 to 1984. The share of domestic cookware consumption accounted for by aluminum and stainless steel articles combined increased from * * * percent in 1983 to * * * percent in 1985. The share held by porcelain-on-steel cooking ware declined from * * * percent to * * * percent in the same period.

Market penetration of imports

Table 11 shows imports as a share of consumption by country, in terms of both quantity (units) and value (customs import value, which reflects the f.o.b. foreign port-of-export value, excluding duties and freight, insurance, and other charges incurred in bringing the merchandise from the country of exportation to the first port of arrival in the United States). Because of the hundreds of different articles, styles, and corresponding values aggregated in the data, and because of frequent changes in the mix of these articles and styles, the use of units as a basis for market penetration calculations, at least in this case, is neither less nor more appropriate than value. (Weight, another possible basis for market penetration calculations in this instance, was not used because the same deficiencies that apply to units and value of porcelain-on-steel cooking ware also apply to weight, and General Housewares does not maintain records of its operations in these terms). When such a large number and variety of articles are aggregated, levels of data and changes in levels (trends) are subject to considerable distortion regardless of the unit of measurement used.

General Housewares' share of domestic unit consumption declined from * * * percent in 1983 to * * * percent in 1985 and from * * * percent in January-June 1985 to * * * percent in January-June 1986. In the same periods, cumulative imports of porcelain-on-steel cooking ware from Mexico, China,

Spain, 1/ and Taiwan increased from * * * percent to * * * percent and from * * * percent to * * * percent, respectively. The ratio of imports to consumption for each country varies considerably, as shown in table 11.

General Housewares has never accounted for a large share of domestic teakettle consumption. From * * * percent in 1983, its share increased to * * * percent in 1985, and then declined somewhat from * * * percent in January-June 1985 to * * * percent in January-June 1986. Cumulative imports from Mexico, China, Spain, and Taiwan increased from * * * percent of consumption in 1983 to * * * percent in 1984 before declining to * * * percent in 1985 and to * * * percent in January-June 1986 from * * * percent in January-June 1985. Taiwan, as shown in table 11, accounts for the bulk of this penetration.

Prices

Prices of domestically produced porcelain-on-steel cooking ware and imports from Mexico, Taiwan, and China are typically quoted on a per unit basis to retailers and wholesalers. General Housewares' transaction prices are based on list prices and are reported f.o.b. factory (Terre Haute) with the customer paying shipping costs. 2/ * * *. General Housewares estimates that as much as * * * percent of all sales are at a price discounted from the price list.

General Housewares reported that they offer two different types of coupon or rebate programs to retail customers on roasters, with values of either \$1.00 or \$2.00. Total roaster sales were * * * in 1985, and the rebates redeemed amounted to * * *, or * * * percent of sales. General Housewares also initiated a lifetime limited warranty on all of its porcelain-on-steel cooking ware against chipping and other damage that may occur during normal use of the products. 3/

Importers reported various policies for pricing porcelain-on-steel cooking ware items. Four importers stated that prices are quoted f.o.b. warehouse, whereas one importer quoted delivered prices to customers. Four importers are also retailers, importing for sale within their own store chains. Five importers reported quoting prices from price lists, and three of these importers discounted from this list. Importers who included data on shipping costs indicated that, generally, freight is pre-paid on shipments to their customers. One importer, however, reported that customers pay shipping costs, at an average of 7 percent of sales cost, based on destination. General Housewares' data indicate that shipping costs for domestically produced porcelain-on-steel cooking ware averaged * * * percent of sale price.

Neither General Housewares' nor importers' questionnaires indicated seasonality in prices of porcelain-on-steel cooking ware. The domestic producer did comment that there are some seasonal peaks for specific

1/ Certain Spanish producers of porcelain-on-steel cooking ware are currently under investigation by the U.S. Department of Commerce for alleged subsidized and LTFV sales in the United States.

2/ * * *.

3/ Transcript of the hearing, p. 46.

porcelain-on-steel products, such as roasters during the Thanksgiving and Christmas holidays, and teakettles and decorated sets for Mother's Day and Christmas ^{1/}; overall, however, seasonality does not appear to have an effect on prices of cooking ware products.

Prices for porcelain-on-steel cooking ware were requested from the petitioner and fifteen importers, including the petitioner, who also imported porcelain-on-steel cooking ware during the period under investigation. Several representative large-volume articles drawn from more than 500 different cooking ware items were selected for price comparisons. Prices were requested on direct sales to retailers for the following items:

- Product 1- 2-quart teakettle (or closest equivalent) with wooden or phenolic handle
- Product 2- Least expensive decorated seven-piece set, with stainless steel rims on vessel and cover, phenolic handles including 1-2 quart saucepan, 2-3 quart saucepan, 4-1/2 -5 quart covered dutch oven and 8-10 inch open skillet
- Product 3- Oval covered roaster, 18"x12"x7" (or closest equivalent),
- Product 4- Open rectangular roasting pan, 13"x8"x5" (or closest equivalent), single coat speckled
- Product 5- 1-2 quart covered saucepan, with stainless steel rims
- Product 6- 7-1/2 quart covered stewpot (or closest equivalent)
- Product 7- 16-17 quart covered stockpot

The staff received usable data from the petitioner and nine importers. However, construction of consistent price series over a significant period of time and price comparisons at a point in time are difficult because of the many apparent inconsistencies in the pricing data supplied by the petitioner and importers in response to the specific product descriptions. This occurs because porcelain-on-steel cooking ware, as well as many other consumer goods, are continually subject to consumers' expectations for frequent and repeated updates in shape, design, trim, size, packaging, and color; and prices vary depending on changes in all these factors. Other factors such as material used for trim and handles, type of decoration, whether color is applied to both inside and outside, weight of the steel (gauge), and size of the item also have an important and difficult-to-measure impact on price. ^{2/}

For example, General Housewares produced a 1-1/2 quart teakettle from January 1983 through September 1984, but then switched to production of a 2-quart teakettle during the remainder of the period for which data were collected. Importers reported prices only for 2-quart teakettles over the entire period. Questionnaire responses indicated that the petitioner sold both decorated and solid color teakettles, and importers' responses also indicated changes in shape, design, and color for their teakettles. Similarly, the petitioner and importers produced and sold several different decorated versions of seven-piece sets during the 3-year period.

At the same time, General Housewares and Mexican producers also manufactured a line of porcelain-on-steel cooking ware known as "speckled," or

^{1/} Transcript of the hearing, at p. 41.

^{2/} Transcript, p. 48.

"graniteware." This style of porcelain-on-steel cooking ware is generally produced from a lighter gauge of steel than the decorated product, has metal rather than phenolic handles, has no stainless steel rims, and is usually white with black trim, or blue or black with a white speckled finish. Neither General Housewares nor importers of the Mexican product argue that this style is fashion-oriented; instead, it is considered to be utilitarian.

Other problems include discontinued articles that are sometimes sold at substantially reduced prices in order to liquidate inventories and pave the way for the introduction of new styles into the market.

Price comparisons.--While comparisons are affected by changes in these other factors, they are also complicated by questions of direct comparability between the domestic and imported products. The petitioner alleges that the domestic product and imports from Mexico, China, and Taiwan are comparable in quality and have a high degree of fungibility. ^{1/} On the other hand, importers offer opposing views on the quality and degree of fungibility of the domestic and imported product. For example, several importers of the Mexican product allege that they are importing low quality, utilitarian porcelain cooking ware that competes only with the General Housewares' low-end lines, not with decorated cooking ware from either the United States, China, or Taiwan. ^{2/}

General Housewares.--The domestic producer reported prices for all of the products for which prices were requested. Price trends varied from article to article, as well as within product categories, as shown in table 12. The data show that prices for General Housewares' teakettles decreased through September 1985 despite the increase in size. Prices for its 'least expensive' seven-piece sets decreased by * * * percent from January-March 1983 through October-December 1984; however, the company discontinued manufacturing the 'least-expensive' set in late 1984 ^{3/} in favor of a higher quality set featuring heat-tempered glass covers and decorative packaging. ^{4/} Prices on this set increased through June 1986 by * * * percent. General Housewares also produced a decorated seven-piece set under an exclusive licensing agreement with Pfaltzgraff Co. from January 1983 through December 1985. ^{5/} Prices for this set increased by * * * percent during the time the Pfaltzgraff agreement was in effect. General Housewares also manufactured saucepans of both 1- and 2-quart sizes under the licensing agreement with Pfaltzgraff (1983-1985). Prices for both saucepan sizes fluctuated, with the producer reporting close-out prices for several quarters. Prices for the 1-quart

^{1/} Prehearing brief of the petitioner, p. 23.

^{2/} Prehearing brief of Brownstein, Zeidman, and Schomer, p. 20-21.

^{3/} General Housewares stated that the shift in production to a higher quality set was an "attempt to differentiate GHC from lower priced imports from Taiwan, Mexico, and the PRC." Hearing testimony of Jack Mueller, p. 53.

^{4/} General Housewares produced porcelain-on-steel covers for the 'least-expensive' set, at a cost of * * * per cover for a 2-quart saucepan. The acquisition cost for a heat-tempered glass cover is * * * for a 2-quart saucepan, an increase of * * * percent over the cost of the porcelain-on-steel cover.

^{5/} The licensing agreement specified that Pfaltzgraff receive * * * percent of net sales as a royalty, and restricted sales to department and specialty gift stores.

saucepan increased by * * * percent, whereas prices for the 2-quart saucepan decreased by * * * percent.

Table 12

Porcelain-on-steel cooking ware: General Housewares' prices for selected items for sales to retailers, by quarters, January 1983-June 1986.

* * * * *

Prices for the remaining four products--oval-covered roasters, rectangular roasting pans, 7-1/2 quart stewpots, and 16-quart stockpots, all fluctuated throughout the investigation period, with the three latter products showing overall increases ranging from * * * to * * * percent, and the oval-covered roaster decreasing by * * * percent.

Import prices.--Importers reported prices for the following porcelain-on-steel cooking ware items:

China:	Teakettles
	seven-piece decorated sets
	Stewpots
Mexico:	Oval covered roasters
	Stockpots
	seven-piece sets
Taiwan:	Teakettles
	seven-piece decorated sets
	Oval covered roasters
	Saucepans
	Stewpots

Price data for the imported product from China, Mexico, and Taiwan were incomplete, with only one importer reporting complete price series for any of the products under investigation.

Several importers reported prices of cooking ware for continuity, or traffic programs. With these programs, supermarkets seek to attract customers by offering a different cooking ware item each week until a customer collects a complete set of cooking ware. Generally, retailers begin these promotions with a low-priced saucepan, then each week offer products of progressively increasing cost in an effort to develop and maintain consumer interest in their stores. ^{1/}

China.--Three importers, representing 31 percent of imports from China, reported prices for porcelain-on-steel cooking ware (table 13). Two

^{1/} For further details of supermarket continuity programs, refer to USITC Publication 1883, Porcelain-on-steel cooking ware from Spain, August 1986, p. A-51.

importers, * * *, import for sales within their own retail establishments. The third importer, * * *, imported Chinese porcelain-on-steel cooking ware for supermarket continuity sales. With the exception of the * * * teakettle price, all prices for Chinese products were stable throughout the 1984-1986 period.

Table 13

Porcelain-on-steel cooking ware: Importers' prices of selected products from China, by quarters, January 1983-June 1986

* * * * * * *

Prices for teakettles are available for only a few quarters. They range from a low of * * * per unit to a high of * * * per unit. Prices as reported by * * * were above General Housewares' prices, whereas those reported by the * * * fell within, or below, General Housewares' price range.

Two importers reported seven-piece set prices. Both prices, * * * and * * *, were below those of the General Housewares decorated sets. One importer/retailer also reported a 1-quarter price of * * * for a 7-1/2 quart stewpot, an amount nearly * * * that of General Housewares' price during the same quarter.

Mexico.--Two importers, representing 80 percent of imports from Mexico, reported prices for sales of porcelain-on-steel cooking ware (table 14). * * * reported annual prices for oval covered roasters and 16 to 17 quart stockpots. Roaster prices increased from * * * in 1983 to * * * in 1985. Mexican oval covered roaster prices were below those of General Housewares in all quarters in which comparisons were possible. Prices for stockpots were stable at * * * per unit for sales during 1985 and 1986. Mexican stockpots were priced above those produced by General Housewares.

Table 14

Porcelain-on-steel cooking ware: Importer's prices of selected products from Mexico, by quarters, January 1983-June 1986

* * * * * * *

* * * reported imported seven-piece and ten-piece sets from Mexico in 1983 and 1984. Company estimates indicate that * * * shipped this cooking ware to retailers at a value of * * * in 1983, and * * * in 1984. Prices for the Mexican imports were lower than for General Housewares' least expensive decorated set during the comparable time period.

Taiwan.--Six importers, representing about 23 percent of imports from Taiwan, reported selling prices for porcelain-on-steel cooking ware (table 15). Four importers reported prices for 2-quart teakettles, with

(table 15). Four importers reported prices for 2-quart teakettles, with prices during 1983-1986 ranging from * * * to * * *. ^{1/} One importer reported a price series for 1-1/2 quart teakettles, with prices ranging from * * * to * * *. General Housewares' teakettle prices fell within the range of import prices for both the 1-1/2- and 2-quart teakettles.

Table 15

Porcelain-on-steel cooking ware: Importers' prices of selected products from Taiwan, by quarters, January 1983-June 1986

* * * * * *

These same four importers also reported importing decorated seven-piece sets from Taiwan during the period for which data were collected. Prices for these sets ranged from * * * to * * *. Prices as reported by * * * were below General Housewares' prices, and prices reported by * * * were within the General Housewares' price range.

Three importers of oval covered roasters produced in Taiwan reported prices ranging from * * * to * * * per unit. Prices as reported by all three importers were above General Housewares' prices for all comparable quarters.

* * * reported sales of 7-1/2 quart stewpots in 1984 at * * *, and 2-quart covered saucepans in 1985 at * * * for the year. General Housewares' prices for 7-1/2 quart stewpots were below those of * * *, while 2-quart saucepans were priced above the import price in all quarters with the exception of a one-quarter, close-out price. * * * reported sales of 6-1/2 quart stewpots, at prices ranging from * * * to * * * per unit, which were above General Housewares' prices for 7-1/2 quart stewpots.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that from January 1983 to March 1986 the nominal value of the Mexican peso depreciated relative to the U.S. dollar by 76 percent (table 16). However, the real value of the Mexican peso appreciated vis-a-vis the U.S. dollar by 44 percent from January 1983 to June 1985. From July 1985 to March 1986, the real value of the Mexican peso began depreciating rapidly, declining by 22 percent.

The nominal value of the New Taiwan dollar fluctuated slightly throughout the period, appreciating by less than 2 percent through March 1986. The level of inflation in Taiwan was slightly lower than in the United States during the period for which data were collected; therefore, the real value of the New Taiwan dollar depreciated by less than 3 percent.

^{1/} A spokesman for * * * stated that most teakettle sales are for continuity programs. Teakettles are one of last items to be sold as part of the program and have a greater mark-up than items sold in earlier weeks. This mark-up, however, is not reflected in the f.o.b. price reported by the importing firm.

The value of the currency of the People's Republic of China is determined by the Chinese Government rather than the free market. Therefore, measures of China's exchange rate are not presented.

Table 16

Exchange rates 1/: Nominal-exchange-rate equivalents of the New Taiwan dollar and the Mexican peso in U.S. dollars, real-exchange-rate equivalents, and producer price indicators in the United States, Taiwan, and Mexico, 2/ indexed by quarters, January 1983-March 1986

Period	U.S. Pro- ducers Price index	Taiwan			Mexico		
		Pro- ducer index	Nominal- exchange- index	Real- exchange- index 3/	Pro- ducer index	Nominal- exchange- index	Real- exchange- index 3/
			-----US\$ per NT\$-----			-----US\$ per Mex\$-----	
1983:							
Jan.-Mar...	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr.-June..	100.3	100.8	99.7	100.2	121.3	89.3	108.1
July-Sept..	101.3	101.0	99.4	99.2	136.9	80.9	109.4
Oct.-Dec...	101.8	101.2	99.3	98.7	152.0	73.9	110.4
1984:							
Jan.-Mar...	102.9	101.5	99.4	98.1	181.1	68.0	119.7
Apr.-June..	103.6	102.1	100.4	99.0	209.4	63.0	127.4
July-Sept..	103.3	101.4	101.8	100.0	227.1	58.7	129.1
Oct.-Dec...	103.0	100.9	101.5	99.3	251.5	54.9	134.1
1985:							
Jan.-Mar...	102.9	99.9	101.5	98.6	283.8	50.8	140.3
Apr.-June..	103.0	99.1	100.3	99.6	317.0	46.7	143.7
July-Sept..	102.2	98.5	99.0	95.3	343.5	37.1	124.7
Oct.-Dec...	102.9	97.9	99.8	95.0	390.5	30.6	116.1
1986:							
Jan.-Mar...	101.3	97.1	101.7	97.4	474.7	24.1	112.8

1/ Exchange rates expressed in U.S. dollars per unit of foreign currency.

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

3/ The real value of a currency is the nominal value adjusted for the difference between inflation rates as measured by the Producers Price Index in the United States and the respective foreign country. Producer prices in the United States increased 1.3 percent during the period January 1983 through March 1986 compared to a 374.7-percent increase in Mexico during the same period. In contrast, producer prices in Taiwan decreased 2.9 percent during the period under investigation.

Source: International Monetary Fund, International Financial Statistics, August 1986; Central Bank of China, Financial Statistics, April 1986.

Note.--January-March 1983=100.

Lost sales

General Housewares alleged lost sales of * * * from February through December 1985. The allegations involved several articles of porcelain-on-steel cooking ware, including roasters, teakettles, seven-piece sets, saucepans, and pots and pans. The specific source of the imports in each instances was not submitted, although General Housewares asserted that the imports were either from Mexico, Taiwan, or China.

General Housewares alleged lost sales of * * * on sales of * * * to * * * during * * *. * * *, a spokesman for * * *, stated that in the * * * years during which they have been purchasing * * *, no purchase has ever been made from General Housewares, even when General Housewares was selling * * *. * * * added that General Housewares did offer a line of * * * to his company, but * * * never expressed an interest in their product. * * * currently purchases * * * imported from Taiwan and Japan. * * * further stated that General Housewares is price competitive with imports, but that its freight terms are not competitive because it does not prepay to customers' warehouse.

General Housewares reported lost sales on * * * valued at * * * to * * * during * * *. * * *, a spokesman for * * *, confirmed this allegation, listing price as the predominant factor in his decision to purchase Mexican items. * * * is a distributor, purchasing porcelain-on-steel cooking ware for resale to * * *. * * * stated that his customers preferred Mexican-produced * * *, adding that these * * * were lower priced, experienced less chipping than General Housewares' * * *, and had fewer defects from shipping than did General Housewares' products. * * * added that when purchasing the Mexican product, freight was prepaid when a minimum of one container load was purchased.

General Housewares alleged lost sales totaling * * * on sales of * * * to * * * in * * *. * * * of * * * stated that he had purchased Mexican-produced * * * during autumn 1985, but he was not able to confirm the * * * quote. * * * added that while he does purchase several items from General Housewares, freight terms are better with Mexican firms. * * * also purchases * * * from Taiwan that * * *.

General Housewares reported lost sales totaling * * * on sales of * * * during * * * to * * *. * * *, purchaser of porcelain-on-steel cooking ware for * * *, stated that this allegation was not true, adding that he had received a quote on a porcelain-on-steel cooking ware program from General Housewares, but chose not to pursue this program. * * * said that while * * * does purchase porcelain-on-steel cooking ware from Taiwan, he did not award the above mentioned program to any importer. * * * commented that porcelain-on-steel cooking ware is not readily available in the United States because there is only one producer, and that the quality of the domestically produced items is not as good, at specific price levels, as foreign-produced items.

General Housewares reported lost sales of * * * in * * * in * * * to * * *. * * *, a spokesman for * * *, stated that he has never purchased imported porcelain-on-steel cooking ware, nor has he received price quotes on imported products.

General Housewares alleged lost sales totaling * * * in sales of * * * to * * * in * * *. * * *, a purchaser for * * *, commented that while General Housewares had presented their line of porcelain-on-steel cooking ware to * * *, a purchase was never considered because General Housewares' prices were too high. * * * purchases imported cookware from the Republic of Korea, Taiwan, Mexico, Spain, and a number of other countries. * * * commented that * * * is a * * * and if imported cooking ware was not available at low prices, the store would not carry any items of this product line.

General Housewares alleged lost sales totaling * * * on sales of * * * in * * *, to * * *. * * *, a purchaser for * * * stated that he received no price quotes from General Housewares in * * * 1985, adding that * * * has not purchased any of General Housewares' cooking ware for several months because of high price points. * * * do stock a Taiwan-produced porcelain-on-steel item, but * * * states that it was not one of the items mentioned in the allegation.

General Housewares alleged a lost sale of * * * valued at * * * to * * * in * * *. * * *, the cookware buyer for * * *, stated that General Housewares * * * after * * * initiated a successful program with porcelain-on-steel cooking ware from Taiwan and that * * * never intended to order * * * from General Housewares. * * * does purchase General Housewares' * * *. * * * added that the mark up he would have to place on a General Housewares' * * * would price it above a Taiwan * * *.

A sale of * * * was allegedly lost to * * * at a loss of * * *. * * *, the cooking ware buyer for * * *, stated that while he is not always certain of the country of origin of the porcelain-on-steel cooking ware he purchases, he believes it is imported from Romania.

General Housewares alleged lost sales to several stores in which the current cooking ware buyers were not the buyers at the time of the alleged lost sale. These companies include * * *. Alleged lost sales to these two stores totaled * * *.

Staff attempts to contact * * * were unsuccessful. General Housewares alleged lost sales of roasters, teakettles, saucepans, pots, and seven-piece sets to these four companies for a total of * * *. 1/

Lost revenues

The Commission received a number of allegations from General Housewares concerning revenues the company lost as a result of foreign competition. The information supplied by GHC was too general to determine the total amounts of

1/ General Housewares submitted a series of affidavits at the hearing alleging lost sales to imports from Mexico in connection with an additional 10 firms. The value of sales allegedly lost, when indicated, was relatively small, ranging from * * * to * * *. Staff's attempts to contact four of these firms were unsuccessful and two would not comment. The remaining four reported that they had, indeed, purchased on one or more occasion porcelain-on-steel cooking ware produced in Mexico in favor of that produced by General Housewares and that price was the major factor in their decision.

lost revenues or the precise countries involved. The staff contacted six purchasers regarding seven of these allegations and their responses are summarized below.

General Housewares alleged that it lowered prices in * * * to meet foreign competition. The price reductions ranged from * * * to * * * per unit on * * *. * * * of * * * confirmed that General Housewares lowered the price to be competitive with imports from Mexico. * * * purchased exclusively from General Housewares at the lower price, but * * * could not identify the specific quantities involved.

Officials at * * * confirmed a second allegation of lost revenues by General Housewares. * * * purchasing manager confirmed that they received a * * * per unit discount and a * * * per unit discount from General Housewares on * * * to meet competition from Mexican imports. * * * purchased exclusively from General Housewares.

General Housewares further alleged that in * * * 1986 it lowered the price of * * * from * * * to * * * to * * * to meet competition from the Mexican product. * * * could neither confirm or deny the allegation because they do not buy porcelain-on-steel cookware at this time and he was unsure of * * * activity in * * *.

General Housewares also alleged that on two occasions prices were lowered to * * * to be competitive with imports from Mexico and Taiwan. Specifically, General Housewares alleged that it dropped prices an average of * * * percent on a * * * and * * * percent on * * *; General Housewares also claimed that it quoted reduced prices on * * * cookware. * * * of * * * could not confirm any of the specific price points, but he stated that all of their purchases were of General Housewares products. He further stated that General Housewares only offered him discounts on high volume commodity items. * * *, commenting on competition in his area, stated that the only serious offers he received in competition with General Housewares were from * * *, an importer of Mexican cookware.

* * * of * * * denied an allegation by General Housewares that he received a lower price on * * * in * * * to meet quotes by importers. General Housewares claims it lost * * * in revenues when it lowered the price of * * * * * percent from * * * to * * * per unit. * * * stated that he received only a * * * percent discount and that was * * *.

General Housewares also alleged that during * * * 1985 it offered * * * a lower price on * * * to meet competition from Mexico. * * * of * * * stated that prices were lowered in * * *; however, * * * could not recall if Mexican products were the reason. Although * * * did not purchase any imported porcelain cookware at that time, * * * did state that imports from Mexico were available at a competitive price.

APPENDIX A
COMMISSION'S FEDERAL REGISTER NOTICES

(Investigation No. 701-TA-265 (Final))

**Porcelain-On-Steel Cooking Ware
From Mexico**

AGENCY: United States International
Trade Commission.

ACTION: Institution of a final
countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-265 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of porcelain-on-steel cooking ware,¹ provided for in item 654.08 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Mexico. The Commission will make its final injury determination no later than 45 days after the day on which Commerce makes its final subsidy determination, currently scheduled for May 13, 1986.

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

EFFECTIVE DATE: March 4, 1986.

FOR FURTHER INFORMATION CONTACT:
Larry Reavis (202-523-0296), Office of
Investigations, U.S. International Trade

¹ Cooking ware, including toasters, not having self-contained electric heating elements, all the foregoing of steel and enameled or glazed with vitreous glazes, but not including kitchen ware (currently reported under item 654.0228 of the Tariff Schedules of the United States Annotated).

Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of porcelain-on-steel cooking ware from Mexico are being subsidized within the meaning of section 701 of the act (19 U.S.C. 1671). The investigation was requested in a petition filed on December 4, 1985, by General Housewares Corp., Terra Haute, IN. In response to that petition, the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 3862, January 30, 1986).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing, Staff Report, and Written Submissions

The Commission will hold a hearing in connection with this investigation at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC; the time and date of the hearing will be announced at a later date. A public version of the prehearing staff report in this investigation will be placed in the public record prior to the hearing, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21). The dates for filing prehearing and posthearing briefs and the date for filing other written submissions will also be announced at a later date.

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

Issued: April 1, 1986.

By order of the Commission,

Kenneth E. Macoon,
Secretary.

[FR Doc. 86-7889 Filed 4-8-86; 8:45 am]

GILLING CODE 7020-02-1

[Investigations Nos. 701-TA-265 (Final) and
731-TA-297-299 (Final)]

Import Investigations; Porcelain-on-Steel Cooking Ware From Mexico, the People's Republic of China, and Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations and with countervailing duty investigation No. 701-TA-265 (Final).

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-

TA-297-299 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico, the People's Republic of China, and Taiwan of porcelain-on-steel cooking ware,¹ provided for in item 654.08 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). The Commission also gives notice of the scheduling of a hearing in connection with these investigations and with countervailing duty investigation No. 701-TA-265 (Final), Porcelain-on-Steel Cooking Ware from Mexico, which the Commission instituted on March 4, 1986 (51 FR 12220, April 9, 1986). The schedules for investigation No. 701-TA-265 (Final) and for the subject antidumping investigations will be identical, pursuant to Commerce's extension of these investigations (51 FR 20862). Commerce will make its final LTFV determinations and its final countervailing duty determination in these cases on or before October 2, 1986. Accordingly, the Commission will make its final injury determinations by November 17, 1986 (see sections 705(a) and 705(b) and sections 735(a) and 735(b) of the act (19 U.S.C. 1671d(a) and 1671d(b) and 19 U.S.C. 1673d(a) and 1673d(b))).

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

EFFECTIVE DATE: May 20, 1986.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

¹ Cooking ware, including teakettles, not having self-contained electric heating elements, all the foregoing of steel and enameled or glazed with vitreous glasses, but not including kitchen ware (currently reported under item 654.0828 of the Tariff Schedules of the United States Annotated).

SUPPLEMENTARY INFORMATION: Background

The subject antidumping investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce (51 FR 18469, May 20, 1986) that imports of porcelain-on-steel cooking ware from Mexico, the People's Republic of China, and Taiwan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The Commission's schedule for these investigations and for investigation No. 701-TA-265 (Final) has been made in accordance with Commerce's notices of extension of its final determinations. The investigations were requested in petitions filed on December 4, 1985, by General Housewares Corp., Terra Haute, IN. In response to those petitions, the Commission conducted preliminary investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured, or threatened with material injury, by reason of imports of the subject merchandise (51 FR 3862, Jan. 30, 1986).

Participation in the Investigations

Persons wishing to participate in the antidumping investigations 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 twenty-one (21) days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry. (Persons wishing to participate in investigation No. 701-TA-265 (Final) Should have already filed an entry of appearance, pursuant to the Commission's notice of institution of this investigation in the *Federal Register* of April 9, 1986).

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 the subject antidumping 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 services.

Staff Report

A public version of the prehearing staff report for the subject antidumping investigations and for investigation No. 701-TA-265 (Final) will be placed in the public record on September 26, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with the subject antidumping investigations and with investigation No. 701-TA-265 (Final) beginning at 10:00 a.m. on October 9, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 26, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 2, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 6, 1986.

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

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted no later than the close of business on October 16, 1986. In addition, any person who has not entered an appearance as a party to these investigations may submit a written statement of information pertinent to the subject of the

investigations on or before October 16, 1988.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

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

By order of the Commission.

Issued: June 20, 1986

Kenneth R. Mason,

Secretary

(FR Doc. 86-14370 Filed 6-24-86; 8:45 am)

BILLING CODE 7020-02-M

APPENDIX B

LIST OF WITNESSES AT THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

Those listed below are scheduled to appear as witnesses at the United States International Trade Commission's hearing:

Subject : Porcelain-on-Steel Cooking Ware from
Mexico, the People's Republic of China,
and Taiwan

Inv. Nos. : 701-TA-265 (Final) and 731-TA-297-299 (Final)

Date and time: October 9, 1986 - 10:00 a.m.

Sessions will be held in connection with the investigation in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

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

Kilpatrick & Cody--Counsel
Washington, D.C.
on behalf of

General Housewares Corporation

John H. Muller, Jr., President

Steven M. Evans, Executive Vice President
Cookware Group

Joseph W. Dorn)
Martin M. McNerney)--OF COUNSEL

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

Brownstein, Zeidman and Schomer--Counsel
Washington, D.C.
on behalf of

Troqueles y Esmaltes, S.A. and
Cinsa, S.A., Mexican manufacturers and
exporters of the subject merchandise

Leonard Fritz, President, Normandy Distributors

Steven Melzer, Vandel, Inc.

Jim Williams, President, Jim Williams
Enterprises, Inc.

David R. Amerine)
Irwin Altschuler)--OF COUNSEL

Weil, Gotshal & Manges--Counsel
Washington, D.C.
on behalf of

China National Light Industrial Products Import &
Export Corporation

Martin Sperling, Excel United Company

Stuart M. Rosen)
Jeffrey P. Bialos)--OF COUNSEL
Robert C. Sexton)

Baker & McKenzie--Counsel
Washington, D.C.
on behalf of

Amerport H.K., Ltd. (an exporter of porcelain-on-steel
cooking ware from the PRC)

Frederick S. Shvets, President, Amerex Corporation

Bruce E. Clubb)
Beth S. DeSimone)--OF COUNSEL
Bradley Joslove)

Ablondi & Foster, P.C.--Counsel
Washington, D.C.
on behalf of

Li-Fong Industrial Co., Ltd.;
Li-Mow Enamelling Co., Ltd.;
Tou Tien Metal (Taiwan) Co., Ltd.;
First Enamel Industrial Corporation;
and Tian Shine Enterprise Co., Ltd.

F. David Foster)
Brian V. Kennedy)--OF COUNSEL

Bregman, Abell, Kay & Simon--Counsel
Washington, D.C.
on behalf of

US importer, M. Kamenstein, Inc., and a
Taiwanese producer, Receive Will Ent. Co.

Peter D. Kamenstein, President,
M. Kamenstein, Inc.

David Simon--OF COUNSEL

J. C. Penney Company, New York, N.Y.

Frank W. Schattschneider, Esq.

Frederick M. Joseph, Esq.

APPENDIX C

**PORCELAIN-ON-STEEL COOKING WARE
PRODUCTION PROCESS**

Porcelain-on-steel Cooking Ware Production Process

Porcelain-on-steel cooking ware is produced in the United States in a two-stage process that involves fabricating the steel form and enameling it (fig. 1 illustrates the flow of the production steps). Beginning with the fabrication stage, the first step in the manufacturing process of cooking ware is "blanking," or cutting one-dimensional shapes out of sheets of steel. About * * * percent of General Housewares' porcelain-on-steel cooking ware is made from * * *. * * * presses that cut out, by means of a stamping process, the flat-shaped blanks from which each cooking ware item will be formed. General Housewares has * * * blanking presses from which the shapes for all their cooking ware items, including teakettles, are cut. The die shapes are interchangeable among all * * * presses, and retooling for a new shape takes * * *. (The company also has * * *.)

After the blanking process, the blanks are "drawn"; that is, they are actually formed into the three-dimensional shapes of the cooking ware. Drawing involves two press operations--the first press shapes the basic form of the ware and the second press trims the excess steel from the rim of the pot and then forms the bead, or finished rim, of the pot. In the case of roasters, a third press operation is done in which the bead is actually rolled in a process separate from trimming. General Housewares uses * * * presses for the drawing stage, with the exception of roasters, for which * * * presses are dedicated. The remaining presses are used interchangeably for all the other types of cooking ware. ^{1/} However, some effort is made to group certain items to certain presses because of the * * * for changing the dies of the draw presses (it takes * * *). The hydraulic drawing presses are * * *.

After drawing, the trims (handles) are welded to the pots and lids with * * *. At this point, the unfinished cooking ware may be put in storage for later cleaning and enameling. If they are not stored, the fabricated cookware then proceeds to the enameling process. However, before the porcelain is actually applied to the steel, the cooking ware is thoroughly washed and cleaned with special soap and water solutions. The steel shapes are then dipped in the enamel, using * * *, the excess is allowed to drip off, and the cooking ware is mounted on racks that are run through large furnaces. The enamel itself is a thick solution of * * *. The liquid enamel is gray, except for the most vibrant colors in which a slight tint may be seen in the solution. The colors themselves do not emerge until the porcelain has been fired, at which time the glass melts and forms a pure, opaque color.

After dipping, the porcelain is set in a two-step, * * *, drying process. * * *. The enameling process involves two dips and passes through the furnances. One dip/dry cycle is done to provide the ground coat; the second pass establishes the color coating. ^{2/} If a decal or decoration is applied to the item, then it is put through the furnace a third time. At this point the cooking ware is ready for assembly and packaging. It is run along a conveyor for inspection and label application, and then packaged first in its

^{1/} General Housewares purchased * * *.

^{2/} With regard to graniteware, the white speckles are formed by * * *. Graniteware has just one coat of enamel.

Figure 1. The manufacturing process of porcelain-on-steel cooking ware

* * * * * *

individual container and then along with several other articles in shipping containers.

Teakettles are manufactured in the same manner and on the same equipment as other cooking ware, except there are several additional production steps. Figure 1 identifies the separate steps for teakettles; specifically, they involve * * *. A hole is also punched into the pot to let the water pour through the spout. * * *. Although the equipment that spins the bulge shape for teakettles is currently * * *. The only equipment unique to teakettles is the * * *, which * * *. Teakettle bodies are formed on the same equipment using the same process as all other porcelain-on-steel cooking ware, and the * * * are formed on the * * *.

Teakettle production is determined within the production schedule for all cooking ware, and with the exception of the * * *, most employees can and do operate all of the production equipment.

APPENDIX D

U.S. CONSUMPTION OF VARIOUS TYPES OF COOKING WARE

Table D.

Cooking ware: U.S. consumption, 1/ by types, 1983-85

Type of cookware	1983	1984	1985
Value (1,000 dollars)			
Aluminum (cast and stamped).....	***	***	***
Stainless steel.....	195,178	218,582	205,936
Porcelain-on-steel.....	***	***	***
Copper.....	***	***	***
Total.....	584,859	609,356	554,366
Share of total value (percent)			
Aluminum (cast and stamped).....	***	***	***
Stainless steel.....	33.4	35.9	37.2
Porcelain-on-steel.....	***	***	***
Copper.....	***	***	***
Total.....	100.0	100.0	100.0

1/ Domestic shipments plus imports.

Source: Compiled from data submitted directly to the Commission by members of the respective U.S. industries, and from official statistics of the U.S. Department of Commerce, adjusted according to U.S. Customs Service National Import Specialists' estimates of the proportion of the data accounted for by cooking ware, where kitchen ware is included.

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

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